

Appropriation Accounts 1999 - 2000

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**Cabinet Office: other services,
Parliament, etc; House of
Commons; National Audit Office**

New Parliamentary Building (Portcullis House): Losses

Report of the Comptroller and Auditor General

HC 25-XVIII

7 February 2001

Report

Report by the Comptroller and Auditor General to the House of Commons

Introduction

- 1 The House of Commons: Works Services Appropriation Account Class XVIII A, Vote 2 bears the expenditure by the House of Commons Commission on accommodation services, including major new works projects. In 1999-2000 the House of Commons incurred gross expenditure of £86.8 million on capital works and maintenance, of which £45.7 million related to the New Parliamentary Building, Portcullis House. Note 3 of the Appropriation Account (page 41) discloses payments of £6,009,121 in the years up to 31 March 2000 relating to losses incurred in the construction of the New Parliamentary Building. These losses relate to the legal case brought against the House of Commons by Harmon CFEM Facades (UK) Limited and the cost of delays in the handover of the New Parliamentary Building site by London Underground Limited. In this report I set out the background to these payments, the additional payments brought to account in the period 2000-2001, and the action being taken by the House of Commons in response to these losses.

The New Parliamentary Building: Portcullis House

- 2 In March 1992, as part of the aim to provide all Members of Parliament with their own office, the House of Commons approved the construction of the New Parliamentary Building. The project was to be managed by the Parliamentary Works Directorate, part of the Serjeant at Arms Department. The main construction of the New Parliamentary Building was completed in August 2000 and the building began to be brought into use in September 2000. Eventual out-turn cost will depend on the settlement of final accounts with contractors but, as at December 2000, the House of Commons estimate final cost to be some £233 million, excluding payments in respect of the Harmon settlement.

The Harmon Case

- 3 The cost of the New Parliamentary Building includes a £34 million contract awarded to Seele Alvis Fenestration Limited in May 1996 for the fenestration of the building, which comprises the windows and the exterior bronze cladding of the outer walls. In June 1996, Harmon CFEM Facades (UK) Limited, who had been unsuccessful in the tender, brought a legal action against the House of Commons. Harmon alleged that the House of Commons had been in breach of statutory procurement regulations in the award of the fenestration contract and had discriminated in favour of the successful tenderer.

- 4 In October 1999 the High Court ruled that the House of Commons was liable to Harmon for breaches of procurement regulations under the Public Works Contracts Regulations 1991 regarding the duties of fairness and equality which were owed to the tenderers. The Court ruled, for example, that the House of Commons did not give a clear or adequate statement of the criteria on which the contract would be awarded and, during post tender negotiations, allowed the successful bidder to make material changes to their bid.
- 5 The House of Commons decided not to appeal against the High Court ruling on the judges' finding of fact but did seek leave to appeal on the level of damages. The Harmon claim included damages to be assessed for loss of profit of up to £17.5 million plus interest and costs. This claim had reduced to £12.3 million plus interest in June 2000 when the High Court heard interim claim applications and awarded interim damages of £1.85 million against the House of Commons. To avoid further legal costs and the risk of the Court awarding a higher level of damages, the House reached an out of court settlement with Harmon in August 2000 of £5,260,054, including costs.
- 6 Note 3 of the Account (page 41) discloses payments relating to legal costs in defending the Harmon case of £3,754,324 for the four years up to 31 March 2000. The costs of the out of court settlement will be recorded in the 2000-2001 Account, together with any further legal costs paid. As at December 2000, the total costs incurred by the House of Commons in connection with the Harmon case amounted to some £9.9 million, of which £4.6 million related to legal expenses incurred by the House in defending the case. A detailed breakdown of these costs is given in **Figure 1**.

1 **Details of the legal costs and payments made relating to the Harmon case (as at December 2000)**

Financial Year	Details of payments made	Amount
1996 – 1997	Legal costs	£94,585
1997 – 1998	Legal costs	£1,323,155
1998 – 1999	Legal costs	£1,380,415
	Payment into Court	<u>£375,000</u>
		£1,755,415
1999 – 2000	Legal costs	£581,169
Total appearing in Note 3: Losses Statement		<u>£3,754,324</u>
2000 – 2001	Out of court settlement	£5,260,054
	Legal costs	£1,257,051
	Payment into Court returned	<u>(£375,000)</u>
		£6,142,105
Total costs of the Harmon case (as at December 2000)		<u>£9,896,429</u>

7 The House of Commons Commission asked the Clerk of the House to arrange an independent inquiry into the Harmon case. In January 2000, the Clerk commissioned Sir Thomas Legg and Peter Bosworth to consider certain aspects of the Harmon judgement, inquire into the circumstances which led to it and make recommendations on any action to be taken. They completed their inquiry in March 2000. As reported to the House on 19 April 2000, they concluded that “in the first place, serious mistakes were made in the handling of the fenestration contract, which exposed the House of Commons to liability; and secondly that, in future projects the Parliamentary Works Directorate should establish more clearly:

- (a) the roles and responsibilities of team members;
- (b) a project management process to include guidelines and control systems; and
- (c) lines of governance within a culture of professional and technical support.”

At the same time, the House of Commons Commission told the House that they had considered the Legg/Bosworth report and accepted its conclusions.

8 Sir Thomas Legg and Peter Bosworth also suggested that their recommendations should be taken into account in the separate review by Michael Braithwaite into the role and structure of the Parliamentary Works Directorate and its relationship with the other operations of the Serjeant at Arms Department. This review of the Parliamentary Works Directorate was completed in July 2000 and recommended that:

- a central procurement unit should be established to set policy and common standards, monitor value for money, conduct benchmarking against industry best practice, take the lead in establishing appropriate procurement processes and to monitor and support the Directorate’s compliance with these processes;
- the Directorate should establish a clear and transparent line of reporting with agreed performance targets and clear definitions of works categories;
- there should be a clear separation between client and provider functions within the Directorate; and
- an Estates Director should be appointed to take over the client side of the Directorate’s operations, leaving the Directorate as the supplier of works services.

9 I will continue to monitor the House of Commons’ progress towards implementing these recommendations.

London Underground Delays: Payments to Contractors

- 10 The site chosen for the New Parliamentary Building was on the corner of Bridge Street and Victoria Embankment above Westminster Underground Station. The construction of the Jubilee Line Extension through Westminster meant that the House of Commons were unable to commence work on the New Parliamentary Building until London Underground Limited handed over the site. This was scheduled for February 1997. As a result of delays by London Underground Limited the site was handed over progressively between October 1997 and March 1998, though the House consider that meaningful work could not start until January 1998. As a consequence of this delay the House have incurred additional costs in compensating contractors, including the cost of prolonged storage of pre-fabricated items.
- 11 As Note 3 of the Account (page 41) discloses, as at 31 March 2000 the total of the compensation paid to contractors in connection with the London Underground delays amounts to £2,254,797. However, as the House have yet to receive all final accounts and claims from contractors, further costs are expected to be incurred. The House have made additional compensation payments to contractors of some £910,000 in the nine months to December 2000. The House are currently negotiating with London Underground Limited for compensation for the late hand-over of the New Parliamentary Building site.

NAO Review of the New Parliamentary Building Project

- 12 I am currently undertaking a more detailed study of the project to construct the New Parliamentary Building, which will provide further information about these matters. I expect to report later in the year.

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Comptroller and Auditor General
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