



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

**SELECT COMMITTEE ON THE
MANX ELECTRICITY AUTHORITY**

**BING ER-LHEH TINVAAL MYCHIONE
LUGHT-REILL LECTRAGHYS ELLAN VANNIN**

Douglas, Thursday, 8th May 2008

Members Present:

Chairman: The Speaker of the House of Keys (Hon. S C Rodan)
 Mr D M W Butt, MLC
 Mrs C M Christian, MLC
 Mr D J Quirk, MHK

Clerk:
 Mrs M Cullen

Business transacted

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The Committee sat in private at 12.56 p.m.

Tynwald Select Committee on the Manx Electricity Authority

*The Committee sat in public at 10.18 a.m.
in the Millennium Conference Room,
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

Procedural

The Chairman (The Speaker of the House of Keys, the Hon. S. C. Rodan): Good morning, everyone, and can I welcome you to this further sitting, of the Select Committee of Tynwald on the Manx Electricity Authority, taking further evidence this morning in public session.

For the benefit of anyone who was not at yesterday's meeting, I will repeat some of the key information. The Committee was established by Tynwald in July 2005 with a remit, and I quote:

'to investigate the true and correct position with regard to the Manx Electricity Authority's affairs and, noting the PKF Report, to investigate the role of the Authority, Treasury, the Department of Trade and Industry, and other parties deemed appropriate, to ascertain what went wrong and to report to Tynwald with findings and recommendations.'

My colleagues on the Committee are: Mrs Christian MLC; Mr Butt MLC; Mr Quirk MHK; Mrs Cullen, our Clerk; and Mr Alford, *Hansard* editor, who is recording today's proceedings, which will be published in due course.

Could I ask anyone with a mobile phone to ensure it is switched off to avoid interference with the recording.

As you will see from our remit, the investigation is wide ranging and we have received much written evidence. The Committee has therefore decided to address the investigation by separating the various issues and investigate them in sequence. We will be issuing a series of interim reports.

We are, therefore, initially concentrating on the MEA's compliance, or otherwise, with financial regulations and the provision of information by the MEA to Treasury and the DTI.

Many of the events we are investigating took place a number of years ago and, in fairness to witnesses, we have prepared a file of evidence relating to the subject matter currently under investigation. The witnesses have had the opportunity to view this documentation to refresh their memories and the file will be placed in the Tynwald Library at the conclusion of this oral evidence session and be made available to members of the public.

I would advise that Mr Shimmin and Mrs Williams, who were due to give evidence this afternoon, are now required to attend Government business elsewhere, and their evidence session will take place on the morning of Thursday, 29th

May. Mr McGreal will give a further explanation of that when he gives evidence this morning.

Administration of the Oath

The Chairman: I therefore call on our first witness, Mr Thompson. Thank you, Mr Thompson for attending this morning.

If I could begin by asking our Clerk to invite you to take the Solemn Oath.

The Clerk: Will you take the Oath, or do you prefer to affirm?

Mr Thompson: I will take the Oath.

Mr Thompson took the Bible in his right hand and repeated the Oath.

Mr Thompson: I swear by Almighty God that the evidence I shall give to the Committee at this and any further hearings shall be the truth, the whole truth and nothing but the truth, so help me God.

EVIDENCE OF MR I T THOMPSON

The Chairman: Thank you, Mr Thompson.

Could you begin, please, by stating your name and your role and responsibilities in Treasury in the period in question?

Mr Thompson: Thank you, Chairman.

I am Ian Thomas Thompson. I am 55 years old, and I live in Maughold in the Isle of Man.

I am currently the Chief Executive Officer of the DoT and have been in that role for three years.

I qualified as a quantity surveyor in July 1976 and became a full member of the Institute of Quantity Surveyors at that time. I then became a member of the Royal Institution of Chartered Surveyors in March 1983 and subsequently became a fellow of that Institution in 1998, a position which I still hold.

In the period between 1990 and 1997, I began to specialise in the provision of project management services and subsequently became the Chairman of the Association of Project Managers in the north west for two years. During that period, I contributed towards and had the process of introduction of project management systems, culminating in quality-assured status under the BSI.

I commenced my role in the Treasury as Capital Projects Co-ordinator for Government in February 1997, and held that position until my departure for the DoT in April 2005.

My role in Treasury was to provide an overview of the development and progression of Government's capital programme and to have an awareness and understanding of all projects in that programme to enable me to make suitable recommendations regarding the acceptance of schemes into the programme and monitor progress of those schemes from inception through to final review.

Procedural

This was done through the medium of the Procedure Notes for Capital Schemes, known as the Procedure Notes, which were issued by Treasury for use within Government. The Procedure Notes are part of the financial regulations and form a framework of perceived good practice for use by Government Departments and Statutory Boards. They were first issued in December 1991. They were revised and reissued in December 1993, following consultation with designated users.

It is also noted that, in the principles sections of the procedures, the following is stated, which comes just after a summary of the various stages in the procedures:

‘The stages may be adjusted by agreement with the Capital Projects Unit, Treasury, for engineering, purchase of equipment, or other capital schemes.’

They go on to advise, under section 108, that:

‘The various stages may be amended, if appropriate, without affecting the principles involved, and subject to approval for the scheme by the CPU.’

I hope that sets a background about the flexibility contained within the procedures, and I have supporting documents, should you wish to see. I believe you have that, though.

The Chairman: Yes, indeed, and before we put specific questions to you, you have touched on the –

Mr Thompson: Could I continue with –

The Chairman: – capital procedure notes, so if you have a statement to deliver to us, please do so now. Thank you.

Mr Thompson: It should be noted that the original authors of the capital procedures are very aware that, whilst they were designed to be used unamended for the majority of what are known as traditional construction projects, such as schools, housing and straightforward health projects, that would not be the case for the more specialised projects using one-off forms of procurement, such as those used on the new hospital, the water treatment plant for the Water Authority, and the Energy-from-Waste project. I will speak more on these projects when discussing the Committee’s questions shortly.

Whilst the ability to change the procedures was recognised, all of these projects concerned followed the same basic structure, which follows good common sense and a logical framework, i.e. a project has an initial appraisal or a business case, an initial design and development of that design, leading eventually to approval, delivery or construction stage up to completion, defects or warranty periods, and post-project evaluation. Treasury, through the CPU (Capital Projects Unit), requires reports to be produced at various times through these stages and gives concurrence at clearly defined points in the process.

The disagreement, or difficulties, between Treasury and the MEA started originally as an issue between the Capital Projects Unit and the MEA on compliance with capital procedures. This was a particular concern with the approach of the proposed contract for the provision of a new power station on the Pulrose site. These concerns were all the more acute with the complete absence of any meaningful data

of any kind on the CPU’s files for the earlier Peel power station project and that for the interconnector cable to the United Kingdom.

Having commenced the process of trying to achieve a level of compromise and co-operation with the Authority on the matter of procedures, this was ultimately overtaken by the parallel, but higher-level issues of the status of the Authority in terms of compliance with directions of Treasury on funding.

The point I am making there is, whilst there was an issue about procedure notes, there were also higher-level issues which gradually emerged as this process went on.

That is my initial statement, Chairman.

The Chairman: Thank you very much, Mr Thompson.

As Capital Projects Co-ordinator for Government, you had involvement with the MEA over a number of matters before the Pulrose power station. For example, we note that you had a meeting on 18th January 2000 with Mike Proffitt, who was then Acting Chief Executive, discussing a number of matters relevant to your role in Government, including the Peel power station and the cable, which were projects at that particular time.

Just quoting from a follow-up letter that you wrote to Mr Proffitt on 21st January 2000, you said, having reviewed the matters of the meeting:

‘On a final point, I enclose, for your information and retention, a copy of the current procedure notes for capital schemes which apply fully to your own activities. As I stated at the meeting, the nature of your organisation is not conducive to their full application and I would be most pleased to offer any assistance I can to find a compromise that satisfies the requirements for the financial requirements and your own operational and commercial obligations.’

Clearly, you recognised and accepted, to a degree, the argument of the MEA that they were not as other parts of Government, not as other Statutory Boards.

What type of compromise over the application of the capital procedure notes did you envisage would have been appropriate or acceptable to Treasury at that time?

Mr Thompson: In terms of my thread there, which, as I mentioned earlier in my opening statement, there is always the ability in the procedures to vary them, there was a substantial rewrite of a special set of capital procedures for the new hospital scheme. There was subsequently quite an extensive rewrite to accommodate and reflect the needs of the Energy-from-Waste project, and that was also done for both water treatment works schemes.

So there was the ability to tailor the procedures from what they were set up to be – which was always Mr Lewis’s view that the procedures were there for building houses and schools and things – to be able to rewrite them in a manner, without writing *War and Peace*, but a very straightforward governance process for getting to a point, getting concurrence, or whatever was needed, being satisfied that all the right checks and measures were in place, and to be able to move on.

A key issue about the procedures was very much one of being able to say to people that they are not only there to act as a form of governance; they are to protect you, and I was very clear that we were willing to put a structure in, as we did on other projects, to provide that for the Authority.

The Chairman: So the capital procedure notes, you are saying, were not a rigid model.

Mr Thompson: Not at all.

The Chairman: In line with other major Government projects, they were sufficiently flexible and could be tailor made to facilitate the project in question.

Mr Thompson: As they were, Chairman, for other projects, too.

The Chairman: Yes, and therefore the argument of the MEA that, as a commercial organisation, capital procedures were not sufficiently structured, or geared up to, or adaptable to the way they conducted the electricity business, that really did not hold water.

Mr Thompson: As far as I was concerned, no. If you take, for instance, the Energy from Waste project, that was, whilst it was procured by Government, very much on a commercial balance sheet basis.

The Chairman: Yes. What was Mr Proffitt's reaction at that time? I am not sure if that was the first time it had been put to him that the Capital Projects Unit were prepared to sit down and adapt the procedures, but assuming that that was the first occasion, what was his reaction to that offer by yourself?

Mr Thompson: Certainly the meeting itself, because we did meet occasionally... When we met with him, my recollection is that the view was, 'Well, I'm sure we can find something,' but the outcome always was that, 'Really, they do not apply to us.'

The Chairman: Thank you.
Mr Butt.

Mr Butt: Can I just come in, Mr Thompson? On that letter which the Chairman has mentioned, which was 21st January 2006, when you say you will provide the procedure –

Mr Thompson: 2000.

Mr Butt: – 2000, sorry – when you say you will provide the procedure notes etc, earlier on in the letter you make a comment about Peel power station, which you mentioned in your opening address. In that you say:

'Peel power station: I note the current position, which is one of complete impasse, and whilst I acknowledge the situation, I prefer to bring the matter to a conclusion.'

I wonder, could you just comment on what the problems were with Peel power station?

Mr Thompson: I have no detail about that, but I will tell you exactly what I understood the position to be. The project had been completed some time before, and I was concerned that the CPU apparently had no files on it. There was really nothing there.

When I asked for the status, i.e. I would expect to be able to pull a monthly report – which is one of the issues floating through this whole piece – to see exactly where it was, I was advised there was a contractual dispute, a disagreement, between the Authority and the contractor, which was an organisation... I believe it was Mowlem North West from the UK. It was unresolved and it was just in limbo.

Subsequently, I was advised some time later that that had been addressed and the project had been closed off, but my advice was you cannot leave it hanging in the air, you must close a project off to kill any further financial liability or risk.

That was my position. Does that answer your question?

Mr Butt: I was just wondering, was there any evidence in the previous relationship between the MEA and Capital Projects that there was a degree of lack of co-operation?

Mr Thompson: Before my day... There are personalities all through the piece. My predecessor, I cannot really vouch for what his relationship was with Mr Proffitt's predecessor, but the evidence is that they were really outside the loop and felt that that was the right place for them to be, and that is all I can say. I cannot vouch for personalities.

The Chairman: We have had from you a very comprehensive catalogue of documentation where you were recording within Treasury your concern over non-compliance, or not only non-compliance but total reluctance to engage with you on the part of the MEA to discuss progress of the power station project and any sort of compliance and financial reporting. This went on for a number of years, it would appear.

How did Treasury react through this period where you were reporting complete impasse with the MEA in terms of capital procedure notes, financial regulations?

Mr Thompson: The Treasury were aware of my concerns and it was really formalised when we put forward a paper to Treasury summarising the receipt of the tender.

Clive McGreal and I attended – and we were invited to attend, after pressure from ourselves – a review of the tender for the power station. That was on 11th April 2001. Following that, we prepared a paper that was to be considered by Treasury, and in fact it was discussed by Treasury and concurrence given on 20th June of that year, which confirmed subsequently to the Authority that they could proceed with the project.

In that report, there was clear advice about what the current relationships were with the MEA, and I can quote precisely what was said, if you do not mind:

'The Treasury were asked to note that:

1. Capital procedures had not been followed at any stage during the pre-tender, tender and tender evaluation process. Following persistent requests for information and assurances that best practice, due diligence and established protocols had been followed, the MEA were unable or reluctant to follow my requirements in terms of the capital procedures. The CPU also advised Treasury that none of the appointments of consultants for the scheme had been endorsed by the Capital Projects Unit.'

The Chairman: So the invitation to take part in the tender opening process –

Mr Thompson: And evaluation. It was offered; never took place. In fact, I think if you check the date of the invitation, or the offer that was made that Treasury could be present, it more or less corresponds with the time at which we were invited to receive a presentation. So it was a *fait accompli* at that point; the work had been done.

The Chairman: You wrote to Mr Ashton Lewis, the Capital Investment Manager of the MEA, who, of course, reported to Mr Proffitt. You wrote to him on 1st June 2001 – I think this is what you are referring to – and said, I quote:

‘Turning to the tenders, Mike Proffitt invited us to attend the tender opening.’

which is normal. That would be part of the capital procedures?

Mr Thompson: Yes, it is normal to have the Capital Projects Co-ordinator there.

The Chairman: So there had been an invitation extended, but you were unable to attend, because of incinerator commitments that day. However, it had been agreed that you would be part of the tender review and appraisal process, and you wrote to Mr Lewis recording your concern that you had heard nothing formally on this matter. That was 20th June, I think you quoted. You then advised Treasury of those concerns.

Mr Thompson: Yes, that is correct.

The Chairman: So this was an example of, in a pragmatic way, keeping the dialogue with the MEA over elements of the financial regulations and the capital procedures, if only on a less formal basis, but in fact that was never followed through, the tender appraisal. You just told us you heard nothing further over the tender appraisal.

Mr Thompson: There was a substantial process going through, as they were on the Energy-from-Waste Plant. That nearly took a year, but again it was a service delivery and a construction project with preferred contractors.

This was done very quickly. It was done, I think, in a hotel in Manchester with lots of parties focusing on lots of issues, and that is why I was able to advise Treasury that we believed a robust process had gone through, but we certainly could not vouch for the detail, or else we would never have sought Treasury concurrence to it.

I am quite clear there was quite a resilient and robust thoroughness in what they were trying to do – some people looking at the kit that was bring provided, some people looking at the building, probably people looking at warranties – but I could not actually vouch for any detail, because when the Chief Internal Auditor and I went to this presentation, we were given just about an hour-and-a-half or two-hour synopsis of what had gone on.

The Chairman: So you could observe that –

Mr Thompson: Could I summarise it as saying we were told what had happened, not what might be going to happen. It had all been done.

The Chairman: And you had no opportunity to verify what had been done or to test the processes. You observed, or were informed, that they had taken place, and in that sort of general sense you were satisfied with what you were told, but you had no means of verifying it?

Mr Thompson: As a process, we were satisfied with what we were told; in terms of the detail, no.

We would expect normally to be sitting there with the team, going through that appraisal process, contributing, adding to it, and we were not part of that at all.

The Chairman: Yes, and, of course, it was only a matter of weeks later that Tynwald was invited to approve the spending for the issue of the bond and, on the basis, and in the belief that the project stacked up financially.

Mr Thompson: Yes, I think there is an interesting point there, Chairman, about the bond. When Clive McGreal and I went there, one of the things that was obvious to us was that, in the summaries that we saw there was no mention of a contract guarantee bond, and we were able to suggest that that probably is an omission that should be reconsidered. Of course, as you know, the rest of it is history. They did contact us and we were very appreciative that they had listened to that advice, because it demonstrated we had positive input to make. They did, in discussion with my Office, then follow up and subsequently put a bond in place, which, of course, they were able to rely on later to the tune of several million pounds. So it was a very good positive contribution, in our view.

Also in that process we were able to say, for instance, the procedures required anybody with a contract to – and I will use the words exactly – allow the Attorney General to have sight of the contract documents. That was actually done, too, on our advice, and I think the Attorney General had some useful contributions to make to what he saw. I have no evidence for that, but that is my understanding of what happened.

The Chairman: Thank you. Mr Butt?

Mr Butt: Yes, just going back, Mr Thompson, to the tender process, there is a letter in our files dated 20th June 2001, which I think you referred to, signed by Mr Robert Brown for the Capital Projects Co-ordinator. That would be you?

Mr Thompson: Yes, saying that Treasury has given concurrence. It was the same day that Treasury gave consideration and concurrence to the tender for the machinery.

Mr Butt: But you also say, or the second paragraph says:

‘Treasury took note that, in this instance, standard capital procedures had not been followed, and I would ask that in the case of future schemes, a mutually acceptable process is identified and agreed at an early stage.’

So you were sending a warning then that, although you approved the tender, you did not believe that procedures had been followed correctly.

Mr Thompson: I would say there were two things going on there. One was to say, once again, 'Please listen to what we are saying,' and, secondly, 'There is no criticism there, we are here to help.' I know people make a joke that 'I am from the Treasury and I have come to help you', but that is true, that is all we are trying to do. I think in that tender appraisal process we demonstrated that quite well.

Mr Butt: Thank you.

The Chairman: Just to clarify, when these events... You sent an e-mail about them to Ken Bawden, the Chief Executive of DTI, in December 2001, where you advised him that you had attended the briefing on the tender receipt and appraisal process. You have made reference to that and you were not provided with information about the tenderer's track record. You were not able to verify any of that.

Did that briefing with the MEA take place before or after the tender had been awarded?

Mr Thompson: I understand that, at that stage they had given approved... preferred contractor status to the Enron Nepco Group, but not awarded the contract – I have no evidence because I have not got any paperwork to tell me, but that is my understanding. They may not have actually awarded it, but certainly they had advised the contractor that they were successful. They would have to do a lot of work with a contractor to get into a position where all the clarifications had... It is quite normal, really, for a contractor to believe he is in that position.

The Chairman: Did you request any further information on the tenderers, or make your own independent inquiries into who you believed would be the preferred tenderer?

Mr Thompson: We did not have enough information to do that, but what we did was ask the questions that are actually part, again, of the capital procedures, which spells out what is required to be done about the competence, the capability, the capacity and the financial standing – which is an interesting one – of the contractor. We were assured that all those processes had been done. Again, at that level, all we can do is ask the question, because we were outside the loop.

If I can allude to that e-mail, Chairman, that you referred to, to Mr Bawden. In that time, which was December 2001, Mr Bawden was discussing the contract in the context of Enron Nepco not being there any more – they had actually failed by then – and I was explaining to Mr Bawden that the context of the e-mail was that, occasionally, Mr Proffitt would advise that Treasury went through all the tenders and signed them off, and I was explaining that actually, no, that was not the case. We were aware of the process, but not the detail, and that was why the e-mail was being exchanged, just to clarify the point that kept being made by Mr Proffitt that Treasury had audited the tenders. We had done no such thing, if that helps.

Mr Butt: Can I just ask –

The Chairman: Mr Quirk first.

Mr Quirk: Can I just ask, Mr Thompson, on the build-up to the tender and the tender documents, do you believe the

board members of the MEA had any input, or did you have any contact with them?

Mr Thompson: I had no contact.

Mr Quirk: Did any of the board members?

Mr Thompson: I could not comment on whether they did or not, sorry.

Mr Quirk: And none of the board members would contact Treasury to ask any...

Mr Thompson: Not to my knowledge, no. I have no recollection of that.

The Chairman: Thank you.
Mrs Christian.

Mrs Christian: Thank you.

The general impression at this stage is that the MEA did not want to engage, as other Departments and Statutory Boards would normally engage, with CPU.

Mr Thompson: Correct.

Mrs Christian: Why did you think that was?

Mr Thompson: Because I believe that they believed that the procedures just did not apply to them, as simple as that: 'It is nothing to do with you, we are outside that process.'

Mrs Christian: You illustrated earlier that part of the function of CPU is to look at the capital programme. Government helps you define that and part of that process must be what the construction industry, as a whole, is doing so that you can build your capital programme (**Mr Thompson:** Absolutely.) for the future. Was there no perception on the part of the MEA that it would be useful if CPU understand their involvement so that you could plan your work programme – the Government's work programme – for the future?

Mr Thompson: Absolutely right.

At that time, Chairman, there was... around, in various stages of construction... the new hospital was on site, the Energy-from-Waste Facility was progressing, there was certainly one water treatment works being developed, there were two new primary schools about to be, or already, started, and the general view, going back to probably about 1997, was Government's capital programme should have been at a level of £30-odd million, which was very old figures, but at that time it probably should have been about £70-something.

Because of expediency, I think, the programme probably at its peak hit around about £150 million. There was no input whatsoever from the MEA about what else was around, certainly to the Capital Projects Unit (CPU), and did we think the Manx construction industry could withstand such an onslaught as we were faced with? As we know, for instance, with the new hospital, instead of being able to use local firms to do groundworks, there were alliances formed for primarily off-Island contractors trading on the back of locals and it was just too much for the industry. This is a

matter of fact and I am extremely proud of the industry for that: the industry still delivered with almost no problems, so full marks to everybody.

In fairness to the Authority, you have to remember – and it is a bit like the Energy-from-Waste Facility – a lot of these projects, whilst big numbers, a big lump of that money would not be spent on the Island. You would buy, essentially, what are jet engines for a power station and they come in a big truck and you send a big cheque off the Island and it has minimal impact, but the bottom line was, no, there was no discussion. When I first heard about the power station, it was as an announcement that was actually in the newspapers, that they were going ahead with the power station. There was no strategic discussion about whether or not it would fit in a capital programme.

I think, politically, Chairman, you would be aware that, at that time, the demand for a new school, new hospital, Energy-from-Waste was desperate because we were running out of holes in the ground: there was little option to any Minister other than to fight his corner and get that project delivered. There was a very strong undertow with the power station that the lights were going to go out and, politically, there was a huge support to get that thing delivered, so my plea, at the bottom of the pile, to say: ‘But you are overwhelming the industry’, really, would go nowhere. That was just another one on top of everybody else’s demands, but we did it as a team. The Isle of Man construction industry delivered and with precious little problem.

Sorry if that sounds a bit like a lecture, Chairman. It is just how I felt about it at the time.

The Chairman: It fits the context very well, thank you.

Mr Butt.

Mr Butt: Your e-mail to Mr Bawden on 12th December: just prior to that you wrote to Mr Proffitt on 5th December about the contract, the change in the status because of the Enron collapse. I think it is interesting... some advice as to how they should deal with that collapse? You mention on the second page a paragraph saying

‘I cannot identify any of these most important points in the standard form of contract and I assume, therefore, that the contract for the power station has been amended to allow for this to happen.’

And you say then,

‘To help me brief Treasury, your further advice on how this has been dealt with would be appreciated as a matter of urgency.’

I just wonder, did you ever see the amended contract?

Mr Thompson: No. What was going on at that time was... and, again, we had no input to the contract itself, but I had discovered in a discussion – and I cannot really tell you where that was because I cannot recall – that they were using a form of contract called FIDIC (International Federation of Consulting Engineers), which is quite an unusual contract to us in the Island but not to the international engineering construction industry – people who build power stations and oil rigs and energy-from-waste facilities. I then found out, through my contacts with the Energy-from-Waste team, that there was a form of FIDIC embedded in the proposals

because the Energy from Waste I do not think had started at that time, so I was able to study that and try and understand what was going on.

What I learnt from it was – and the whole point of asking Mr Proffitt that question – was learning experiences for Government because, instead of the usual misery and purgatory that we all go through when somebody goes bust – both for the poor souls in the company that has gone bust and the customer – was how on earth had he managed to do what we were told he had done, which was, essentially, achieve step-in rights and pick up the contract, so that the Authority was not only the contractor and the client, you know, he was one who had full control of everything. Now we never actually got to be part of those discussions. It is a matter of record that Mr Proffitt was very successful in taking on the administrators of the UK part of Enron, Nepco (National Energy Production Company), and getting those rights. I think he had to go to court to assert those rights, but he came back with that.

We wanted desperately to try and understand that, to learn about what was going on. We had similar issues, of course, not long afterwards, with Crowe EPH on the new hospital, so it is all about learning from, and that is what the CPU was there to try and gain best practice from the points of the compass so everybody benefits. I know that sounds a bit righteous but that is the motivation because if you cannot learn from lessons, God help you!

What really happened in the end was there was a meeting that took place, an informal meeting – I was just asked to come down to see the Chief Financial Officer, who was Mary Williams at the time. Mr Proffitt was there and he briefed us, quite openly, about what he had achieved in terms of winning the battle with the administrators. He had done a tremendous job and he was told that, again, to show there is no let or hindrance here, we want to learn from good practice.

He told us that he believed that he would probably... because the profit margin, the profit lump of money in the equation, from losing a contractor – and there is nothing wrong with making a profit, because profit is a proper thing to have – I am talking about profit, financial gain, not Mr Proffitt – there is no problem with that at all and he told us he thought he would be able to deliver the scheme for £7, £8 or £9 million less than was originally envisaged. So we can only respect that and say, ‘Right, that is tremendous’, because we need to look at that form of contract, or that particular clause group in a contract, because we may consider them for our own use – to be able to step in, throw them off the site, or whatever and become the contractor.

So that was what was going on there, Chairman.

The Chairman: So there was no verification of that?

Mr Thompson: It was an informal discussion.

The Chairman: An informal discussion and you were informed that the project could potentially come in under budget because of the retained profit element? (**Mr Thompson:** Yes.) But there was no proof offered of...?

Mr Thompson: None at all, other than, by then, the proof is that he had got that right, so that is a fact. It is entirely factual.

I do not know how the battle was fought and who fought the battle but I believe it was in court and he obtained step-in

rights to carry on and the contract provides for that. Contracts are always challenged at times like that.

The Chairman: Mr Butt.

Mr Butt: Just going on from that – it pretty well goes to the heart of what happened in future months – you were told by Mr Proffitt at that stage, because of that step-in, because they could actually resolve the profit margin from an outside company into their own accounts, they expected to come in under budget. You received figures, I think, through the next few months, few years, which were baseline figures of what it was costing to date?

Mr Thompson: No, I think one of the issues in the monthly reports that we were particularly concerned about – and the reports were erratic, extremely irregular, and very limited in what they said – the reports very, very rarely mentioned money and certainly did not provide any figures.

My concern about those reports is a matter of record. You have the record and Treasury was advised, from time to time, about what was in those reports and our concerns about them which, indeed, escalated it to reflect Treasury's concerns because, basically, the reports said: 'Trust me, it is going well.'

Mr Butt: From the limited financial information you did get, was there any indication... or what indication was there, there may be an overspend?

Mr Thompson: None at all. There is a synopsis somewhere of what the reports were saying and I think it never actually said that there was a financial problem.

Mr Butt: And was that, perhaps, reinforced by your conversation with Mr Proffitt, where he said he hoped to make a profit, in effect?

Mr Thompson: Well, that was probably at the time – that goes back to early 2002, I think – when they were actually, the contract was on site. I think it was almost seamless in terms of physical work on site... bound to be a delay but I do not think, really, at that stage there was any evidence to support that view, other than a common-sense statement, but we were getting no financial data on what we would expect to be even the minimum reporting levels in a financial report which would basically say: 'this is the approval, this is where we are today in terms of variations, this is how much contingent'. There was absolutely none of that, none whatsoever!

The Chairman: Mrs Christian.

Mrs Christian: You, over a period of time, had concerns about this. You had no intimation that things were going awry from the budgets which you had presented?

Mr Thompson: None at all.

Mrs Christian: None at all. Your concern was that CPU was not being involved and you were not being given the information?

Mr Thompson: Absolutely, so that we could form our own view and advise, if necessary.

Mrs Christian: Right. What did you do about those concerns? It went on for a period of years, effectively (**Mr Thompson:** Yes.), before an officer of the Treasury determined to take some action on the matter. Do you feel that you did enough to push the Treasury to act on this non-compliance?

Mr Thompson: I understand the question. There were regular reports to Treasury to say these are the problems we are facing. Certainly, Treasury did respond and Mr Proffitt came into a meeting – I cannot recall the date – where he actually sat in front of Treasury. I was not at that meeting.

Mrs Christian: Political level Treasury?

Mr Thompson: Yes, yes, the Treasury board. There was a discussion and I believe, after that meeting, there was an undertaking that the auditor of the MEA... Mr Proffitt was always very clear that his own internal audit and his external audit reinforced his position that everything was being done properly and that, really, we were not needed as part of the loop – absolutely crystal clear, fundamentally clear that that was the position. Does that answer all your question, Mrs Christian?

Mrs Christian: It illustrates that you conveyed the message to Treasury and Treasury was aware.

Mr Thompson: And it was kept... I did not just throw it into Treasury board and leave it at that. I continued to advise the MEA that we were not happy with what we were seeing in the reports. There were the regular irregular DTI interface meetings, which I attended some of them, I could not always attend them because the capital programme was so busy and the same issue was, generally... getting what the board is getting and that is the end of it.

Mrs Christian: Given that Treasury have powers to direct, did you have any concerns that they did not exercise those powers?

Mr Thompson: I was not really part of that deliberation, but I believe that was then an issue that was raised with the Attorney General about Treasury's power in those matters. Again, you have the outcome of that which I think the advice was, in fact, amended at one point about what we did and did not have powers to do but that is when the almighty battle broke out about what Treasury and MEA's respective positions were with each other and that was way outside the ambit of the CPU.

What we did have: there was an MEA/DTI meeting in September 2003 because this was an ongoing discussion and it was attended... I was represented by Alan Teare, who produced a file note which, again, I think became an e-mail, which you have. It was very clear that Mr Proffitt made an absolutely forthright statement that it was he that had said that the Treasury is not to receive any advice in those monthly reports. His view is that the MEA constitution does not require them to comply with procedures and he does not want Treasury managing his schemes. He is absolutely clear that, I think the report says, it just should about be finished,

we will get some latest financial information – this is in September 2003 – in the next week or so. The reports we received are the same as he presents to his board and when Alan asked him did they not wish to know their financial position, then, he said, ‘Of course, they get an addition to the report.’ So it is all very sad, really.

The Chairman: What was the response of DTI? Did they share your concerns? You have told us how you would periodically attend from Treasury the monthly meetings, liaison meetings, between the MEA and the DTI. That was the point of regular contact between the MEA and Government, was it not, these monthly liaison meetings? (**Mr Thompson:** Yes.) Treasury would be regularly represented on them, if not through yourself, by another officer? (**Mr Thompson:** Yes.) But what was DTI’s view about your concerns, which had been going on now for two or three years by that point?

Mr Thompson: Well, they were well aware of them. I think the DTI were very much taking the position that they saw both points of view and what was really important was that the project got delivered and the supply of electricity was dealt with and that really the battle between the two was exactly that and they were not really part of it.

The Chairman: But was there a sense –

Mr Thompson: I never felt supported and I never felt attacked, generally. That is it.

The Chairman: You were doing your professional duty and reporting your concerns. It must have been very frustrating to you to see these concerns not being actively taken up or no progress being made (**Mr Thompson:** Yes.) at most senior officer level or political level where, after all, the accountability for all this would ultimately lie?

Mr Thompson: In my own mind – and it would take a lot of research to actually precisely track what was going on at the time – but from the evidence that you have and I have seen, I am satisfied that there was that discussion going on. There certainly were very, very forthright exchanges between Mrs Williams and Mr Proffitt, so I think it was going on in the background and there was the support there.

The outcome was not of any value, that is the difficulty. Nothing changed, but an undertow still is that the project was being delivered.

The Chairman: Did you sense that that was the overriding concern and was there a sense that the MEA’s failure to engage with Government could be, if you like, excused by the fact that they were getting on with the job, they were not being hindered by unnecessary bureaucracy, this might be well be how they saw it (**Mr Thompson:** Yes.) and, therefore, the end justified the means?

Mr Thompson: I do not think that was the view in Treasury. I think the Treasury was committed to really try and get some meaningful exchanges between –

The Chairman: Well, if there was not the view in Treasury... it was clearly you and your officers had had professional concerns but were they shared at political

level or, again, did the ends justify the means that that made political action wanting in some way?

Mr Thompson: I think there were genuine attempts to try, through Treasury board at political level and Chief Officer level, to try and get a degree of compliance.

There was an agreement, for instance, that the Chief Internal Auditor and the MEA’s audit team try to sit down and find common ground, where we could be satisfied. In the end, all that still came to pass and we got to the end of all three when they were saying the job is just about finished but we will promise to give you a financial review.

There was a promise made at a date that, again, I know you are aware of, where Members of Tynwald were invited to visit the power station at that point in construction – and it certainly was a long way off completed but it was substantially there, a big building with a jet engine in the middle of it and all the rest of it – and then there was a subsequent presentation to Members up at Ballacottier. Mr Proffitt gave an undertaking to the Members on that day that he would provide a financial overview of the project. I am not aware of that ever happening but I certainly made reminders about that on several occasions.

The Chairman: Mr Quirk.

Mr Quirk: I shall keep that in my mind but could I just go back to the contract itself. What would be your opinion, then, if Mr Proffitt had not negotiated that contract? Where would you have been? I know it is speculation but just to give us a feel of what that value was getting that?

Mr Thompson: Well, what he negotiated was the ability to expedite the contract. The contract had been negotiated some time before. You are talking about the resolution of the failure of the contractor.

One way or another, the job would have gone into the doldrums whilst the legal battle would have taken place, as it so often does. It would have just been frozen until an agreement or even a new contractor was found to carry on and as I said at the time when we were dealing with that area in evidence here, full marks because it was more or less seamless. The battle was fought, it was won and they were able to carry with the contract.

The Chairman: He saved the day, in other words?

Mr Thompson: Saved the day in terms of the problem of the failure of the contractor.

Just to be provocative about it, the question is, should we have known about the financial status of the contractor before the job was awarded? We were told that all that checking had been done. (**The Chairman:** Yes.) Could anybody have seen the Enron collapse? Probably not.

The Chairman: Mr Butt.

Mr Butt: Just to follow on from Mrs Christian’s point about what was happening within your area: could you tell me what your rank-structure is, in effect, who your reporting officers are, where you are in the pecking-order, so to speak.

Mr Thompson: In terms of the structure, the way it

was established was: Chief Financial Officer, Financial Controller and then into the accountancy lane. I was below that. (*Interjection by Mr Butt*) So that is what the structure was but I answered on a daily basis to the Minister and the Chief Financial Officer, as required.

You have to remember that the Treasury is the domain of accountants generally and there am I, the sole chartered surveyor in the organisation, the sole 'techy' person at that time. I subsequently got one member of technical staff afterwards. So there is no point in going through three or four people to give you a message to where it needs to land and I was respected enough to be able to sit down with the CFO or the Minister and explain something, not out of any disrespect to the accountancy staff in between because that is the straightforward issue that we had.

Mr Butt: Right. We had several e-mail and messages between yourself and Mr McGreal, for example –

Mr Thompson: Yes, he was the Chief Internal Auditor at the time.

Mr Butt: – stating what the problems were about evasion and avoidance etc, a lack of information, lack of figures. I am just making sure it was not confined to the two of you having internal debate. (**Mr Thompson:** No.) There are Treasury minutes which indicate the same concerns, as well, but I presume the Treasury minutes are... actually, the Minister is there and the Chief Financial Officer is there?

Mr Thompson: – Members, and on the majority of occasions, I would be there – for those bits that were relevant to myself.

Mr Butt: Now, you referred to a potential problem between Mrs Williams and the Chief Executive of the MEA, Mr Proffitt?

Mr Thompson: Yes, I do not think it was 'potential'.

Mr Butt: No. Could I just refer you to an e-mail on 7th October 2002, which is between yourself and Mr McGreal, which I think sort of highlights some of the problems you refer to. You say that the information you are getting falls well short of the examples of what is acceptable etc and, near the end –

Mr. Thompson: I can explain that, Mr Butt.

The examples of what was acceptable: part of Mr McGreal's endeavours with the internal audit people at the Authority, he actually took with him, I believe, a sample report that we got on other schemes, the new school at St John's, for instance, which was quite a comprehensive – only £5 million by comparison – quite a thick report. Not the same report, for instance, that at that time, for example, Mrs Christian was getting on the new hospital, which is about that thick (*Mr Thompson indicates size.*) every month because, to be honest, the executive information is the first few pages –

Mr Butt: Can I come back to that point in a second? (**Mr Thompson:** Yes.) On this e-mail, at the end you say,

'I continue to have serious concerns about what is going on, concerns which I trust you share'

– this is to Mr McGreal –

'The trouble is we need to be saying something about the reports formally, otherwise we are going to get, later on, 'Treasury had the reports and never said anything'

Mr Thompson: Or Select Committees!

Mr Butt: Yes.

'How should we deal with this, bearing in mind the current cold-war conditions we are operating under?'

I think, as Mrs Christian said earlier, it seems to be that you were below... fighting a battle.

Mr Thompson: There were – from the point at which we reported the tender to Treasury – regular formal feeds through into Treasury about what was going on and that is why Mrs Williams was really fighting the battle with Mr Proffitt.

They were aware of it and, in my view, they were doing their best to try and get a degree of compliance. There were lots of what were perceived to be olive branches being offered. For instance, when Mrs Williams and I sat with Mr Proffitt after the meeting and I saw him off the premises, because the place was locked up by then, it was like parting with my only brother for the next ten years, kind of thing. It was really hearty, perceived to be a sincere relationship, but what actually happened was no different. The reports stayed where they were and they were not... As I have read to you, there was actually in existence at the time a directive not to provide us... that information will not be provided as long as I am the Chief Executive of the MEA, I think the statement was made.

Mr Butt: And the monthly reports you were getting – I think they were from Mr Lewis – they were like two or three pages of written correspondence about where the project was up to physically and I see, at the end of them, there is often a schedule of financial information on which mostly... but no valuable information? (**Mr Thompson:** Absolutely.)

Who compiled those editions? Is that compiled by you?

Mr Thompson: This schedule here would be done at that time by Alan Teare, my assistant, and the key issues are, there are lots of things in the report but you should also be able to get to the front piece for the Chief Executive – which I get now – the ability to have all the data behind it: is the job on time, is the job in budget and are there any issues for the clients to make decisions on? That kind of executive information. It is here in the spread-sheet which I am sure you have got: 'programme – not at risk; financial advice – none; will complete within budget.' Those are assurances that were given.

It is very, very shallow information and I can understand – I do not condone at all – the view is, 'Look, I am the project manager and I am telling you it is okay.' That is the mind-set that is going on here. 'I believe it is okay and I am telling you that. That should be good enough', as opposed to giving you all the data. Mr Proffitt clearly saw Treasury's wish to have

this information and I think he actually said it somewhere that ‘I do not need two project managers on my scheme.’

Mr Butt: Were you involved in the Water Board projects – (**Mr Thompson:** Yes.) which were a similar Statutory Board? (**Mr Thompson:** Yes.) What was the comparison between them and the MEA?

Mr Thompson: None whatsoever.

Mr Butt: Can you explain that?

Mr Thompson: In fact I again alluded to that in, I think, it was a letter I sent to Mrs Cullen about that.

I used to visit the Public Accounts Committee occasionally, normally on a mutually acceptable basis, rather than being summoned. I think it was just really to give them a briefing on what was around. I recall in one of those visits – there had been, certainly before my day, an issue with the Water Authority and I am sure there is probably a Select Committee or something, about their failure to engage with the Treasury – I was asked the question: ‘Is everything okay with the Water Authority?’ I said it was absolutely excellent. We are involved in the structure of the projects, we are advising them on the development of contracts and procurement – I could not ask for more – and I believe they value that input, unlike the MEA.

I made that statement and I am sure there is a minute of the PAC that actually says that. I was asked what was the problem and I explained that they did not want to follow procedures. Whilst I do recall Mr Bawden was there – Mr Arthur Bawden – I think Sir Miles was in the Chair, although he always absented himself from the Chair while I was there, because he was a Treasury Member at the time, and there were other... I think Mr Cannan was there and possibly Mr Karran. There was no extensive questioning about that, other than a view if the thing is running well, why do you wish to interfere with it. It is a fair question and I gave a fair answer, I believe, which was there is a proper process here about transparency and informing, communicating with people who need to know.

I was required to report to the Council of Ministers quarterly on the state of the capital programme and I very much viewed that project as part of the capital programme. I could not give them any substantive information about the status of the MEA power station at Pulrose, which you alluded to in one of your enquiries to me.

The Chairman: Did you voice any concerns regarding the MEA to the Public Accounts Committee?

Mr Thompson: Other than to say: ‘This is what is going on; they do not see the requirement to comply with capital procedures.’

The Chairman: When did that take place? Were you invited to the PAC, or did you request a –

Mr Thompson: I think it was a regular visit, Chairman. It was just regular being irregular, two or three times a year, depending on what was going on: ‘Tell us what is going on in the construction industry at the moment.’

The Chairman: What was the Committee’s response when you briefed them?

Mr Thompson: Only really what I said to you about: ‘Really, if the thing is running well, why do you wish to interfere?’ That was one Member. I am not clear who it was who actually said that.

The Chairman: When would this have been?

Mr Thompson: There will be, I am sure, a note. I do not have a copy of their minutes, but my visit will be in there somewhere.

The Chairman: It was during this –

Mr Thompson: It was going back to Mr... Long before, this is going back. It was certainly during the currency of the project.

The Chairman: Thank you.

Mr Thompson: But it really led from a question about the Water Authority and were they now compliant: absolutely.

The Chairman: Mr Quirk.

Mr Quirk: I was just going to ask, regarding the Treasury board, or the Treasury Members, would they not have thought to have any contact with the board of the MEA? The MEA has the contract, the concerns. Wouldn’t the concerns be the same with the board?

Mr Thompson: The proper process... My understanding is that if there was a contact from Government corporately with the board that would be through the DTI. That was what the DTI’s role was, to be the interface between the centre and the board itself. I am aware, from various comments that were made to me, the board Members were aware that there was an issue between the Capital Projects Unit and Mr Proffitt, because that is really who the interface was with.

Mr Quirk: And none of them contacted you over that particular period?

Mr Thompson: No, nor would I expect them to do, in fairness.

The Chairman: Just turning to the latter stages of the project, when the power station had been completed. We are talking about the end of 2003. At this stage of the capital procedures, where there would be the stage 10 appraisal... If I could just refer you to an e-mail to you from Mr McGreal, the Chief Internal Auditor. I will just read it out in full, because I think it summarises a lot of what we have heard this morning. He first of all thanked you for the copies of the financial reports from Ashton Lewis for July and August.

Mr Thompson: Which were consigned to the shredder!

The Chairman: And, indeed, he says:

‘I have consigned them to the shredder, having no value whatsoever either in content or timeliness of delivery. I regret to reflect on a very unsatisfactory outcome of achieving any watching brief, interim audit or receipt of relevant and pertinent information upon which to adequately perform and discharge your role as Capital Projects Co-ordinator.’

I think that is quite a damning summary of the relationship.

Mr McGreal went on to state:

‘Whilst the project appears complete and operational, I can only suggest a stage 10 appraisal be undertaken in an effort to glean anything from the procurement and delivery. Perhaps a paper to Treasury, reiterating the non-compliance issue of MEA and this project, and requesting some mandate to instigate a stage 10 or their acquiescence to a waiver of this requirement.’

Was a stage 10 appraisal undertaken in respect of the –

Mr Thompson: Not to my knowledge. I would just like to explain a little bit about the stage 10, because Mr McGreal says there that the project was finished.

I think you are probably aware that, some time after that, there were parliamentary Questions asked about whether or not the power station was actually operational, and that there were ongoing problems with the turbines.

The stage 10 process is supposed to take place when the project has been... If I could just explain what that is about. The project gets finished. Probably, with a school, it gets finished, the staff put the pencils in and gear up for the move, and off it goes. The Energy-from-Waste Facility and the power station would have got to a point at which it was deemed to be completed, but it would not be the end of the process, probably. I do not know that for a fact with the power station, but I know it to be factual with the Energy from Waste Facility, which is where there is a proving period, where it has to run and prove itself that it actually works. It is okay saying it is all there, but does it work? That acceptance commissioning period would have taken place on that scheme.

There is then, when that is signed off, a defects liability period, which could be one or even two years, depending on the type of project. Following that, there is a rectification of defects period. Following that, the team is required to produce reports called stage 9, and then stage 10 takes place.

Up to the point at which I left the Treasury, I am not aware of any of those processes being achieved. I do not know what date that building was formally accepted, if it ever was. I am sure it was, because we are using it, but I am unaware of any of that process taking place, or even being signed off now, but I do believe strongly that, even if we were in that position, it is unlikely that the MEA would have done stage 10 at our volition, because they were clear they did not have to follow the capital procedures. We were not in a position to press the matter, because, certainly up to the time I was no longer there, I was not aware of it being completed, or in a position to do that review.

The Chairman: Which is not to say they would not have, under their own procedures, carried out the equivalent of that.

Mr Thompson: They could well have done.

The Chairman: Yes, but you know, neither one way nor the other, whether that happened?

Mr Thompson: That is correct.
There is, for instance, an example. On the current scheme

that I am responsible for, the runway, we have already had an interim stage 10, gone through all the contractor appointment, all the stuff that we have been through in terms of planning inquiries, and we have already reviewed all that part of the job as a process immediately after we gained Tynwald approval, because we felt we did not want to lose those lessons. That is just my way of operating. We will not be doing it twice. We will start from there one day. The whole process is supposed to pick up lessons to be learned, not just in the construction process, but right from the start, and right to the end. Did the builder fix the defects? Did he respond to technical problems? Did you get the as-built drawings? Right at the start, was the client clear about his brief? So it is a holistic process, not just a review of the construction, and that is why we have done one already, to bank those lessons at this early stage on how far we have done.

In terms of this scheme, I am not aware of that process. I am sure something has happened, but again, up to the point at which I left Treasury, no.

The Chairman: Thank you.

Mr Thompson: At the time of Mr McGreal’s e-mail to me, I do not believe they were in a position to do that, and I do not believe they were in a position for some substantial period after that.

The Chairman: Thank you.
Mr Quirk.

Mr Quirk: Can I ask a question? The power station was not built under CDM (Construction, Design & Management), was it?

Mr Thompson: No.

Mr Quirk: That did not come into... But all the projects now and in the future will.

Mr Thompson: All of them are, yes.

I would have to check that, Mr Quirk. I am not sure if was under CDM. I know that there was an appointment involving... What happened with CDM was some projects, while they did not come under it, decided that was good practice. The Energy-from-Waste Facility commissioned a planning supervisor long before CDM became law. I am not quite sure what the position was with the power station, but I believe, certainly for the demolition and alternations to the existing power station, a planning supervisor was involved, so they may well have followed CDM principles. I cannot recall, to be honest.

I am sorry that is not a full answer, but it is...

The Chairman: Thank you.
Mr Butt.

Mr Butt: Thank you.

The e-mail of 15th October, about going to a stage 10 investigation, I think Mr Kniveton, yesterday, said that on 17th November he put a report through to Treasury requesting that. Can I presume from your answer, then, that that was not progressed?

Mr Thompson: No, because I do not believe they were in a position to do that.

The Chairman: Mrs Cullen.

The Clerk: There was just the one last remaining question. When Enron actually collapsed, did CPU offer advice (**Mr Thompson:** Yes.) to the MEA, and did they actually take that offer up?

Mr Thompson: I think, at the time that was going on, we were not in the loop at all. Certainly, at the time of the failure, one of my complaints about the monthly reports was it was not even mentioned, so it kind of puts it into context about the level of the reports. My advice was not sought; we were not in that loop.

What I did was try and get up to speed in understanding what the contract was, so that when we did have a discussion, I could actually speak the language Mr Proffitt was speaking about how it all worked, what the contractual status was. It is all I could do at the time.

The Chairman: Mr Butt, a final question.

Mr Butt: A general question about the middle of 2002; I think it was June-July. The Treasury did issue a directive to the MEA to comply with your requirements, and I wondered what your part in that was. Did you provide any advice to the Chief Financial Officer? Did you have any involvement in that, and what was it?

Mr Thompson: I am not quite sure which question that was now, but I would allude back to it, if I had the time. But, answering directly, the dialogue was kept with Treasury on a regular basis – Treasury board from me – about where we were up to, and we would send synopses of what we had had, in terms of reports and the like, as it was appropriate: ‘No change, we are still getting nothing,’ or whatever. So that was kept going as a piece. There was always something there; a formal report perhaps every six months, with interim advices, as appropriate.

Mr Butt: So you were putting pressure upwards to try to get something done, and that was a combination of that.

Mr Thompson: And certainly that was evident to me, that I would get Mark Shimmin latterly saying to me – because he was the Financial Controller at the time – that Mrs Williams had just had another dreadful conversation with Mr Proffitt. But there were broader issues emerging there as well about the status of Treasury. It became a far higher-level war to fight than down here with capital procedures. There were points of principle being fought at a high level.

Mr Butt: Thank you.

The Chairman: Thank you very much, Mr Thompson. That concludes the Committee’s questions, but I just give you an opportunity... If there is anything further you would wish to add or tell us, please do so.

Mr Thompson: I think I have said enough, Chairman.

The Chairman: Very good. Thank you very much.

Mr Thompson: Thank you for giving me the chance to discuss it with you.

The Chairman: Thank you for your assistance, and we appreciate it.

There will be further evidence sessions obviously with witnesses, and arising out of them there may be further points that require clarification with you, in which case we would contact you or, indeed, if necessary, recall you to give further evidence. Thank you for your attendance.

Mr Thompson: Thank you for having me.

The Chairman: The pleasure is all ours.

Mr Teare was called at 11.32 a.m.

Administration of the Oath

The Chairman: Could I ask our next witness, Mr Teare, please.

Please help yourself to some water. Thank you. Please be seated. Good morning, Mr Teare. Thank you for attending. I will ask our Clerk to administer the Solemn Oath.

The Clerk: Would you like to take the Oath, or would you just prefer to affirm, to swear on the Bible?

Mr Teare: I really do not mind which is preferred. I will take the Oath.

Mr Teare took the Bible in his right hand and repeated the Oath.

Mr Teare: I swear by Almighty God that the evidence I shall give to the Committee at this and any further hearings shall be the truth, the whole truth and nothing but the truth, so help me God.

EVIDENCE OF MR W A TEARE

The Chairman: Thank you, Mr Teare.

Could I ask you to commence by stating your name and your role and responsibilities in the Treasury and the periods you have undertaken them for the particular period we are examining.

Mr Teare: Yes, Mr Speaker.

My name is William Alan Teare. I am a civil engineer. I am the present holder of the post of Capital Projects Officer within the CPU in Treasury. I have held that post since March 2002. Prior to that, I managed capital projects for the Department of Transport.

The Chairman: Thank you very much.

Before we put any questions specifically, I would like to give you the opportunity to make any opening statement that you wish.

Mr Teare: A very brief statement, if I can. I wanted to refer to an abstract from the capital procedure notes, which starts off at item 1.02 within the procedure notes, and it refers to:

‘These procedure notes are applicable to all capital schemes, including buildings, engineering and other projects which are wholly or partly funded or underwritten by Government, including schemes undertaken by Government Departments, Statutory Boards, local authorities and any body established by or under any enactment and consisting of, or including, persons appointed by Government Departments or Statutory Boards.’

The reason I refer to that is the... I would also like to refer to the Water Authority who, in responding to this, produced their own procedure notes, not only for individual schemes but in generic terms for pipe laying etc, which I think is a good precedent and one which should have been followed in other areas.

Thank you.

The Chairman: Thank you very much.

Capital Projects Officer – what was your specific role? What was your relationship with Mr Thompson and within Treasury concerning this project?

Mr Teare: Mr Thompson’s role was my reporting officer within Treasury. Regarding this project, Mr Thompson had responsibility, obviously, for the MEA while he was there. I took over in September 2003, attending the MEA/DTI liaison meetings.

The Chairman: Thank you.

What were the principal aims of those DTI/MEA liaison meetings, and how often did they take place?

Mr Teare: The meetings were principally a DTI meeting. My understanding is that the DTI, obviously, are the political control of the MEA and, in terms of the Statutory Boards, i.e. MEA, Water Authority and the Post Office, they used these meetings to keep abreast of the business of the statutory authorities. They are called quarterly meetings, but they very rarely meet on a quarterly basis. Certainly in regard to the MEA meetings, there was no schedule of fixed dates, I think is probably the best way of putting that.

The Chairman: So they were not regular monthly meetings?

Mr Teare: They were never monthly. They were meant to be quarterly, but they were fitted in as and when, and I am not sure what the catalyst was that promoted them.

The Chairman: Was the Capital Projects Unit always, as a matter of course, invited by DTI to these meetings?

Mr Teare: I do not think we were formally part of the meeting. Prior to joining Capital Projects, I could not say whether we were or not. Obviously, after that, we were invited on quite a regular basis, yes.

The Chairman: Who drew up the agenda for these meetings, and was the Capital Projects Unit entitled to make suggestions what should go on the agenda?

Mr Teare: Oh, yes, very much so. It was drawn up by the DTI. Certainly while I was attending these meetings, they would circulate beforehand, trying to establish a date to hold the meeting on. They did not always manage to fix dates which were appropriate to our calendars as well as their own, but the majority of times they did.

In terms of agenda, they asked if we had anything specific in terms of agenda items. Our usual reaction was, providing that, as we see it, the capital schemes that the MEA were covering were on the agenda, we would not be looking for anything specific in terms of questions.

The Chairman: Was it always the case that you or a Treasury officer attended those meetings?

Mr Teare: Where possible, yes. It was not always possible. As I have said before, they did not always manage to fix dates which matched with our diaries.

There were at least two occasions I know of that meetings were held and we were asked not to be present.

The Chairman: We have had evidence that the financial information that the MEA gave routinely was very bare bones. It was on a quarterly basis, and it followed the usual format of such information to be compiled into the quarterly reports for the Council of Ministers. That was the routine financial reporting. Was there more detailed financial reporting taking place at these liaison meetings?

Mr Teare: I only wished there had been. It was the main issue which I attempted to elicit at those meetings. You have seen the reaction; it is written in a lot of the e-mails which I wrote. The reaction was that Mr Proffitt was not willing to give this information in any shape or form.

I think the only meeting where he did do something more proactive was to... I think it was September 2003. He promised to provide us with a list of what he said were the final costs. It took a fair bit of prompting after that, but when we did finally get them – I hasten to add I think they came through the DTI; they did not come directly from Mr Proffitt to ourselves – they showed what looked to be the power station coming in, as he put it, within budget, once the bond money had been reinstated.

The Chairman: Mr Butt.

Mr Butt: Just going back to the DTI/MEA liaison meetings – I think you attended most of them – there is a memorandum from you to Ian Thompson, dated 9th May 2002, and in that, the first sentence, you say, amongst other items, you sent a copy of the procedure notes to Mike Proffitt on 21st January 2002, stating that they fully apply to the MEA. Which I think, from your opening response, you say any project that is underwritten by Government has to comply with the procedures. (**Mr Teare:** Yes.)

You then list the liaison meetings between the MEA and DTI to that date, (**Mr Teare:** Yes.) and the dates you give are... The first one is 27th January 1999; this is the memo of 9th May 2002. The next one is 19th January 2000, so there is a year gap there. The next one is 12th April 2000, a three-month gap. The next one is 31st January 2001, a nine-month gap. The next one is 6th April 2001, a three-month gap, and the final one is 13th February 2001, a 10-month gap. This

indicates – if this is an accurate list of the meetings – that they did not meet very often.

Mr Teare: I think that is true. I was not there at the time. I only gleaned that from a review of the file.

Mr Butt: So prior to your arrival.

Mr Teare: Yes.

Mr Butt: You made a comment, and then you have received four reports in that same period, which are of no value at all to CPU.

Mr Teare: These were the monthly reports which Mr Proffitt finally agreed would be sent to the CPU, to Mr Thompson, on... Basically, it was the power station, but also included comment on the gas pipeline as well – a very brief comment, not of much use, I have to add.

Mr Butt: The question about these is that we have evidence here of correspondence between you and Mr Thompson, you and Mr McGreal etc. Again, the question is what did you do about these? Apart from correspondence between yourselves, how far did you take this?

Mr Teare: At that time, I think if you look closely, you will see that Mr Thompson did put papers into Treasury. There are minutes available within the Treasury reporting the situation. That is what was done. I cannot add any more to that, I am afraid.

Mr Butt: And then, going back to your comments about Mr Proffitt's reluctance to provide information, we have two documents. One is a handwritten document from you, dated 10th September 2003, (**Mr Teare:** Yes.) where you state:

'Mr Proffitt has agreed to send the latest financial position on the power station, as the scheme is just about complete.'

which you mentioned a few minutes ago.

'It should arrive next week. He did admit that it was him that stopped the monthly reports containing any financial advice, and that the MEA would not provide monthly financial reports to the Treasury on any capital scheme while he was Chief Executive.'

That is your version of what happened. Which meeting was that at, who was there, and when was that meeting?

Mr Teare: That was the liaison meeting of, I think it was 9th September; I would need to check with the DTI, obviously.

I cannot remember exactly who was there. David Morter, I think, was taking minutes. I am fairly sure Chris Corlett was there, Mike Proffitt and myself, just the four people.

To be honest, when he came out with that statement – and that is not a loose interpretation; that is virtually what he said – I was quite astounded by how blatant he was with it, because prior to then he had always been very careful about how he actually refused to give us information. He was very blatant when he said that.

The Chairman: If I just bring Mrs Christian in.

Mrs Christian: Yes. If I may follow up on the same handwritten note, you say:

'The reports we receive'

– Treasury –

'are the same as he presents to his board, so I asked if they did not wish to know what the financial position was. "Of course," was his reply, "they get an addition to the report."'

So, clearly, the board were apparently getting more information than the Treasury was. Was it always Mr Proffitt who attended the liaison meetings?

Mr Teare: Yes.

Mrs Christian: And who attended from the DTI?

Mr Teare: It was meant to be always the Chief Executive of the DTI. I think there were occasions when he did not attend, and it was Dave Morter, who was the Director of Infrastructure.

Mrs Christian: What was the attitude of DTI towards your concerns about the non-compliance with the financial regulations?

Mr Teare: I think DTI's attitude to those meetings was they were facilitating us by allowing us to be there, giving us the opportunity to address our problems while they addressed their own issues with the MEA. I think it is probably fair to say that is as far as it went. In trying to address our problems, we did not get a lot of active support from them, but they were not negative either.

The Chairman: Mr Butt.

Mr Butt: That handwritten note, you then put into an e-mail, in effect, to Ian Thompson, copied in to Colin Kniveton (**Mr Teare:** Yes.) on 17th September 2003, and you basically repeat the handwritten note in the e-mail. Is that right?

Mr Teare: Yes.

Mr Butt: And then I think you are in the link of e-mails from there, which finally go to Chris Corlett at DTI, and Chris Corlett is asked for his views on this comment by Mr Proffitt, and his final response is... Are you aware of this final response?

Mr Teare: Can you remind me now?

Mr Butt: He says:

'I met Mike yesterday. He confirmed to me that he has just signed off a detailed financial report re the power station build, copies of which both Ian and I can expect in the next few days. I understand the summary is: budget, £88 million; actual, £90.4 million; four months behind original schedule before Enron went bust. He mentioned that MEA has a claim of £8 million against JP Morgan, which they are quite confident of recovering. If so, they will be comfortably under budget.'

When you said you were expecting to get financial figures after this September meeting –

Mr Teare: That is what he was referring to.

Mr Butt: That is what he was referring to.

Mr Teare: Yes. I cannot remember the exact timing of that, but I think at one stage I actually had to write to Mr Corlett, asking him if he had seen anything – probably in amongst the timing of those e-mails – which was why he sent us the financial statement as it was, rather than it coming directly from Mike Proffitt.

Mr Butt: So, as of September 2003, Capital Projects, yourself, and presumably Ian Thompson, had information from the DTI via the MEA that the project was under budget, in effect.

Mr Teare: Yes.

Mr Butt: Right, okay, thank you.

The Chairman: Mr Quirk.

Mr Quirk: Mr Teare, you said in your statement that you were asked not to attend two meetings. Do you know the reason why and did you receive the minutes of them?

Mr Teare: I believe one of them was the MEA were going to review a strategic... I think it was 'Vision 2010', it was called. We were asked not to be present because they wanted to present it to the DTI first before presenting it formally to Treasury later on.

The second one, I am afraid I cannot remember.

Mr Quirk: You cannot remember?

Mr Teare: No.

Mr Quirk: Did you receive any minutes of those meetings, though? Normally, sometimes, if you are not asked to attend, you would still eventually receive a set of minutes to read.

Mr Teare: We did not. Not as far as I am aware, anyway.

Mr Quirk: Can I ask you, on the meetings that you did attend and minutes were produced, were there any others cc'd at the bottom – anybody else that never went to the meetings that were either political Members or chief executives that you can remember.

Mr Teare: I am sorry, I could not answer that without looking it up. Memory tells me that there was not, but I could not be categoric about that.

The Chairman: Thank you. Can I just take you back to your memo to Mr Thompson of 9th May 2002, where you talk about the reports. All the reports were between two and three pages in length and contained no financial comment of any kind and very little to indicate progress of programme or completion date. Was the opportunity taken by Treasury to make clear to the MEA what information should be included in the monthly reports?

Mr Teare: I believe so. I believe Mr Thompson had done that on numerous occasions beforehand, and it was fairly obvious that they had a copy of the procedure notes, as well, and it is quite clear in there the sort of information that is required. The financial statement is obviously the most important issue.

The Chairman: Yes, so what was the response, as far as you were aware, of the MEA?

Mr Teare: Basically, that the procedure notes did not apply to them and they would not be providing it. I think the fact that we got these reports was purely down to the fact that Mr Thompson had been persistent and Mr Proffitt saw it as a way of getting him off his back.

The Chairman: Moving on to October 2004, just coming up to the critical period when all these concerns were made public for the first time in November of that year, you e-mailed Colin Kniveton, reporting on the DTI/MEA liaison meeting of 4th October 2004, where once again you reported that Mike Proffitt was refusing to provide information about the capital schemes, giving us the same reason that it was outside the direction powers of the Treasury over the MEA.

You said that the issue had become very difficult and that if we are to retain any credibility, there must be consensus or, alternatively, a ruling from CoMin, who appoint the MEA board. Without this, meeting with the MEA is unproductive at best and being present at the DTI meetings gives them claim that they do talk with Treasury – even though Treasury cannot give direction to the MEA, that is a moral high ground that they can always claim that they are talking to Treasury. That would be a fair summary, would it?

Mr Teare: I am sorry, I am not sure what the question is.

The Chairman: Well, the question is that is what you said to Colin –

Mr Teare: Oh, yes.

The Chairman: – to Colin Kniveton.

Mr Teare: Yes.

The Chairman: Did you receive a response to that request to Mr Kniveton to get a ruling from CoMin regarding the provision of information to Treasury? Was that taken forward by Mr Kniveton?

Mr Teare: No, the situation as it stood, I believe that was the beginning of October 2004 –

The Chairman: 2004.

Mr Teare: Mr Kniveton was involved at that time reviewing another application for another scheme through the MEA, which was giving him an opportunity to try and evaluate, or try and gain the financial status, shall we say, of the MEA, trying to get a hold of their accounts – I believe using an outside consultant as well as part of the evaluation process or of the business case process.

At that stage, it was felt that to go for that ruling would upset the balance and maybe disturb the obvious opportunity that we had, using that process.

The Chairman: So the events were beginning to overtake your request at that point, that it was almost other things were happening at that time?

Mr Teare: Absolutely and, certainly, within four weeks of that request, then the financial accounts were made available and everything took off, obviously.

The Chairman: Yes, thank you. Mr Butt.

Mr Butt: I believe you said you were a civil engineer, Mr Teare?

Mr Teare: Yes, that is right.

Mr Butt: Did you at any stage visit any of the projects personally to look at them, the pipeline construction or the power station etc?

Mr Teare: No we were never invited to do so and it would not be – I was going to say protocol – but it would be contractually inept to just turn up on a site and try and force your way onto the sites. So, no, we did not.

Mr Butt: Did you ever in your personal capacity go and look to see what was going on?

Mr Teare: I have to say, no, I did not.

Mr Butt: No, I just wondered, with your experience as an engineer, would it have been any surprise to you when you discovered that there had been a lot of over-expenditure on the projects?

Mr Teare: Yes, I think the answer to that is yes. Although the work they were taking was very, very specialised and I do not have any direct experience – I do have a lot of experience in pipe-laying, not of that sort of standard of pipe-laying – but certainly the cost did seem quite excessive, when I finally saw how much they were spending.

The Chairman: During this 2004 period, after the power station had been constructed, clearly the liaison meetings, MEA and DTI, were concerned with new things. We are aware that the lighting or not of the fibre optic cable was an issue during that period. How much discussion took place at these meetings and what was the view of the MEA and Mike Proffitt in particular about the lighting of the cable?

Mr Teare: At the meetings – and I can only talk about what happened at the meetings – Mike was very bullish about the prospect of lighting this cable. He felt very aggrieved that Treasury appeared to be holding up the lighting of the cable.

I was not actually party to the process within Treasury, so I cannot comment on where it was; I can just report as the situation was. On numerous occasions, he was aggrieved at the delay, as he saw it, by Treasury not agreeing to light this cable and give them opportunity.

The Chairman: Right, so there was a lot of frustration and anger on the part of the –

Mr Teare: Oh, yes.

The Chairman: – MEA at that point?

Mr Teare: Yes.

The Chairman: And what –

Mr Teare: Sorry, can I just clarify that? I cannot say whether it was the MEA or just Mike Proffitt who was angry, but it certainly came over that way.

The Chairman: So Mike Proffitt was clearly pushing, during these meetings, for the lighting of the cable. Was that a message he was wanting you to convey back to Treasury, to stop their holding this up or was he directing all his feeling towards the DTI?

Mr Teare: Oh, it was directed at the DTI, but it was obvious that there was a message there, as well.

The Chairman: And he felt Government was being obstructive generally –

Mr Teare: Yes.

The Chairman: – to realise... What was your understanding of his ambition for the lighting of the cable? What would that be achieving? What benefit would that be producing? What was the message that he was trying to get over?

Mr Teare: He was stressing it as an income stream for the MEA.

The Chairman: An income stream for the MEA, yes.

Mr Teare: Yes.

The Chairman: Did he go into detail about that at these meetings, how important that income stream was?

Mr Teare: I cannot be sure about that. He talked about potential customers. He talked about potential technology which would benefit from it. Whether he actually stressed just how strategically important it was to the MEA or not, I do not recall.

The Chairman: I am just wondering – the cable had not been lit for a number of years, five or six years – why in 2004, as far as you were aware, it was becoming such an issue at these meetings. Did you have any sense of why?

Mr Teare: I have no idea.

The Chairman: No. Thank you very much. Mr Quirk.

Mr Quirk: Can I just ask what the relationship was like with Mr Proffitt and the Chief Executive of the DTI, Chris Corlett? Was it fairly fluid, were they not aggressive, or hostile or...?

Mr Teare: No, they appeared to have a good working and personal relationship – at the meetings obviously.

Mr Quirk: Sorry, in the meetings, did he question Mr Proffitt or ask questions on general subject matters?

Mr Teare: Yes, obviously. He listened a lot and did ask questions, obviously just to clarify issues that were addressed.

Mr Quirk: And would there ever have been a political Member in the meeting?

Mr Teare: No.

Mr Quirk: Not at all.

Mr Teare: Not while I was there, certainly.

The Chairman: Thank you. Any final questions? Thank you very much, Mr Teare. That concludes our questions, but please take the opportunity: if there is anything you wish to add, please do so.

Mr Teare: No, thank you.

The Chairman: Thank you very much. Thank you for your assistance and if we require to contact you further after the sessions with other witnesses we will certainly do so. Thank you very much.

Mr McGreal was called at 12.00 noon.

Administration of the Oath

The Chairman: If I could call forward Mr McGreal. Thank you for your attendance and if I could ask the Clerk to administer the Solemn Oath.

Mr McGreal took the Bible in his right hand and repeated the Oath.

Mr McGreal: I swear by Almighty God that the evidence I shall give to the Committee at this and any future hearing shall be the truth, the whole truth and nothing but the truth, so help me God.

EVIDENCE OF MR K C MCGREAL

The Chairman: Thank you very much, Mr McGreal. Can I ask you to state your name and your role and responsibilities in Treasury for the relevant period and, indeed, currently?

Mr McGreal: Yes, my name is Kenneth Clive McGreal, currently the Financial Controller at the Treasury. I am a qualified chartered public finance accountant of some 26 years standing, having wide experience across local government, central Government and the NHS in both the UK and overseas.

I was appointed to the Treasury firstly in 1992 as the forensic accountant with the newly formed Fraud Squad at the time, now the Financial Crimes Unit and subsequently moved to a post of senior accountant in the Budget and Financial Management Section of Treasury a few years later. I held the position of Chief Internal Auditor over the period 1st May 1999 until the appointment of my successor earlier this year in February. However, my substantive post since October 2006 has been that of Financial Controller.

During my tenure in post as the Chief Internal Auditor, my primary role was to lead a relatively small team providing an independent professional audit service across Government, providing an establishment of 12 posts. The Division operated in accordance with terms of reference which the Committee has been provided with, approved by the Chief Financial Officer way back in 1997.

The primary objective of the Internal Audit Division is to report on the adequacy of internal controls across the organisation as a whole, as a contribution to the effective and efficient use of resources and providing assurance to management on the effectiveness of the financial systems and processes in the delivery of their services and operations.

My professional line management responsibility was, as Chief Internal Auditor, and, as Financial Controller, directly to the Chief Financial Officer. During my time as Chief Internal Auditor, audit reports produced by the Division were addressed directly to accounting officers, the chief officer, the chief executive in most cases in each of the Departments or Statutory Boards. Treasury also received copies, as did the public auditors and the Public Accounts Committee.

Since October 2006, I have held the position of Financial Controller, as head of Corporate Strategy Division. This Division is responsible in the main for the development of central, fiscal and economic policy of the Treasury strategy, including the delivery of the annual budget, the work of the Capital Projects Unit, financial management advice to Treasury, Council of Ministers and Tynwald and a range of corporate services which include HR and legislation etc.

Mr Chairman, before I go on, prior to giving any oral evidence the Committee may require, may I respond to your earlier invite to provide a brief explanation to cover the absence of my colleagues, Mary Williams and –

The Chairman: Yes, please do so at this point. Thank you.

Mr McGreal: – and Mark Shimmin, who were originally scheduled to give evidence later today.

Mr Chairman, I have been asked to reiterate the apologies of both the Chief Secretary and Chief Financial Officer to you and the Committee for their unavoidable, but necessary, absence on Government business. Both the Chief Secretary and Chief Financial Officer are extremely appreciative to you for granting leave of absence at short notice and would be pleased to appear before the Committee on the rescheduled date of 29th May.

I understand that the Chief Secretary has provided further details of this urgent Government business to the Clerk of Tynwald for further information to the Committee, should you so wish.

The Chairman: Thank you, Mr McGreal. I think we are quite satisfied that we will be able to see these two particular officers at the rescheduled meeting on 29th May.

So I would like to give you the opportunity to make an opening statement before the Committee puts any specific questions and if there is anything you would like to say at this stage, we would be very pleased to have it now.

Mr McGreal: Thank you very much, Mr Chairman.

Very briefly, I think, given my position in the organisation as head of an independent audit function for Government and having clarified that particular role that I held over the period that the Committee is investigating, I think it would be inappropriate for me to add anything further at this stage.

Thank you.

The Chairman: Fine, thank you.

If I start, then, by referring you to the Treasury meeting on 26th September 2001: there are minutes of that meeting, which was chaired by the Minister, Mr Corkill. Present were the three political Members, Chief Financial Officer, Financial Controller and you as Chief Internal Auditor joined the meeting and Mr Proffitt was also in attendance at that meeting.

Just quoting from one part of the minutes:

‘The Treasury emphasised the importance of ensuring that the MEA be seen to be adhering to the procedure notes for capital schemes. A discussion took place on the operation and management of capital schemes by the MEA. It was agreed that the Chief Internal Auditor and the MEA’s internal auditor should meet to review the capital procedures and their application within the MEA. Upon a report of the results of that process, the extent to which the procedures might be reviewed would then be identified by the Chief Internal Auditor and the Capital Projects Co-ordinator.’

Can I ask what was the result of the review which was agreed at that meeting?

Mr McGreal: Just taking the Committee briefly through the process, following that meeting of 26th September 2001: immediately following that meeting, I met with Mr Proffitt at his office, just to outline our understanding of the scope of that particular investigation and then over the next couple of weeks with Mr Paul Dewar, who was the MEA internal auditor at the time, we arranged further meetings to actually scope out that particular exercise and how it would be conducted.

We next met late in November 2001, when, together with one of my colleagues, Mr Midgley at the time, we discussed the initial work that Paul Dewar and his people had done to date and had a look at the work in progress at that stage.

Mr Dewar explained to me at that stage that there was still work in progress and it was necessary for him to complete the exercise, obviously having been reviewed by his own chief executive through to their audit committee and through to the board before we – that being Mr Thompson and myself – would have the opportunity to validate that particular exercise information and present it to the Treasury.

Time passed and there is a stage there between January and April which seems to have been a hiatus of some activity. I can only best recall that this coincided with the collapse of Enron in late 2001, early 2002, which may have explained that particular hiatus.

Nevertheless, we picked up the exercise in May. Mr Dewar and myself reviewed the outcome of the review of both capital procedure nought compliance by the MEA and financial regulations more generally and we presented a

report to Treasury dated 6th June in respect of that particular exercise.

To encapsulate it all, the results being that Treasury issued a minute, which I believe the Committee have sight of. It was referenced 290/02 but, very briefly, Mr Chairman, I will read it out:

‘Treasury considered it apparent that the Manx Electricity Authority was not complying with financial regulations but decided that its only option was to issue a Treasury direction that the Manx Electricity Authority would in future comply with all aspects of the financial regulations. A letter should also be sent to remind the Department of Trade and Industry and the Manx Electricity Authority that the Manx Electricity Authority has a duty to comply with financial regulations.’

So the upshot of that particular exercise and the review was, quite candidly, that the MEA did not comply with capital procedures and financial regulations and it was Treasury’s view at the time that a direction was to be issued.

The Chairman: Right, just before we come onto the issue of the direction, Mr McGreal sent you a memo in November 2001, some weeks after that Treasury meeting in which he expressed concern. He had enclosed the second monthly report –

Mrs Christian: Mr Thompson.

The Chairman: I am sorry, Mr Thompson sent – I beg your pardon – Mr Thompson sent you this memo about the second monthly report causing concern that there appeared to be no financial element in the document, despite Mr Proffitt’s assurances at the recent meeting with Treasury that we have just referred to that such information would be provided in all future reports. He put it to you that, following Mr Proffitt’s assurances to Treasury that all procedures were being followed, I quote:

‘one can only conclude that these other matters relating to the pipeline are nothing more than deliberate avoidance.’

What was your response to the memo, specifically on the non-provision of the ‘agreed’ as it was thought, ‘financial information’?

Mr McGreal: Indeed, that was one of the parts that Mr Proffitt had agreed to provide following his attendance at Treasury in September. I met regularly with Mr Thompson and the CPO regarding compliance generally across Government over that period and, again with Mr Thompson, I was engaged on a number of the capital project teams such as the Energy-from-Waste Plant and the new hospital along with him. Mr Thompson was aware that the review of the MEA’s compliance with capital procedures and financial regulations generally had commenced, he was appreciative that that was ongoing and that we would be in a position to reflect upon the MEA’s findings at the conclusion of that prior to any report by Treasury and we agreed that such issues would be reflected in the eventual report presented to Treasury, which in fact happened in June and July of 2002.

Again, we also agreed that, in the interim, Mr Thompson would continue with his regular weekly briefings to Treasury, where he would appropriate, or highlight, any MEA’s continuing failure to comply with capital procedure notes etc.

Around about this time, as Mr Thompson alluded to earlier today, we supplied some model copies of financial reports, monthly reports for other schemes, as a benchmark for the requirements that the MEA were expected to deliver. These were provided to Mr Dewar at the MEA's audit division, and he agreed to circulate them to his chief executive and Mr Lewis, as appropriate.

So in short, both Mr Thompson and myself were aware that the exercise was ongoing, that we would have an opportunity to review that at the conclusion and report to Treasury accordingly.

The Chairman: At that stage, did you consider conducting an internal audit review of the MEA?

Mr McGreal: Certainly, the terms of reference are set out in... The terms of reference for the Internal Audit Division of Treasury actually empower myself, as Chief Internal Auditor at the time, to actually conduct an exercise within the Statutory Boards across Government, but given that this was already an active review that was ongoing by Mr Dewar and his team and that we would have an opportunity of validating that particular exercise, I felt there was no additional added value to be gained from conducting a concurrent exercise at that time. I suppose this is way in advance of the apparent later exposure of the additional borrowings episode, which was unthinkable at that time, having only just gone past the bond issue and into the construction phase of the power station itself.

The Chairman: So you certainly had the power to conduct a review?

Mr McGreal: Yes.

The Chairman: Yes. Mrs Christian.

Mrs Christian: Just reverting to the meeting of 26th September – the Treasury meeting – can I have some clarification, please? Mr Proffitt attended that meeting and you were present and it was agreed that the Chief Internal Auditor and the MEA's internal auditor should meet to review the capital procedures. How did that take place? Did you both sit down together and go through them –

Mr McGreal: We did, yes.

Mrs Christian: – and say this applies, that does not apply, that needs modification?

Mr McGreal: Absolutely. The initial meetings with Mr Dewar on 9th October actually set out with a copy of the capital procedure notes exactly how the exercise was going to be conducted. Mr Dewar was going to take the most recent power station capital project as a template, to see how the MEA actually complied with the capital procedures from stage 1 right to stage 10, or as far as it had gone.

Mrs Christian: Did you interpret this joint meeting to review it as an acceptance by the MEA that capital procedures applied to them?

Mr McGreal: Yes, it was a tacit acceptance that that would be the template for how they should have conducted their review.

I think certainly at an Internal Audit level that was the understanding that certainly financial regulations applied to the Statutory Boards, as did capital procedure notes and the whole exercise was geared around how far the MEA actually did comply in practice, when it came down to conducting that exercise.

So prior to conducting the exercise, there was expectation on both sides that procedure notes would apply, did apply and should apply.

Mrs Christian: And Mr Proffitt did not at that point say they do not apply.

Mr McGreal: There was no view from Mr Proffitt at those early meetings of actually setting out the scope of that examination.

Mrs Christian: You have indicated that that process took a long time, almost nine months or more to conclude.

Mr McGreal: Yes, about eight months in total.

Mrs Christian: And the outcome of that was... You have quoted a Treasury minute; but what was the actual joint report that you submitted to Treasury? What did it say?

Mr McGreal: Basically, that the MEA did not comply with capital procedure notes. There was a subsequent report which took a view on the wider compliance with financial regulations generally, of which there were a few variations but the primary non-compliance, the capital procedure notes and the way in which the MEA had conducted their capital schemes.

Mrs Christian: But the next stage was, as a result of that process, the extent to which the procedures might be reviewed would then be identified by yourself and the Capital Projects Co-ordinator. Did that happen?

Mr McGreal: Indeed, there was a review of the financial regulations in 2003 and as a result of that, there were a number of changes to financial regulations in relation to corporate governance, economic appraisal, but in respect of capital procedure notes themselves, there were very few modifications. Again, largely on the back of Mr Thompson's comments earlier on today that the capital procedures were there as a guideline and a template, they could be modified at any stage, given the particular procurement method being adopted or any particular change or particular project that needed to have them changed. So with that flexibility maintaining the integrity of the capital procedure notes, we felt, on balance, there was no need for any comprehensive wholesale change to those procedure notes.

Mrs Christian: But there still was not compliance.

Mr McGreal: There was still an ongoing problem with MEA compliance, yes.

The Chairman: Thank you. Mr Butt.

Mr Butt: In your meetings with Mr Dewar, was it just the two of you together having a meeting?

Mr McGreal: On the one occasion, the first one was

with Mr Dewar and Mr Proffitt. The second occasion, 20th November, it was with one of my colleagues, Mr Midgley, and Mr Dewar.

Mr Butt: What was said at those meetings that may have given the MEA the impression that maybe they did not have to comply with the compliance procedures?

Mr McGreal: Absolutely nothing. I think these were scope and methodology settings, auditor geeks talking together, how a particular project was going to be approached, how it would be conducted, and what would be the outcome of that particular exercise. So there were no preconceptions that the MEA did not have to comply with the set of rules and the set of procedures that were going to be tested against one of the particular projects that had been undertaken under a live environment.

Mr Butt: So there was no leeway from you to say, 'Change a little bit and then you do not have to comply.'?

Mr McGreal: Absolutely not. I think if you look at the matrices that were produced as a result of that exercise, which I believe the Committee has already been given, it is demonstrated that each of the various stages throughout those procedure notes are actually ticked, yes, no, and a reason or a comment for their non-compliance. So it was a fairly detailed exercise at that level.

Mr Butt: Although you say they are guidance notes, I think Mr Teare said they come under section 102 of the financial regulations.

Mr McGreal: Absolutely, it was... They are guidance notes within the capital procedure notes themselves. They are directions, they are issued under the Treasury Act. So there is no misconception from my viewpoint, or under the Committee's misunderstanding, they are part of the financial regulations. I alluded to some of the guidelines that the capital procedure notes contained within themselves to give some explanatory notes of how compliance may be achieved under different circumstances.

Mr Butt: Yesterday, Mr Cashen gave evidence to say that he was of the clear, strong view that the procedures did apply to the MEA: they had no reason not to comply. What is your view?

Mr McGreal: I share exactly the same view. I think in my report to the Treasury in June 2002 the exact words were that the MEA is a designated body and designated bodies, under the Treasury Act, were obliged to comply with financial regulations, capital procedure notes being an integral part of that.

The Chairman: Mr Quirk.

Mr Quirk: Can I just ask what the political Members' view was?

Mr McGreal: I think they shared the same vision. Certainly the report was not questioned at Chief Financial Officer or political level when it was introduced. They accepted tacitly the officer report and words that MEA should

have complied were within that particular context – and that financial regulations and capital procedures should have been complied with.

Mr Quirk: So in the future meetings you had, was this a priority? Was it at the top of the list, or was it an agenda item just slowed down?

Mr McGreal: When they actually received that particular report, it was in June 2002. It was following that stage when there was an escalation at Chief Financial Officer and ministerial level, exchange with the MEA Chief Executive and Chairman, which involved also advice from the Attorney General. Again, I think the Committee has copies of that correspondence.

To answer your question, Mr Quirk, there was not a standing item on the Treasury agenda thereafter regarding MEA business. That was not introduced until much later, in around 2004-05 when the significant issue of the loans was raised.

Mr Quirk: Is that not strange, because it would be a live issue?

Mr McGreal: It certainly was a live issue at the time. Certainly, my position as Chief Internal Auditor was not to govern the agenda items or dictate the political imperative attached to each of them.

The Chairman: Thank you. Mr Butt.

Mr Butt: Can I go back to the beginning, Mr McGreal. I think you were in post at the time when the bond was to be taken out. There was a financial model, I think, approved by Deloitte and Touche. I wonder what your involvement in that was, reviewing the credibility of such a bond being taken out. Were you part of that process in any way?

Mr McGreal: No, the only part I played in the process of the bond issue was to help put together a report the Council of Ministers received in June-July 2001, which questioned the way in which the bond issue had been arranged. So prior to that, in terms of the financial information on the amount of the bond or the make-up of Deloitte and Touche's report, no involvement whatsoever.

Mr Butt: So, as Internal Auditor, what was your view about the way the bond had been... You asked a question of that, you say.

Mr McGreal: Indeed. In terms of the way in which the bond had been issued, in terms of the tender to the appropriate banks, the way in which the deal had been put together, to that extent, I have no comments on the appropriateness or the due diligence of the way in which the bond had been issued, but again, caveating that with absolutely no involvement in the Deloitte and Touche evaluation or the make-up of the £185 million requirement for the issue itself.

Mr Butt: But, at that time, I think there are Treasury notes, Treasury minutes, prior to that, in June of that year, saying that compliance procedures had not been complied with.

Mr McGreal: In relation to that, certainly that was the minutes that would have been reflected following Mr Thompson's various reports and the other one on the financial regulations compliance, which would have given an indication that the MEA had not, at any stage up to that point, adhered to financial regulations or capital procedure notes.

Mr Butt: Before we move on, can I just ask the question: you are the Chief Internal Auditor, you are not part of the Capital Projects Unit at all?

Mr McGreal: No.

Mr Butt: So why was Mr Thompson telling you these things? Why was he giving you these e-mails and making his comments and his concerns known to you?

Mr McGreal: Again, I think sharing them from a point of view of lack of compliance, so that there could be a two-pronged attack in terms of ensuring that the channels of communication to those accounting officers and those Ministers who needed to have the information was clearly and unequivocally relayed.

I think in relation to both my reports to Treasury and my reports to Paul Dewar, in terms of the MEA's knowledge of the inadequacies of failing to comply, Mr Dewar would have had the ability to convey those comments and reports through to his audit committee chair, his chief executive and his board.

So I think, going back to the question, Mr Thompson was sharing that information with myself, as Chief Internal Auditor, to make sure the message was spread as far and wide as we could to those who could make a difference and make a decision.

Mr Butt: Thank you.

The Chairman: Thank you.

So we are in a situation where the MEA... in July 2001, Tynwald had given its approval for the £185 million borrowing for the scheme. In September 2001, agreement had apparently been reached within Treasury and Mr Proffitt that there would be a working together between you, as Chief Internal Auditor, and their internal auditor. If not, strict adherence to the capital procedure notes, at least there was a parallel exercise going on. However, it became quickly very apparent, through the memo of November 2001 I referred to, Mr Thompson notes that the agreed financial information was not forthcoming and, over the next few months, it became increasingly evident and frustrating, from the evidence we have, within Treasury that procedures were not being complied with and Mr Thompson reported in his background paper to Treasury dated 23rd July 2002:

'The shortcomings of the MEA in their adherence to the capital procedures, together with their attitude and frustrating corporate approach to the co-ordination of Government's overall significant capital programme.'

And you, in a briefing paper at the same time to Treasury reported that nothing had changed since the previous report to Treasury. You confirmed that the MEA were a designated body to which financial regulations and capital procedures did apply, and that:

'Treasury is of the opinion that, in order to secure adherence to the principle for the corporate benefit of Government, a direction should be issued for the purpose as a reasonable step towards compliance.'

So we built up, during this period, there had been attempts at voluntary co-operation, and there were meetings and reports, however inadequate, but the time had come for Treasury, by July, to issue a direction under the Treasury Act 1985 that, as a Statutory Board, they should comply. Is that a fair summary?

Mr McGreal: Yes, I think it is an accurate reflection of events up to that stage.

The Chairman: So what happened at that point, then? Was a direction issued?

Mr McGreal: It is my understanding, from that particular minute, at which stage Treasury had agreed to issue a direction, the Chief Financial Officer at the time wrote the appropriate letters instructing that direction be given to the MEA. I further understand there was an exchange of correspondence with the MEA Chief Executive level, and later at Chairman level, later of which such correspondence was withdrawn. I believe the Committee may have that correspondence at hand.

The Chairman: Yes.

Mr McGreal: I do not have copies myself.

The Chairman: So indeed, the direction, of course, had the sanction of Treasury Members – I am just quoting again from a minute of 17th July:

'who felt that Treasury would be exposed if the matter were to be referred to the Public Accounts Committee, and therefore agreed to press on with the determined course of action, the issuing of a direction.'

We have evidence that, for legal reasons, the Treasury Minister issued a letter to the MEA on 31st July actually withdrawing the direction, largely on legal advice, and in that letter of withdrawal he suggested that a working party was established, comprising officers of Treasury and the MEA to find a constructive way forward to meet the requirements of both the MEA and the Treasury. So the direction was withdrawn.

Did the working party meet? Was it established, and was any progress made?

Mr McGreal: No, I have no recollection of any such meetings being held. Certainly, around about that time, Mr Shimmin was the new Chief Financial Officer, Mrs Williams having been appointed to the post of Chief Secretary at that stage.

I understand that Mr Shimmin did attend the engagement with Mr Proffitt at the MEA at that stage, but the clear message back from Mr Proffitt was that he did not wish to participate in any constructive working relationship and the notion of the working party just disappeared. It was my opinion at the time that the chief officers, Mr Proffitt and Mr Shimmin, were to take the lead in that particular working party, but as it was never established, the Members that Mr Bell suggested should take part never did engage.

The Chairman: So did things go on then much as they had before, in terms of reporting and dialogue?

Mr McGreal: Yes, I think in terms of the issues that Mr Thompson subsequently raised, nothing with the MEA significantly changed. They were still a poor regime in terms of the reports that were prepared and sent through to Treasury and the perennial issue of non-compliance persisted.

The Chairman: Were you aware of any reaction at political level within Treasury as to this ongoing stalemate? The political decision had been made to issue a direction. For legal and other reasons, that was withdrawn. The pragmatic way forward of a working party was proposed; nothing happened. Things just dribbled on as they had before. Were you aware of any action from the top being taken thereafter?

Mr McGreal: No. I was aware that action had been escalated to the Minister, to the Treasury board, and certainly it was in their court to resolve. As Chief Internal Auditor, I did not have any further involvement in that element.

The Chairman: That is fine. Mrs Christian.

Mrs Christian: You were aware, then, that the working party was to be set up?

Mr McGreal: Yes, I was privy to Mr Bell's letter to Mr McCallion, I believe, at the time.

Mrs Christian: You were not copied into it, but you were made aware of it afterwards?

Mr McGreal: I was, yes.

Mrs Christian: In terms of being invited to participate?

Mr McGreal: At an appropriate stage, yes.

Mrs Christian: Right, but that did not happen.

Going on... I think perhaps the Chairman has covered this, but given the frustrations between yourself and the Capital Projects Unit prior to the direction being issued, what was your reaction after it was withdrawn and then there was a failure to progress this working party?

Mr McGreal: I suspect there was a degree of frustration to some extent that, having taken the time and the effort to generate such a comprehensive report to demonstrate MEA's failure to comply, it was not actually seen through, but I do believe that there was a commitment from the Chief Financial Officer and the Treasury Minister to try and deliver a solution. It is just unfortunate that it never did.

Mrs Christian: So it was beyond your remit, almost, then. It was in the hands of the Chief Financial Officer and the Treasury political Members?

Mr McGreal: Indeed. The recommendations having been made, the management having been made aware of the shortcomings and the failures, I think that is perhaps the end of the game for the Chief Internal Auditor.

Mrs Christian: Thank you.

The Chairman: Mr Butt.

Mr Butt: Can I follow on from that, then? How independent are you, as a Chief Internal Auditor? Can you go in anywhere you want without any reference to your superiors.

Mr McGreal: The remit provided allows the Chief Internal Auditor to determine his own plan, his own priorities, to determine the timing of any particular visits and, within certain remits, to investigate and examine any areas of Government.

Mr Butt: With your frustrations, why did you not then go into the MEA and carry that out?

Mr McGreal: The shortcomings were already known. You would only be restating exactly the same evidence, telling the same people exactly the same story. At the end of the day, management are there to manage and direct their affairs. Internal Audit's role in that is to bring a degree of internal control or assurance to those chief executives and chairmen.

Mr Butt: But although Capital Projects were being told that things were on time and in budget etc, they did have some concerns because they said they could not actually test that without looking at detailed financial receipts they had not got, so you could have perhaps done that.

Mr McGreal: I think there could have been a remit to go at other areas. I think what we have got to recall at this stage was that the MEA internal audit staff already were in place. They had an establishment of perhaps three people, whereas the Treasury Internal Audit had a dozen to cover the rest of Government.

Taking your analogy, Mr Butt, I would agree that the MEA internal audit staff would have been far more in the right position to report and account on the financial performance in terms of the power station and other projects being on time and on budget. So yes, whilst there was an opportunity for the Treasury Chief Internal Auditor, they have got to balance that against the remit of the MEA internal audit staff at the same time.

Mr Butt: Did the relationship have an effect on this? Mrs Williams issues a directive to the MEA and they contest that, I believe, and then there are legal issues. What was the relationship like then between Treasury, Mrs Williams and the MEA? Did it get better or worse?

Mr McGreal: I think over that period, 2002-03, there was a very frosty relationship between the two organisations: certainly, at officer level, and no doubt at Chief Officer and even political interface.

Mr Butt: Thanks.

Mrs Christian: Chairman, may I follow up on the internal audit position in the MEA itself? As internal auditors, they presumably... In the light of hindsight, we see that a lot

of these projects went over budget. Presumably, they saw that they were going over budget?

Mr McGreal: Do you mean the MEA internal audit people?

Mrs Christian: Yes.

Mr McGreal: They would have had far more insight and the availability of financial information to them to recognise and report on that, yes.

Mrs Christian: Do you think – I would just like your advice on this – as internal auditors to the MEA, which is a Statutory Board of Government – would they, in your view, have any responsibility to reflect what was happening to you, as the Government Internal Auditor?

Mr McGreal: We had an informal liaison. There was not a formal reporting requirement from the MEA into Treasury, although the charter that was set up in 1996 and 1999 through the agreement of the then Chief Financial Officer, Mr Cashen, and the then Chief Executive, Mr Machin, of the MEA, did agree protocols, whereby reports and that type of essence of information would be exchanged.

In practice, it never really happened. It was very much a *laissez faire* arrangement, whereby the MEA internal audit would conduct their own operational plan and there would not really be much of an interface between the two. But in respect of significant findings, like potentially the power station being significantly overspent, or the capital expenditure programme being significantly outweighed, I would have anticipated that type of report to have come back to Treasury. Disappointingly, it did not.

The Chairman: Just following on from Mrs Christian, in September 2001 onwards, you were engaged with Mr Dewar at the MEA fairly regularly in meetings, were you, to work jointly?

Mr McGreal: ‘Fairly regularly’ being, potentially, quarterly. On this particular exercise, it was an ongoing relationship because it was an end product that eventually was going to be embodied in a report to the Treasury, i.e. compliance with financial regulations.

On his other work, no, there was not such a –

The Chairman: So, after that objective, which was not reached, was overtaken, you had no further quarterly routine meetings with Mr Dewar?

Mr McGreal: No, that fell away until far more recently, potentially 2005.

The Chairman: So, for this period, from July 2002 onwards, you were, as you have just said to Mrs Christian, having very informal contact.

Mr McGreal: ‘*Laissez faire*’ is perhaps again the best description I can attach to it.

The Chairman: Did you not seek to institute a more formal liaison relationship with MEA, or did you feel there was no requirement at that... or no reason to do so?

Mr McGreal: I think it was very difficult for Mr Dewar, having been put under a certain degree of pressure from his Chief Executive not to engage at that level.

The Chairman: Yes, because at that point Mr Proffitt was exceedingly bullish about not releasing information.

Mr McGreal: I think that is fair to say, yes.

Mr Butt: Can I follow that up? As Chief Internal Auditor, you are often from the outside looking in. I suspect some Departments fear your presence, but Mr Thompson raised his concerns with you. Would you have expected Mr Dewar, if he had concerns about what was going on, to have told you what was going on?

Mr McGreal: I was there, I was approachable. It would have been professionally acceptable for him to have done that without eroding any integrity or any confidentiality on his side. I expect the answer is he did not.

Mr Butt: Do you find other members of Departments do confide in you?

Mr McGreal: It is very much a dialogue with all members in other Departments, where they will share problems with Internal Audit, knowing there is a confidentiality around that until such time as it needs to be reported to the chief executive or the Minister etc.

Mr Butt: And if somebody comes to you with concerns which are a problem for that Department, what do you do? Do you try to resolve them, or do you –

Mr McGreal: Absolutely. We are there to help.

Mr Butt: You are there to help them. Thank you.

The Chairman: Mr Quirk.

Mr Quirk: Can I just ask then, was there a certain relief, then, when you knew the direction had gone, that your finger was off the pulse?

Mr McGreal: To some extent it was a success factor, insofar as the reports that we had done, they had got a result, there was going to be a direction. Unfortunately, the legal opinions that ensued actually retracted it at a later stage, but from an Internal Audit point, you cannot really get much past the finish line.

Mr Quirk: Can I ask you, though, why you did not put a bit more pressure on DTI, and say this is a new DTI to...?

Mr McGreal: To ensure they got... I think that particular –

Mr Quirk: They cut the threads?

Mr McGreal: Indeed. That particular thread had already been suggested and imposed at ministerial level. The minute of Treasury back in June had actually suggested that the Chief Financial Officer write to the DTI. I think, in effect, that was actually done. So the recommendation was that

the Treasury auditor's report would have been made, had actually been taken, so we would say that is a result from an audit point of view.

The Chairman: Following this period in summer 2000 to July-August 2002, had the financial direction to comply with regulations been in place and had to be complied with, or alternatively, if the working group of officers had been in place and doing its job, that would be over an ensuing period that was precisely the period where the extra borrowings were being negotiated, and by July 2003 the following year indeed they were in place, as we have later discovered.

One would have expected it, if Treasury officers had been engaged in either of those scenarios and working closely with MEA's internal auditors, you would expect, would you, looking back on it, to have been in a position to pick up the financial situation, the cash flows and all the financial circumstances that were moving inexorably towards having to make a further £120 million worth of borrowing by whichever means?

Mr McGreal: Indeed. I think had the working party been successful and there had been that open interchange of information from the MEA, then such facts would have arisen, I have no doubt. That, I suppose, is conjecture at this stage in terms of how much information the Chief Executive at the time would have divested to that particular working party or beyond the doors of the MEA. I think as we have alluded to in other documents, which you have raised here today, there was certainly an avoidance and obstruction from the Chief Executive at the MEA to release any information to the Treasury whilst he was in post.

The Chairman: So whether potentially... I am suggesting no more than if there had been appropriate structures in place, potentially the problem could have been identified at that stage, but you are saying the other side of the coin is would it have happened, because of the attitude of the MEA Chief Executive towards the release of financial information?

Mr McGreal: As a vehicle, potentially that working party could have reported and would have had that information available. Consequentially, would the Chief Executive have released that even to the working party?

The Chairman: Was there a financial regulations review about this time that took place?

Mr McGreal: I think I did allude to it going on, Chairman. There was one in 2003. That did change. Some of the financial regulations which have created some of the guidelines at that time into directions. We did some marginal changes to the capital procedure notes, but really, having identified where the MEA had shortcomings and non-compliance, a lot of those issues could well have been overcome through dialogue and the flexibility of the Capital Projects Unit to accommodate them, anyway. So we felt there was not really any wholesale requirement to update the capital procedure notes at the time.

The Chairman: Mr Butt.

Mr Butt: Can I ask, when the directive was withdrawn, were you given any instructions after that to maybe not

interfere any more, you had gone as far as you could? Was there any instruction to you or Mrs Williams to say, because of legal issues, do not get involved in this issue any more?

Mr McGreal: No, we were aware of them but there was no particular instruction given to the Audit Division to stay away or do anything else or curtail its activity.

Mr Butt: Thank you.

The Chairman: Just moving on a bit to 2004: by early November 2004, of course, as we have heard from Mr Kniveton, the cat was out of the bag, as it were, and there was a meeting that took place on 25th November, Treasury Minister meeting with the MEA board members and the paper giving the background to that meeting was that KPMG, the auditors, were concerned in respect of the underlying financial position and KPMG wished direction to be provided to require the MEA accounts to provide a true and fair view.

I think the meeting centred on the auditors' inability to act unless a direction regarding the format of the accounts was issued. I assume that was to do with the general accounting principle format that had been departed from previously. To your knowledge, was Council of Ministers asked to issue such a direction at that point?

Mr McGreal: Yes, whilst I was not present at the meeting of the MEA and KPMG or with Treasury on 25th November – I have not had any sight of the minutes – however, I am aware of the issue being raised by the Treasury with Council of Ministers, who I understand wrote to the Chairman, Mr McCallion, at the time advising that it was the wish of Council that the Authority's accounts be prepared under the GAAP convention, Generally Accepted Accounting Principles, and they were prepared to issue a direction to that effect.

Whilst there was a passage of a couple of months, I have actually seen a response from Mr McCallion at the time to Mr Gelling, the then Chief Minister, acceding to that request without the need for such a direction. I am not sure whether the Committee have copies of that correspondence, but I am quite happy to share that with you.

I recall also that the Treasury Minister made a Statement to the House of Keys on 30th November 2004 which also covered that point and there is a briefing note to that extent included in there. I have not actually compared that with, potentially, the *Hansard* that was released, but I am sure it is a fair reflection of the particular point of view raised, Mr Chairman.

The Chairman: Do you have a view on the lack of political representation on the Board of the MEA? I think back as early as 2001 you expressed concern to that effect.

Mr McGreal: I did. I think it was, perhaps, a question that I posed at the end of one of the reports that I wrote to Treasury rather than making it an opinion or a conclusion. I think to the extent I said, and I quote:

'the extent to which the absence of any direct political representation on the Board of the MEA is a significant factor in the circumstances, it may also be a consideration for the Treasury.'

I suspect that, in conclusion, I can only suffice to

say that today's board of the MEA actually contains two representations, two elected Members, so...

The Chairman: Before I ask a more general final question, are there any specific questions?

Can I ask you, Mr McGreal, in the course of our investigation it has come through very strongly the compliance and lack of compliance with the Capital Projects Unit in terms of the financial regulations. Have the CPU procedures been amended in the light of this experience? You made reference to the 2003 updating alterations, but in the light of very significant breakdown in relationships between the MEA, widely held to be a part of Government, and Government itself, what changes have been made recently in the light of that?

Mr McGreal: Again, in relation to the capital procedure notes themselves – and I am just going to restate my earlier views – we have made very few changes in terms of the requirements within that. There has always been a flexibility to accommodate different procurement methodologies and I think in today's liaison with MEA personnel, acknowledging that the MEA today has got much leaner operations in terms of staffing etc, there is a much closer working relationship and there is an active participation and willingness of the current regime and the current officers within the MEA to work to the spirit of financial regulations.

There will always be variations and it is, I suppose, strange that both parties have been able to accommodate it in today's working relationship, their being no different substantively to those of 2001-02, so I think it is just purely a culture issue.

In terms of the relationships at officer level and Board members, I would view those as excellent. I think Treasury has no concerns with the flow of information that comes from the MEA at today's level and myself as Financial Controller. I sit at all board meetings of the MEA and the subsidiary companies.

So, in short, we did not have to change the capital procedure notes to any great degree to allow MEA to use those as their compliance model of today.

The Chairman: Is there a greater clarity, then, on the relationship between the MEA as a Statutory Board and Government? I mean, clearly there is, but the composition of the Board is different and the political representation makes it inevitably so, but is there not... potentially this could happen again?

Mr McGreal: I think there is more of a tacit acceptance now that they are part of corporate government as a whole,

that the rules and regulations do apply to them as an entity and they are quite content to operate and remain within that governance model.

The Chairman: But surely the statutory relationship has not changed and they were able to resist for a number of years any close engagement with Government?

Mr McGreal: I quite agree and I have not really got a firm opinion on how it has changed, but certainly the model is now working.

The Chairman: Thank you. Can I ask you, just perhaps by way of a final question, we have had evidence from a former Board member that he was aware that the executive of the MEA, the Chief Executive, was having regular meetings with the DTI and Treasury who were, and I am just quoting,

'who were aware that the group's borrowing requirements were well in excess of that covered by the £185 million bond.'

That has been stated to us that is the belief of MEA board members. Is there any evidence that you are aware of to bear out this assertion?

Mr McGreal: Certainly, in my experience and evidence gathering within the Treasury, none whatsoever to substantiate that particular statement.

The Chairman: Thank you. If there are no final questions – Mrs Cullen? I would like to thank you very much, Mr McGreal, for answering the Committee's questions this morning.

If there is anything you wish to add, please feel free to do so.

Mr McGreal: I have probably said enough, Chairman, thank you very much.

The Chairman: Thank you very much for your assistance and, as I have indicated to earlier witnesses, in the event that we require to contact you for clarification or to recall you, we will certainly do so.

So, ladies and gentlemen, that concludes our public session today. The next public hearing will take place in the morning of 29th May and details will appear in the media in due course. Thank you very much.

The Committee sat in private at 12.56 p.m.