NATIONAL AUDIT OFFICE

Winding-up
The New Millennium Experience Company Limited

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

HC 749 Session 2001-2002: 17 April 2002

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LONDON: The Stationery Office
£7.75

Ordered by the
House of Commons
to be printed on 15 April 2002

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This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

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National Audit Office
26 March 2002

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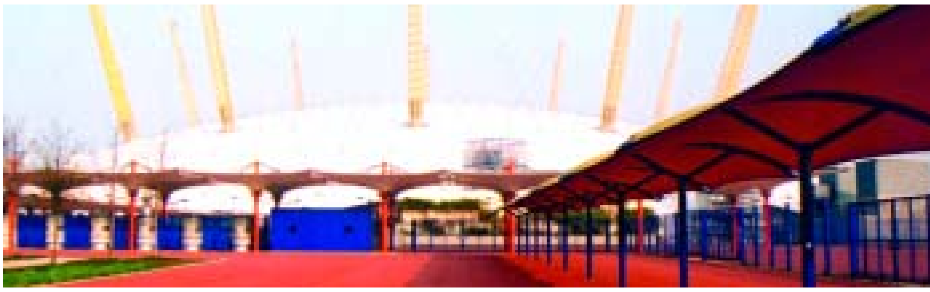
1 The Millennium Dome was a unique project that provided the centrepiece for the nation's Millennium celebrations. The Dome was built, fitted out and run by The New Millennium Experience Company Limited (the Company) and funded from the National Lottery (by The Millennium Commission), visitor income and commercial sponsors. The Dome opened to the public on New Year's Eve 1999 and remained open throughout 2000.

2 The Dome attracted 5.5 million paying visitors, 6.5 million in total, and the majority (87 per cent) were satisfied with their visit. But the business plan for the project was based on a total of 12 million paying visitors, and that was the basis on which The Millennium Commission approved the project. The shortfall in visitor numbers and income, along with less sponsorship income than expected, left the Company with serious financial difficulties. These led to The Millennium Commission making four separate offers of additional lottery grant totalling £179 million during 2000.



3 The Comptroller and Auditor General's report on the Millennium Dome (HC 936, Session 1999-2000) in November 2000 focused on the financial problems experienced on the project during its year of operation and concluded that:

- there was a significant degree of financial exposure on the project;
- the organisational arrangements put in place were complex; and
- there was a failure to put in sufficiently robust financial management.

4 This Report examines how the Company subsequently went about winding-up its affairs, and shows that central to the process was the decision by the Shareholder and the Company's directors to place the Company into a 'Members' Voluntary Liquidation' (a liquidation process based on an assessment by the directors of a company that there are sufficient assets to pay all the company's debts). The Report does not cover the sale of the Dome, or any other deal relating to its future use, which will be the subject of a separate National Audit Office examination in due course.

Who's Who

The New Millennium Experience Company Limited is both a limited company governed by the Companies Act, and a non-departmental public body subject to public sector control and accountability requirements. The Company is wholly owned by the Government, and the **Shareholder** is a Minister of the Crown.

The Millennium Commission is a non-departmental public body chaired by the Secretary of State for Culture, Media and Sport. The Commission receives its funding from the National Lottery Distribution Fund. In her departmental capacity, the Secretary of State is responsible for issuing policy and financial directions to The Millennium Commission.

The Permanent Secretary of the **Department for Culture, Media and Sport** is the Accounting Officer both of the Department and of the National Lottery Distribution Fund. The Department's Accounting Officer is responsible for appointing the Accounting Officer of The Millennium Commission and was, up to its placement in liquidation, responsible for appointing the Accounting Officer of the Company. Following appointment of the liquidators, the Department's Accounting Officer became the Accounting Officer of the Company, subject to legislation relating to the winding-up of companies.

English Partnerships, the Government's regeneration agency, owns the Dome site and granted the Company an Agreement for Lease which entitled the Company to occupy the site up to 30 June 2001. On 1 July 2001, following the expiry of the Company's lease, full responsibility for the land reverted to English Partnerships and ownership of the Dome structure passed to it. English Partnerships continues to be responsible for managing, maintaining and securing the Dome structure and associated land.

5 The Dome project was a massive undertaking, and the process of decommissioning the Dome, winding-up the Company's affairs and working through to the position where it was able to go into voluntary liquidation has been a major task. For example, the contents of the Dome, including the exhibition zones, had to be removed and, where possible, sold; a very large number of contracts had to be closed; and the Company, with the assistance of a team from PricewaterhouseCoopers, conducted a major forensic exercise in the light of fraud allegations. In addition, the unusual step of placing a public sector body into liquidation, and ensuring this was done with the Company in a solvent state, raised complex accountability issues which the Department for Culture, Media and Sport, The Millennium Commission and the Company worked together to resolve.

The Company's overall financial position on appointment of the liquidators

6 The Company was placed in the hands of the liquidators, from the accounting firm KPMG, on 18 December 2001. Before the liquidators were appointed the directors of the Company swore a statutory declaration that they "have made a full enquiry into the affairs of .....[the] Company and that, having done so, ... [they] have formed the opinion that ..... [the] Company will be able to pay its debts in full, together with interest at the official rate, within a period of 12 months from the commencement of the winding-up".

7 **Figure 1** below shows the Company's financial position on appointment of the liquidators compared with the original May 1997 lifetime budget and the position in September 2000 as reflected in the Comptroller and Auditor General's previous report.

1 **The Company's forecast lifetime expenditure, income and grant through to dissolution**

	May 1997 Budget £m	September 2000 forecast[1] £m	December 2001 forecast[1] £m
Expenditure[2]	758	793	789
Income (before grant)[3]	359	168	189
Grant	449	628	628
Grant surplus	(50)	-	(25)

NOTES

1. The figures do not cast because they exclude the costs (£5 million) and grant (£2 million) in respect of the London New Year's Eve 1999 celebrations.
2. The figures exclude costs of £7.4 million incurred by English Partnerships during 2001.
3. Forecast proceeds from the sale of the Dome (£15 million) are included in the May 1997 figure. No sale proceeds are budgeted for in the 2000 and 2001 figures.

Source: The New Millennium Experience Company Limited and English Partnerships

Expenditure

8 After the Dome closed at the end of December 2000, the Dome's contents had to be decommissioned and, pending sale, the site and structure maintained. The Company spent £6.3 million on decommissioning and by 30 June 2001, when ownership and responsibility passed to English Partnerships, had spent £1.9 million maintaining the Dome. To handle these tasks, and the wide range of other tasks involved in winding-up the Company's affairs, the Company spent £12.8 million on running costs, including professional support services, in 2001. Meanwhile, some £4 million in respect of provisions and contingencies included in the Company's September 2000 budget and grant award was not needed.

9 There will be costs to be met by the Company during the liquidation period and these are reflected in the December 2001 budget. They include potential expenditure relating to on-going and potential litigation. To provide funds for this expenditure should it arise, the Company, as required by The Millennium Commission, set up Trust Funds (holding a total of £1.86 million). The Funds cannot be used by the liquidators for any other purpose and any amounts remaining will be returned to the Commission.

10 Some costs associated with the Dome have been met by English Partnerships since ownership and responsibility passed to it at the end of June 2001. In November 2000, when the Company was finalising its plans for decommissioning the Dome, it anticipated that it would not have sufficient funds to carry out all the work which might be required. On 5 December 2000 Ministers established a basis for allocating the costs of decommissioning the Dome and the proceeds from its eventual sale. This ran contrary to English Partnerships' obligation to sell for the best consideration. Therefore, under the powers conferred on him by the Leasehold Reform, Housing and Urban Development Act 1993, the then Secretary of State for Environment, Transport and the Regions directed English Partnerships to dispose of the relevant land together with the Millennium Dome in accordance with the division of proceeds and assumption of liabilities established by Ministers. In accordance with the resulting Agreement between English Partnerships and the Company, English Partnerships has met the cost of managing, maintaining and securing the Dome site and structure (at a cost of £1.3 million to the end of 2001), and incurred £6.1 million on its share of the decommissioning.

Income

11 As Figure 1 shows, the biggest difference in the Company's overall financial situation since the Comptroller and Auditor General last reported has been the increase in its income. This is mainly due to increased visitor numbers towards the end of 2000 (the Company's September 2000 budget assumed there would be 4.5 million paying visitors by the end of the year, compared with the 5.5 million achieved), together with the proceeds from the sale of the Dome's contents.

The net grant position

12 The Millennium Commission's original grant to the Company in 1997 was £449 million. This grant award included an element for cash flow purposes, recognising that the Company would not be able to generate trading income until after the Dome opened. In approving the grant the Commission required that any surplus, after the cessation of trading, would be at the disposal of the Commission and it expected to have £50 million available. The financial difficulties subsequently encountered by the Company meant it required additional grant funding throughout 2000, and by September 2000 the estimated net grant had risen from £399 million (£449 million less £50 million) to £628 million.

13 On appointment of the liquidators in December 2001 the Company forecast that, taking account of expenditure through to dissolution, it would not require £25 million of the £628 million lottery grant previously awarded. Under the terms of the grant, any surplus will be at the disposal of The Millennium Commission on dissolution of the Company.

The financial management of the Company

14 Before the Company appointed the liquidators it faced a number of financial management challenges.

The Company carried out a detailed review of its contractual commitments and liabilities

15 In October 2000 the Company set about reviewing over 1,350 contracts with the aim of ensuring that they were all logged and closed in the most beneficial way for the Company. It also aimed to reduce outstanding contractual liabilities to the minimum prior to a solvent liquidation. The task was complicated by the absence of adequate records (for example, at the start of the review the Company did not have a comprehensive contract management database, and contract terms were incomplete or unrecorded). The review involved a team of 25 consultants and temporary employees and took over 12 months to complete. The Company undertook the exercise to limit the number and value of contractual claims made against it, and to enable it to recover sums due. On the appointment of the liquidators, two contracts remained unresolved (excluding those contracts that the liquidators needed to keep open for the conduct of their business).

The Company investigated allegations of fraud and carried out a review of the risk of procurement fraud

16 In the latter part of 2000, the Company and the Police received a number of allegations of fraud and impropriety. The allegations, most of which related to the purchase of goods and services, raised serious questions about the effectiveness of the control environment at the Company during the development of the Dome's exhibition zones. The Company appointed PricewaterhouseCoopers Forensic Services to carry out an independent investigation. The investigation focused on the specific issues raised by the allegations.

17 As at mid-March 2002:

- the Company had decided, following assessment by the PricewaterhouseCoopers team, not to pursue thirteen allegations. In addition three cases had been closed following investigations by the Metropolitan Police Service Public Sector Corruption Unit; and
- two cases remain under investigation by the Police, and Police inquiries continue.

18 The Company also requested PricewaterhouseCoopers to carry out a wider review of procurement fraud risk at the Company. The review team focused on the period up to the opening of the Dome and concluded that there was no evidence of systematic fraud, but they did identify several instances of poor or ineffective compliance with the Company's procurement controls; for example, a lack of transparency on appointments, especially on certain single tenders. Given these lapses, the review team doubted whether the Company in all cases fully achieved the objective of realising value for money for the goods and services it procured.

19 The Company responded to the review team's recommendations by putting in place arrangements to review and manage the risks of decommissioning, which by that time represented the Company's main procurement activity. Independent monitors, appointed jointly by the Company and The Millennium Commission, reported in March 2001 that the decommissioning process had been managed successfully, with a view to minimising risks and ensuring that budgetary controls were properly adhered to, and that the works had been carried out with due regard to value for money.

The Company had to compile a comprehensive asset database before disposing of its assets

20 Disposing of the Dome's contents was one of the major tasks facing the Company and one which was complicated by the absence of a detailed record of the Company's assets. Following their appointment in November 2000 the Company's sales agents, Henry Butcher International Limited, had urgently to identify all the individual assets, detail their ownership status and provide a valuation. This was necessary because the Company's systems for maintaining detailed records of assets had been overwhelmed by the massive amount of material and equipment delivered in the final months before the Dome opened.

21 The Company received £3.5 million from an auction of its assets in February 2001 and a further £1 million from the subsequent private treaty sale of items originally intended for auction, but temporarily withheld on the grounds that they might be required by a purchaser of the Dome.

The Millennium Commission sought further assurance on the Company's management, financial control and information systems

22 The Millennium Commission appointed consultants, Capita, to carry out a review of the Company's management, financial control and information systems in November 2000 (as a follow-up to an earlier review in May 2000). Capita reported that the accuracy of the Company's forecasting and monitoring had improved, and that better information was being provided to the Board. The Commission was satisfied that, in the light of this work and a review by Commission staff of the Company's management capacity, no material weaknesses in financial governance remained; this had previously been a significant concern.

The organisational and accountability arrangements for the Company

23 On the appointment of the liquidators, the directors have no further role in managing the affairs of a company unless invited to do so by the liquidators. In the case of The New Millennium Experience Company Limited these arrangements would not have been compatible with the public sector control arrangements that would normally apply to a non-departmental public body. So it was necessary for all the various different parties to agree upon the arrangements to be put into place to ensure that, mindful of the liquidators' powers and obligations under insolvency legislation, accountability to Parliament was maintained once the Company was in liquidation. The main elements are:

- the Company's former Executive Chairman no longer has a formal role in relation to the Company, including that of Accounting Officer. The Accounting Officer for the Department for Culture, Media and Sport will be the Accounting Officer of the Company, subject to limitations imposed by legislation relating to the winding-up of companies;
- The Millennium Commission has less detailed oversight of the Company, but the Deed of Grant which has replaced the Grant Memorandum resembles the standard legal document under which the Commission normally pays lottery grants, and provides for the Commission to receive regular monitoring information from the Company; and
- lottery grant previously approved by the Commission (in 2000) but not used by the Company will only be released to the liquidators subject to certain conditions being met, including the Commission being satisfied that it will achieve value for money. Some of the grant has however been placed in the Trust Funds referred to in paragraph 9.

The Comptroller & Auditor General's conclusions and recommendations

24 The Millennium Dome project has experienced serious financial problems, but when the Company went into voluntary liquidation in December 2001 it was in better shape than when I last reported. On entering liquidation, the Company was solvent and forecasting that £25 million of the £628 million lottery grant would not be required, although this cannot be guaranteed. Any surplus grant on dissolution of the Company will be at the disposal of The Millennium Commission.

25 The process of winding-up the affairs of the Company under the direction of the Executive Chairman was extremely challenging, particularly given the complexity and scale of the operation. But it was accomplished successfully. The Company worked through the difficulties professionally, and within a year of the Dome closing it had completed successfully the preparations required before appointing the liquidators. The dual status of the Company as both a Companies Act Company and a non-departmental public body complicated the business of putting it into liquidation and the Department, The Millennium Commission and the Company were right to ensure that, despite this unusual step, accountability to Parliament for the use of public money will be maintained throughout the liquidation period.

26 The Millennium Dome project was unique. Yet it provides lessons which may be helpful to others involved in major capital projects, and indeed other lottery projects. My earlier Report identified a range of generic management issues arising from the Dome project. This Report highlights the importance of proper records and internal controls, and, as was achieved, a clear focus on the requirements of public accountability. But these Reports are no substitute for those directly involved in the project reflecting on their personal experiences and drawing out the lessons for others. As the project draws to a close, this is something in which the Department for Culture, Media and Sport could usefully take the lead.

Part 1

Introduction

1.1 The Millennium Dome was a unique project. Conceived as a Millennium Exhibition, it provided the centrepiece for the nation's Millennium celebrations. The project was funded from the National Lottery, visitor income and commercial sponsors. The Dome was built, fitted out and run by The New Millennium Experience Company Limited (the Company). Lottery funding was provided by The Millennium Commission, one of the bodies responsible for distributing lottery funds. The project was approved by the Commission on the basis that it would achieve a balanced budget - costs and income of £758 million.

1.2 The Dome opened to the public on New Year's Eve and remained open throughout the year 2000. Over the course of the year the Dome attracted 5.5 million paying visitors, 6.5 million in total, and the majority (87 per cent) were satisfied with their visit. But the Company's business plan was based on a total of 12 million paying visitors, and that was the basis on which the Commission approved the project. The shortfall in visitor numbers and income, along with less than expected sponsorship income, left the Company with serious financial difficulties.

1.3 The Millennium Commission's original grant to the Company in 1997 was £449 million. This grant award included an element for cash flow purposes, recognising that the Company would not be able to generate trading income until after the Dome opened. In approving the grant the Commission required that any surplus, after the cessation of trading, would be at the disposal of the Commission and it expected to have £50 million available. The financial difficulties subsequently encountered by the Company meant it required additional grant funding throughout 2000 - the Commission made four separate offers totalling £179 million. By September 2000 the estimated net grant had risen from £399 million (£449 million less £50 million) to £628 million.

The Comptroller and Auditor General's earlier Report

1.4 The Comptroller and Auditor General's Report on the Millennium Dome (HC 936, Session 1999-2000) published in November 2000 focused on the financial problems experienced on the project during its year of operation. It covered the circumstances surrounding the need for additional lottery funding and looked at the changes in the overall cost and income assumptions. Summing up, the Comptroller and Auditor General concluded:

> "reflecting on events at the Dome it is clear that the main cause of the financial difficulties is the failure to achieve the visitor numbers and income required. The targets were ambitious and inherently risky. This inevitably meant a significant degree of financial exposure on the project.
>
> It is also clear that the task of managing the project has been complicated by the complex organisational arrangements put in place from the outset, and by the failure to put in sufficiently robust financial management."

The scope of this Report

1.5 Before the Dome closed the Company began working to settle its affairs, wind-up the business, and hand over in a solvent state to the liquidators. The liquidators, from the accounting firm KPMG, were appointed on 18 December 2001. This Report examines how the Company went about winding-up its affairs and sets out the financial position of the Company on the appointment of the liquidators. The way we approached our examination is described at Appendix 1. We have not examined in detail all of the historical factors likely to have influenced the Company's final costs and income, including the design and construction of the Dome.

1.6 The Report does not cover the proposed sale of, nor any other future deal relating to the use of, the Dome. Plans for the sale of the Dome have twice fallen through: Dome Europe, backed by Nomura, pulled out in September 2000 and Legacy plc had its 'preferred bidder' status withdrawn in February 2001. English Partnerships confirmed in August 2001 that it was unlikely to hold another public competition for the sale of the Dome. Instead, it had been, with Ministerial agreement, holding discussions in private with several interested parties. We will examine the sale in due course and that examination may result in a separate report to Parliament.

Who has been responsible for what

1.7 The formal responsibilities and accountabilities for the Dome project, before and after the appointment of the liquidators, are shown in **Figure 2**. Four parties (the Company; its Shareholder; the Department for Culture, Media and Sport; and The Millennium Commission) have been directly involved in the project, and a full list of the key post holders is at Appendix 2. The Shareholder, the Commission and the Department recognised that the Company's liquidators would not be subject to the normal public sector accountability arrangements in the way that the Company's Executive Chairman (its Accounting Officer) had been, and signed a Memorandum of Understanding setting out what the relationships and responsibilities would be. On their appointment, the liquidators also signed the Memorandum of Understanding.

1.8 Figure 2 excludes **English Partnerships** because it was not directly involved in the Dome project. However, English Partnerships, the Government's regeneration agency for England, owns the Dome site and granted the Company an Agreement for Lease which entitled the Company to occupy the site for the Millennium Experience up to 30 June 2001 at a peppercorn rent. On 1 July 2001, following expiry of the Company's lease, full responsibility for the land reverted to English Partnerships and ownership of the Dome structure passed to it. Under an agreement between the Company and English Partnerships (paragraph 2.12), English Partnerships is now responsible for the cost of decommissioning the Dome, beyond the cost of the 'soft strip' (removing assets for return to third party owners or for sale) which fell to the Company, and for the costs of managing, maintaining, and securing the Dome site and structure.

1.9 The process of determining the future use of the Dome, under the direction of a Minister of State for the Department for Transport, Local Government and the Regions, is being jointly managed by English Partnerships and the Department for Transport, Local Government and the Regions (English Partnerships' sponsoring department). English Partnerships, along with the Company, expects to receive a share of the proceeds from any future deal.

The New Millennium Experience Company Limited

1.10 The New Millennium Experience Company Limited was established in 1997 to design, build and operate the Dome through to 31 December 2000. After the Dome closed, the Company was responsible for winding-up its affairs to the point where it could be handed over to the liquidators. It was subject both to the Companies Acts and to the usual disciplines of a non-departmental public body. This meant that the Board of the Company was accountable both to the Shareholder and to The Millennium Commission. The Financial Memorandum between the Company and the Shareholder stipulated that nothing in it was intended to derogate from the duties of the directors under company law.

1.11 Following the financial difficulties experienced by the Company, a new management team took responsibility for running the Company on 5 September 2000. Mr David N James CBE was appointed Executive Chairman. The new management team engaged the services of PricewaterhouseCoopers, who had previously been commissioned by the Company to identify its funding requirement, to assist it in a series of analytical exercises. In view of the experience that PricewaterhouseCoopers had gained, the firm was subsequently re-appointed to assist in the process of winding-up the Company. The Company's Executive Chairman was supported by a small core of executive directors who were responsible for finance, corporate services, and the handover of the Dome to English Partnerships. The Company's seven non-executive directors remained in place until July 2001, when the Company published its Annual Report and Financial Statements for the year ended 31 December 2000. At this point four non-executive directors stood down.

1.12 Mr James originally declined to accept a fee for his services on the expectation that his involvement would become part time after the Dome closed and cease altogether by 30 June 2001. However, the time taken to resolve all the outstanding matters at the Company restricted his ability to take on any other positions, and meant that Mr James remained with the Company for a further six months, longer than had originally been anticipated. The Company's Board agreed that he should be reimbursed for his administrative expenses (private office and support staff) incurred whilst at the Company (£12,000 plus VAT a month from September 2000 to December 2001) and that he should receive a one-off performance related payment - these arrangements were set out in the Company's Annual Report and Financial Statements published in July 2001. Directors' bonuses are covered in Part 2 of this Report.

2 Responsibilities and accountabilities of the key players before and after the appointment of the liquidators

	Responsibility before appointment of the liquidators	Responsibility after appointment of the liquidators
The New Millennium Experience Company Limited Accounting Officer	i) Ensuring that the Company's funds are used with due propriety and regularity and in compliance with the Financial Memorandum between the Company and the Shareholder. ii) Ensuring that the Company is wound up in accordance with the Shareholder's instructions and the Memorandum and Articles of Association of the Company. iii) Accountability for operational aspects of the Company.	No formal role in relation to the Company, but must appear before the Committee of Public Accounts if called upon.
The Shareholder	i) Appointing the Company's Directors. ii) Approving the terms and conditions of employment for Board members. iii) Laying the annual report and accounts of the Company before Parliament. iv) Answering in Parliament for the performance of the Company, including appearing before House Committees. v) Appointing the liquidators.	i) Some powers under legislation relating to the winding-up of companies, including: - the power to replace the liquidators; - approval of certain transactions by the liquidators, including paying any class of creditor in full or compromising liabilities and claims. ii) Answering in Parliament on the decision to appoint the liquidators and for matters relating to the Company.
Millennium Commission Accounting Officer	i) Ensuring that money allocated to the Commission is distributed with due regularity and propriety. ii) Ensuring the economic, efficient and effective use of the Commission's share of lottery proceeds. iii) Satisfying himself that i) can best be served by liquidation of the Company, and delivered through the Deed of Grant mechanism (paragraph 1.20). iv) Collecting sufficient monitoring information to ensure that Commission funds are released in accordance with need and passing the information on to the Department.	As before, except that: i) Accountable for the operation of the Deed of Grant (which came into effect prior to appointment of the liquidators) and its role in relation to lottery monies.
Department for Culture, Media and Sport Accounting Officer	i) Satisfying him/herself that The Millennium Commission's systems are sufficiently sound and proper for him/her to allow the Commission to draw down from the National Lottery Distribution Fund those funds granted by the Commission to The New Millennium Experience Company Limited. ii) Appointing Accounting Officers for The Millennium Commission and The New Millennium Experience Company Limited. iii) Acting as Accounting Officer for the National Lottery Distribution Fund. iv) Providing advice to the Shareholder on the exercise of his functions with respect to The New Millennium Experience Company Limited, including the decision to liquidate the Company.	As before, except that: i) advice to the Shareholder is restricted to matters concerning the liquidators' powers and actions; ii) Accounting Officer for The New Millennium Experience Company Limited, subject to limitations imposed by legislation relating to the winding-up of companies.

1.13 On the appointment of the liquidators the Company's Executive Chairman ceased to have a role in relation to the Company. His position as Accounting Officer was assumed by the Department's Accounting Officer, subject to any limitations imposed by legislation relating to the winding-up of companies.

The Shareholder

1.14 The Shareholder, a government minister, had the normal responsibilities under company law to appoint directors and auditors, but in addition, reflecting the Company's status as a non-departmental public body, he established more detailed control over the Company through the Financial Memorandum which he put in place by agreement with the Treasury. The terms of this Financial Memorandum were similar to those used in other non-departmental public bodies. Immediately prior to the appointment of the liquidators, relevant sections of the Financial Memorandum were subsumed by a Deed of Grant between The Millennium Commission and the Company (paragraph 1.20). In addition, a Memorandum of Understanding was signed by the Company, the Commission, the Department for Culture, Media and Sport, and the liquidators on their appointment, to ensure a shared understanding of the accountability position.

1.15 In June 2001 the Shareholder became a Minister in the Department for Transport, Local Government and the Regions with specific responsibility for English Partnerships. To handle the potential conflicts of interest, the Accounting Officer for the Department for Transport, Local Government and the Regions (with the agreement of the Department's Ministers and the Accounting Officer for the Department for Culture, Media and Sport) issued procedural guidance to the Accounting Officers for the Company, the Commission and English Partnerships. This stated that the Shareholder should have clear written advice; that the basis for any decisions should be transparent and recorded; and that if any of the Accounting Officers involved have concerns over any proposed course of action where a potential conflict could arise, their views can be overridden only at Secretary of State level.

The Department for Culture, Media and Sport

1.16 The Department advises the Secretary of State for Culture, Media and Sport and carries out functions on behalf of the Secretary of State. In particular, the Secretary of State issues policy and financial directions to lottery distributing bodies, including The Millennium Commission. The Department's responsibilities included advising the Shareholder about the Dome project, including adherence to the Company's Financial Memorandum. The Financial Memorandum, prior to its termination on 18 December 2001, provided that the Department's Accounting Officer could issue instructions to the Accounting Officer of the Company relating to his or her responsibilities in that capacity. As part of its wider responsibilities regarding the National Lottery, the Department also had to satisfy itself that The Millennium Commission had appropriate systems for managing and controlling lottery money.

1.17 As regards the Company's liquidation, given the Department's responsibility for advising the Shareholder, the Department's Permanent Secretary, as the Superior Accounting Officer, needed assurance that:

- appointment of the liquidators was an appropriate step, consistent with concluding the Company's business in a proper manner;
- suitable arrangements were in place for dealing with any of the Company's residual assets; and
- the accountability arrangements before and after the appointment of the liquidators were fully understood and agreed by the key players.

The Millennium Commission

1.18 The Millennium Commission's statutory function is to grant-aid projects - it has no power to run projects itself. The Commission comprises nine members - two are Ministers of the Crown, one as Chair, and a further member is nominated by the leader of the Opposition. Since the outset, the Chair has been the Secretary of State for Culture, Media and Sport. The Commission is supported by a staff headed by the Director, whom it appoints and who has been appointed Accounting Officer by the Accounting Officer of the Department for Culture, Media and Sport.

1.19 The Millennium Commission was responsible for making lottery grants to the Company, and monitoring the use of the grants in building, operating and decommissioning the Dome and winding-up its affairs. One aspect of this involved the Commission approving the Company's business plans and budgets. The Commission appointed consultants to assist its review of the Company's finances, and approved the Company's draw down of grant.

1.20 The Millennium Commission held the Company accountable for the use of the grants it made through the mechanism of a Grant Memorandum, which set out the terms and conditions applying to grants. The Grant Memorandum stated that its provisions were in addition to, not in substitution for, guidelines issued to the Company by the Shareholder. Immediately prior to the appointment of the liquidators, the Grant Memorandum was replaced by a Deed of Grant (paragraph 2.5).

The liquidation process

1.21 The Shareholder and the Company's directors opted to place the Company into a 'Members' Voluntary Liquidation' (a liquidation process based on an assessment by the directors of a company that there are sufficient assets to pay all the company's debts). They chose this course, as opposed to allowing the Company to become dormant, in order to bring about a quick and efficient final resolution of the Company's affairs. The Shareholder and The Millennium Commission's professional advisers confirmed that the Members' Voluntary Liquidation, the method laid down by statute for winding-up and dissolving a solvent company, was a conventional choice and appropriate to the expected circumstances of the Company. The Commissioners endorsed the Company's approach on 11 July 2001.

1.22 Before appointing the liquidators, the Company's Directors swore a statutory declaration of solvency that they "have made a full enquiry into the affairs of ...[the] Company and that, having done so, … [they] have formed the opinion that ... [the] Company will be able to pay its debts in full, together with interest at the official rate, within a period of 12 months from the commencement of the winding-up". If at any time during the liquidation the liquidators form the opinion that there might not be sufficient assets for distribution to the Company's creditors, the liquidators must convert the process into a 'Creditors' Voluntary Liquidation' (essentially, a procedure used in the case of insolvency). A director who makes a statutory declaration of solvency without having reasonable grounds could be liable to up to two years imprisonment or an unlimited fine, or both.

1.23 Following a competitive tendering exercise, liquidators designate from KPMG were appointed in August 2001 to ensure that they were fully aware of the steps taken by the Company in the run up to the formal liquidation process. They were formally appointed as liquidators by the Shareholder on 18 December 2001. The liquidators' fees (excluding estimated liquidation costs of £220,000) are estimated at £280,000.

Part 2

The key steps towards liquidation of the Company

2.1 This Part shows what costs were incurred in 2001, and covers the key financial management issues that had to be resolved before the Company could be placed in the hands of the liquidators. Specifically, it looks at:

- the conditions attached to The Millennium Commission's lottery grant to the Company;
- the agreement between the Company and English Partnerships regarding closure costs and proceeds from the sale of, or any other future deal relating to use of, the Dome;
- the financial management and control of the Company;
- the Company's contract review;
- the investigation of fraud allegations and procurement fraud risk;
- the disposal of the Company's assets;
- the directors' performance bonuses; and
- the cost of running the Company and maintaining the Dome throughout 2001.

2.2 In addition, in preparing for solvent liquidation, the Company undertook an assessment of its possible environmental liabilities associated with its development and occupancy of the Dome site, which had previously accommodated a gas works and was derelict and contaminated. Having consulted its professional advisers the Company concluded that there were no significant risks to the Company either in the short or longer term.

Changes to lottery grant conditions

2.3 The Millennium Commission attached conditions to each of its grants to the Company. As the Company entered its wind-up phase the Commission needed to ensure that these conditions, set out in its Grant Memorandum and attached to its offers of additional grant in 2000, were appropriate to this new phase of operations. The Commission also wanted to be sure that it could not be held financially liable in the event of the Company becoming insolvent. Therefore, in November 2000, the Commission implemented a revised Grant Memorandum. This sought to remove any actual or implied undertaking by the Commission in relation to the Company's solvency, and to this end the Commission lifted the condition, attached to its August 2000 grant of £43 million, that any proceeds from the sale of the Dome should be paid direct to the Commission. The revised Grant Memorandum also required the Company to give the Commission prior notice of its use of financial provisions and contingencies.

2.4 The Commission also lifted the condition, attached to the £47 million offer of grant in September 2000, that the Commission should receive a written statement from the Government capping the Commission's further commitment to the Dome at £47 million. The Government had not provided the necessary undertaking and any further delay in formalising the offer of grant could have rendered the Company insolvent. The Commission considered that implementing the new Grant Memorandum would protect the Commission from any further payments.

2.5 Immediately prior to the appointment of the liquidators in December 2001, the Commission replaced the Grant Memorandum with a 'Deed of Grant'. Whereas the Grant Memorandum was based on standard grant funding models for non-departmental public bodies and signed only by the Commission, the Deed of Grant resembles the standard legal document under which the Commission normally pays lottery grants and was signed by both the Commission and the Company. Mindful of the liquidators' powers and obligations under insolvency legislation, the effect was to reduce the level of detailed oversight over the Company by the Commission. However, the Deed of Grant provides for the Commission to continue to receive regular monitoring information from the Company, and for the release of funds to the Company (out of existing grant awards approved in 2000) conditional upon certain criteria being met - see the sidebar overleaf. The liquidators undertook to be bound by the Deed of Grant.

The main provisions of the Deed of Grant that came into force on 18 December 2001

A revised purpose of grant - to assist the Company financially in the process of the orderly wind-down and dissolution.

The liquidators are required, each month, to submit to the Commission a progress report and a signed statement of solvency in respect of the Company.

Any request for draw down of grant previously awarded should include:

- information on each of the liabilities giving rise to the requirement for further grant;
- a comment on whether the liquidators drew on legal advice in deciding whether the Company should meet this liability and what the conclusion of any such advice was;
- a statement by the liquidators as to why in their judgement the proposed expenditure will achieve value for money; and
- a revised closedown and lifetime budget.

Further drawdown of grant will only be authorised by the Commission if certain conditions are satisfied. Payment of further grant must:

- be in respect of expenditure that has been properly incurred by the Company in connection with the purpose of grant;
- be necessary to achieve the purpose of grant;
- be made in respect of specific and actual liabilities of the Company not included in the close down budget; and
- achieve value for money having regard to the factors of economy, efficiency and effectiveness.

In the event that the Company has a surplus, following payment of all creditors, the settlement of all liabilities and the disposal of any assets, such surplus will be at the disposal of the Commission.

The agreement between the Company and English Partnerships

2.6 The original Agreement for Lease dated September 1997 between the Company and English Partnerships, which owns the land on which the Dome is situated, required the Company to demolish the Dome by 30 June 2001 unless English Partnerships served notice on the Company by 30 November 2000 releasing it from this obligation. Subsequent proposals for the use of the site have assumed that the Dome structure would remain intact.

2.7 The Company did not have sufficient funds within its budget to carry out a comprehensive decommissioning programme - the Company had allowed £7.5 million in its September 2000 budget for physical decommissioning work, which would cover the cost of the 'soft strip' (removing assets for return to third party owners or for sale). It would not cover the cost of removing the bulk of the Dome's remaining exhibition contents and infrastructure, then estimated at a further £11 million to £14.5 million. The Company's Board noted in October 2000 that if an agreement with English Partnerships on the allocation of decommissioning costs and the proceeds of sale could not be reached by 30 November 2000, the Company would become insolvent.

2.8 The Company and English Partnerships took significantly different views, both backed by independent legal advice, as to the Company's responsibilities and entitlements; in particular, the size of its share of the proceeds from selling the Dome. The Government (Cabinet Office, Treasury, the then Department for Environment, Transport and the Regions and the Department for Culture, Media and Sport), English Partnerships and the Company took part in intensive discussions aimed at reaching an agreement that was acceptable to both English Partnerships and the Company. The deadline of 30 November 2000 was extended to facilitate this.

2.9 Ministers from the respective Government departments established a compromise position on 5 December 2000. This removed the requirement on the Company to demolish the Dome, and proceeds and decommissioning costs would be allocated as follows:

- proceeds from the sale of the Dome, after allowable[1] costs, would be split equally between the Company and English Partnerships, except in relation to one part of the land[2] in respect of which the Company was to be entitled to a share only in relation to the first £15 million;

1 *Allowable costs are to include all reasonable costs, fees and expenses reasonably and properly incurred by either English Partnerships or the Company in achieving a disposal of the Dome; English Partnerships' decommissioning costs; and any costs incurred by them in managing and maintaining the Dome prior to a sale.*

2 *This land is adjacent to, and south of, the site of the Dome, and is approximately one third of its size.*

- the Company would undertake the 'soft strip' decommissioning, which was then estimated at £7.5 million; and
- English Partnerships would pay for the remainder of decommissioning (the 'hard strip') and for maintaining the Dome beyond 30 June 2001, which are allowable costs.

2.10 The Company's Chairman recommended the proposal to the Company's Board as the "best deal available" and "consistent with the obligations of the directors to act in the best interests of the Company's creditors". The Company's Board approved the proposal. The Millennium Commission's Accounting Officer considered that it represented a "reasonable outcome" for the Commission, and Commissioners endorsed it.

2.11 Ministers had been aware that the proposal, which represented a compromise, would be contrary to the obligations (to sell for the best consideration) placed on English Partnerships by its statutory remit. On 12 December 2000 English Partnerships informed the then Department for the Environment, Transport and the Regions (its sponsor Department) that it could not support Ministers' proposal. English Partnerships considered that even if it received all the proceeds from the (then) proposed sale to Legacy plc, it would still be less well off than if it had pursued an alternative regeneration solution for the site. And it was being asked by the Government to assume additional decommissioning liabilities, then estimated at £11 million to £14.5 million, which, in its view, fell to The New Millennium Experience Company Limited under existing legal requirements. English Partnerships also pointed out that it would be responsible, from 1 July 2001, for managing, maintaining and securing the Dome site and structure.

2.12 The then Secretary of State for Environment, Transport and the Regions exercised the powers conferred upon him by sections 166 and 167(2) and (3) of the Leasehold Reform, Housing and Urban Development Act 1993. In the event of a sale to Legacy plc proceeding, he directed English Partnerships to dispose of the relevant land together with the Millennium Dome to Legacy plc and to take all such steps as are necessary for giving effect to the disposal, subject to the agreement by Ministers to the final terms of the disposal and in accordance with the division of proceeds of disposal and assumption of liabilities established by Ministers (paragraph 2.9). The Secretary of State confirmed that the Government understood the concerns of the English Partnerships Board and its Accounting Officer over the value for money for English Partnerships of what was proposed, but that they had taken a wider view that the course of action proposed represented the best value for money for the public sector overall. The letter of direction also stated that, in the event that a sale to Legacy did not go ahead, Ministers had agreed that the proceeds of any future disposal of the relevant land and the Millennium Dome would be dealt with on similar principles, subject to the nature and structure of the deal. As a result English Partnerships and The New Millennium Experience Company entered into an Agreement which set out in detail the arrangements relating to the Company's use of the land and matters relating to the decommissioning and disposal of the Dome, in accordance with what had been established by Ministers.

2.13 The intention was that the proceeds from the sale of the Dome would become available to English Partnerships in financial year 2001-02 and that they would be sufficient to cover the additional expenditure. The deferral of the sale of the Dome has meant that English Partnerships has to date had to draw on taxpayers' money to meet these commitments, in the expectation that this will be recouped from any future deal relating to the use of the Dome.

2.14 By the end of December 2001, costs of £12.4 million had been incurred on decommissioning work: the Company had incurred costs of £6.3 million, and English Partnerships had incurred costs of £6.1 million.

Financial management and control

2.15 In his previous Report the Comptroller and Auditor General concluded that the Company had failed to put in place sufficiently robust financial management and set out a number of weaknesses in financial and management control. A key weakness was that the systems in place, and the information available, had hindered the Company's ability to produce reliable financial forecasts.

2.16 The Grant Memorandum enabled The Millennium Commission to conduct its own reviews of the Company's financial information systems. In November 2000, as a follow-up to a review in May 2000, The Millennium Commission appointed management consultants, Capita, to carry out a corporate 'health check' of the Company's management, financial control and information systems. Capita reported in December 2000 that the Company had made good progress and in particular concluded that the accuracy of forecasting and monitoring had improved, and that better information was being provided to the Board.

2.17 Alongside the 'health check' work by Capita in December 2000, Millennium Commission staff reviewed the Company's management capacity and considered whether:

- the Company's Finance Directorate had the staff, other resources and authority, together with a direct reporting line to the Executive Chairman, to discharge all of its functions effectively and to timetable;

- the Company as a whole had the staffing levels, management capacity, other resources and organisational structure to complete its remit; and
- the Executive Chairman had overriding authority from the Board over Finance and all other functions.

2.18 The Commission was satisfied that, in the light of the health check work (paragraphs 2.16 and 2.17), no material weaknesses in financial governance remained; this had previously been a significant concern.

The Company's contract review

2.19 One of the weaknesses in financial management reported on by the Comptroller and Auditor General in his previous Report was the Company's inability to track and quantify fully the contractual commitments it had entered into, and the difficulty it was experiencing in establishing the full extent of its liabilities. To work through to solvent liquidation it was important that the Company identified any sums owed to it, and what liabilities it might have in terminating all its contracts. The emergence of significant new liabilities could threaten the Company's solvent liquidation.

2.20 In October 2000 the Company's new management established a Contract Review Group, whose objective was to ensure that all contracts were identified, logged and closed in the most beneficial way for the Company and that outstanding contractual liabilities were minimised prior to a solvent liquidation. This work involved identifying all valid contracts and serving notice, where necessary, of termination in accordance with contractual obligations; and negotiating a final settlement of existing liabilities and, where possible, financial recovery for the Company. The work progressed in parallel with, and contributed to, the investigation of fraud allegations and procurement fraud risk (paragraph 2.23). However, the absence of adequate records increased the timescale and cost of the Company's task. At the outset of the review:

- the Company did not have a comprehensive contract management database;
- there was a backlog of draft contracts which required finalisation and signature (to enable the Company to benefit from royalty or commission payments, indemnities, warranties and guarantees);
- the terms of the Company's contracts with many of its contractors, including sponsors, were incomplete or unrecorded; and
- many contracts had been varied, in writing or orally, after they had been agreed.

2.21 The contract review took over 12 months to complete and involved a team of up to 25 consultants and temporary employees examining over 1,350 contracts. All but two contracts (excluding those contracts that needed to be kept open for the conduct of the Company's business) had been closed by the time the liquidators were appointed. These two contracts, which were the subject of litigation, were left to the liquidators to settle in the best interests of the Company (paragraph 3.10). The Company considered that the exercise had served to limit the number and value of contractual claims made against it and had enabled the Company to make a significant recovery of sums due to it.

The investigation of fraud allegations and procurement fraud risk

2.22 By the end of September 2000 the Company and the Police had received a number of allegations of fraud and impropriety. Nearly all of the allegations raised questions about the effectiveness of the control environment during the development of the exhibition zones at the Dome. In his previous report the Comptroller and Auditor General put down a marker that the National Audit Office would return to the Company's then on-going review of the processes for contracting for goods and services, and allegations of fraud. This section of the Report covers that review.

The scope of the Company's investigation

2.23 Where fraud is suspected Government Accounting requires that an investigation be undertaken and appropriate legal action taken. To avoid further loss and, if appropriate, initiate action to recover past losses, the Company's new management appointed PricewaterhouseCoopers Forensic Services in September 2000 to carry out an independent investigation and report directly to the Company's newly appointed Executive Chairman. The investigation focused on the specific issues raised by the allegations. At the Company's request, PricewaterhouseCoopers also carried out a wider review of procurement fraud risk. The terms of reference for the review are set out at Appendix 3. The review team's report was accepted by the Company's Board in November 2001.

2.24 The PricewaterhouseCoopers' review team focused mainly on the period from October 1998 up to the opening of the Dome on 1 January 2000, although they reviewed some transactions after that date. Their work consisted of a review of documentation including manuals, Board minutes, employee data, contracts, supplier data, purchase transaction history data and invoices.

2.25 The review team sought, where possible, to speak to those staff members involved with specific transactions but many had left the Company in advance of the Dome's closure. They relied upon the financial and other information provided by the Company and their advisors but did not carry out an audit of this information or seek to verify it using source records.

In reviewing supplier relationships and contracts, the review team focused on the possibility of impropriety and did not perform a full contract review in every case or assess value for money. Their review of documentation and data was limited to those files and electronic data records that were produced for them with the help of staff remaining at the Dome. But the review team often found it difficult to locate supporting papers, especially where the responsible member of staff no longer worked for the Company. They rarely found all of the papers to support the tender process, tender evaluation and ultimate signed contract or single tender action form for the procurement of goods or services. In the absence of such documentation they could not always establish whether there had been compliance with laid down procedures nor properly assess fraud risk.

The outcome of the investigation into fraud allegations

2.26 The allegations mainly related to the purchase of goods and services. The position as at mid-March 2002 on these allegations and matters subsequently investigated by the police is outlined in the box below:

The outcome of the procurement fraud risk review

2.27 PricewaterhouseCoopers' wider review of procurement fraud risk covered some 163 of the Company's contractual relationships out of a total of about 4,250 supplier accounts active between October 1998 and September 2000. These 163 relationships were targetted by applying fraud tests on supplier and employee information using data matching exercises, and by using information gained from investigation of the fraud allegations referred to above. In targeting relationships, the review team also considered a number of wider factors, including weaknesses in the Company's procurement procedures and concerns raised by the quantity surveyors about certain contractors. They concluded that there was no evidence of systematic fraud and did not uncover any additional cases of suspected fraud where the weight of evidence would justify further investigation.

2.28 The review team concluded that although the Company had in place a comprehensive framework of procurement processes and approval procedures, basic controls such as invoice authorisation procedures were not always applied, and the financial systems did not readily provide senior management with information to enable them to monitor contract spend. The review team considered that had the monitoring procedure been more effective this could have led to re-negotiation on price, or even re-tendering to the Company's benefit.

2.29 In addition there was often a lack of transparency in contracting suppliers, allied to poor record keeping in general. For example, the review team was often unable to locate the evaluations to support the award of work to a particular supplier. In many cases the review team was unable to find a legally binding contractual relationship with the supplier. They identified 129 suppliers, each of which between October 1998 and September 2000 had rendered invoices totalling £50,000 or more, for which they could not find either a contract or, where appropriate, a Single Tender Action form.

The position on allegations of fraud

Allegations where cases are now closed:

- For thirteen allegations, the review team considered either that there was insufficient circumstantial evidence to give rise to serious concerns that criminal offences may have taken place, or that the allegations did not justify additional investigation. The Company concluded that each of these allegations has been fully investigated and each matter closed; and
- Three cases arising from allegations referred to the Metropolitan Police Service Public Sector Corruption Unit have been closed following Police investigation.

Allegations under investigation:

- Two cases remain under investigation by the Police and arrests have been made; and
- Police inquiries continue, and as these matters are under Police investigation and possibly subject to legal proceedings, specific case details are not provided. The Company has offered to make available to the Police all remaining books, records, etc and has given informal undertakings to the prosecution authorities that steps will be taken to preserve these and other possible evidence.

NOTE

- The review team concluded that it was difficult to assess potential loss suffered by the Company as a direct result of the alleged frauds.

2.30 One of the principal findings from the review was weak compliance with the Company's competitive tendering procedures, and the by-passing of formal procedures, before the Dome opened, for obtaining The Millennium Commission's prior approval of single tenders over £25,000. In April 1999 the Commission granted approval retrospectively in some 40 cases, but informed the Company that the quality and detail of the information available in some cases was less than the Commissioners would ideally wish to see. In a letter to the Company in June 1999 The Millennium Commission stressed that systems improvements were needed as a matter of priority, and that as a matter of policy they would not give post hoc approval in future for single tender actions. However, the review team identified that the Company had subsequently failed to obtain the Commission's approval for single tender action in a further 20 cases.

2.31 Although value for money considerations were outside the scope of the review, given the lapses in complying with procedures on competitive tendering, the review team doubted whether the Company fully achieved the objective of realising value for money, wherever possible, for the goods and services it procured. They considered that the breakdown of some controls may have been partly due to a lack of resources and experience.

The action arising from the procurement fraud risk review

2.32 The Company, in conjunction with The Millennium Commission, appointed Bovis Lend Lease Consulting to independently monitor the decommissioning process. Bovis reported in March 2001 that the decommissioning process had been managed successfully with a view to minimising risks and ensuring that budgetary controls were properly adhered to. They also reported that the Company carried out the decommissioning works in a professional manner with due regard for value for money.

2.33 In addition The Millennium Commission requested Capita to extend the 'health check' (paragraph 2.16) to cover the additional weaknesses identified by the procurement fraud risk review. Capita concentrated on the Company's procurement activities in the period from January 2001 to make sure the same weaknesses were not still occurring. Capita reported to the Commission in June 2001 that they did not find any evidence of material financial control weaknesses within the Company's procurement activities and that the Company had put in place corrective actions from early 2001 onwards.

2.34 At the PricewaterhouseCoopers review team's suggestion, the Company implemented a fraud response plan. Although the Company had a policy on the reporting of fraud, it was not well known to staff (it was brought to their attention late in 2000) and did not address the position of whistleblowers. The Company's fraud response plan has formalised communication channels for any whistleblowers and clarified responsibilities for investigation work.

2.35 We asked the Company whether, in those cases of alleged fraud that had been dropped, and in the light of the control weaknesses, it was contemplating or had taken disciplinary action against any members of the Company. The Department's then Accounting Officer and the Company's Accounting Officer agreed that no purpose would be achieved by pursuing disciplinary procedures because the key individuals had either left the Company or no longer held any financial authority or delegation.

Disposal of the Company's assets

2.36 One of the major tasks for the Company was disposing of the Dome's contents. The task was complicated by the absence of a detailed record of the Company's assets, which added to the cost of the disposal exercise, and by the fact that the Dome itself had not been sold. There was the possibility that a future owner might wish to retain some of the contents.

Appointment of the sales agent

2.37 In November 2000 the Company appointed professional sales agents to handle the disposal exercise. The Company decided that the need to decommission the Dome and vacate the site by 30 June 2001 did not allow for competitive tendering. Instead, the Company identified three possible sales agents and after considering the capabilities and experience of each decided that Henry Butcher International Limited had the necessary experience and resources. Henry Butcher was appointed for two assignments:

- The first task was to provide a range of consultancy services in preparation for the sale; although daily fee rates for this work were agreed in advance, the contract did not provide for an upper limit on the total sum payable. The Company paid £1.17 million (excluding costs of £360,000 and VAT) for this work. An urgent requirement was the compilation of a comprehensive asset database - identifying all the individual assets, detailing their ownership status and providing a valuation. This was necessary because the Company's systems for maintaining detailed records of assets had been overwhelmed by the massive amount of material and equipment delivered in the final months before the Dome opened; and
- The second task was to provide specialised sales advice and conduct the sales on the Company's behalf.

Conduct of the sales

2.38 Government Accounting requires that surplus assets be sold as quickly as possible for the best possible price, and that they should normally be sold on the open market by public auction or tender. While the bulk of the surplus assets at the Dome have been sold by auction, the remainder has been sold by private treaty - that is, without a public tendering process. Some assets at the Dome, including artistic works, were not owned outright by the Company and were excluded from the sales.

2.39 The Company has sold items in two stages. The first stage was a public auction from 27 February to 2 March 2001. The auction excluded items, valued at between £0.8 million and £1.9 million, that Legacy Plc had expressed an interest in purchasing direct from the Company. Although the 'preferred bidder' status was withdrawn from Legacy plc on 15 February 2001 these assets were withheld from the auction on the instruction of the Shareholder in case they were required by Legacy or another purchaser. The auction also temporarily excluded items, valued at between £100,000 and £200,000, that might be required by any purchaser of the Dome wishing to use it as a visitor attraction. The auction raised £3.5 million and Henry Butcher's sales commission was on a sliding scale, starting at zero and increasing as the value of sales increased, to incentivise them to maximise the amount realised. The total amount paid was £175,000, five per cent of the amount raised. In advance of the auction a guide price was established for each item being auctioned.

2.40 The second stage was the sale of those items held over from the auction, and any other remaining assets. The Company planned to hold a second auction in May 2001 and was concerned that delay would result in items deteriorating and, therefore, lower sales values. However, the Shareholder was concerned that some items remained of potential value to a future bidder for the Dome, and that any publicity surrounding a further auction could damage the Dome sale process. The Shareholder's assessment was that there was much more value to the public purse in selling the Dome itself than in any difference between selling the related assets sooner or later.

2.41 The Company stressed that it needed to clear the Dome site and hand it over to English Partnerships by the end of June, and the compromise reached was that the assets would be sold, but by private treaty rather than by auction. The Company's Accounting Officer was concerned that negotiated private sales were unlikely to generate as much as an auction, but recognised that this course of action kept open potential options relating to the future of the Dome, in which the Company had a significant interest. The Department for Culture, Media and Sport confirmed to the Shareholder that this course of action represented the best chance of realising value for the Company while minimising any possibility of negative publicity. The Shareholder agreed.

2.42 In the end the Company raised £1 million from these private treaty sales. Henry Butcher provided detailed justifications for each of the proposed sales, which were approved by the Company, and received £149,500 in fees (excluding costs of £10,500 and VAT) for this work.

Directors' performance bonuses

2.43 In winding-up its affairs the Company has had to settle the bonuses due to directors. Executive directors appointed to the Company before September 2000 were entitled to be considered for a performance-related bonus, due to be paid at the end of the project or no later than 30 June 2001. The bonus scheme included critical success factors for the Company (the first four listed in paragraph 2.44) plus an assessment of the personal contribution the individual had made to the success of the project. The total payable under the scheme to any director was a maximum of 30 per cent of contract earnings. Having taken legal advice on the matter, the Company announced its directors' bonuses on 23 March 2001. The total amount paid was £81,852.

2.44 The eligibility of directors to receive a bonus and the level of bonuses to be paid was assessed by the Company's Remuneration Committee against five criteria. The Committee comprised three of the Company's non-executive directors who were not themselves entitled to bonuses. The criteria were:

- meeting the opening deadline for the Greenwich experience;
- achieving the budgeted revenues (ticket income) for Greenwich;
- achieving the Company's budgeted levels of sponsorship and other commercial revenue;
- achieving the Company's expenditure budget; and
- an assessment of personal contribution.

2.45 The Remuneration Committee recommended payments to the following individuals:

- former Chief Executive (Ms Jennie Page CBE) - £41, 031
- former Managing Director (Mr Liam Kane)[3] - £31,559
- former Corporate Services Director (Mr Steve Brown) - £9,262

3 *The Company's former Managing Director declined to accept his bonus.*

2.46 Different performance bonus arrangements applied to the Company's former Chief Executive, M. PY Gerbeau, appointed in February 2000. His original terms of employment provided for a salary (from 7 February 2000 to 31 January 2001) of £100,000 plus a bonus of up to £100,000. In July 2000, in recognition of his achievements, the Company's Board agreed to increase the salary element of his package to £150,000 and reduce the bonus element to £50,000 (33 per cent of total contract earnings).

2.47 The new Chief Executive's bonus payment was based on five criteria set in July 2000:

- delivering the 6 million paying visitors in the revised business plan at no less than £10 yield;
- delivering the cost savings (£20 million) in the revised business plan;
- sustaining the level of high visitor satisfaction ratings;
- smooth handover to the Dome's new owners; and
- the Board's view of his personal contribution to the success of the project.

2.48 The Committee concluded that there was a case for paying close to a full bonus, or even a full bonus. At its meeting on 22 February 2001 the Company's Board approved the Committee's recommendations. They proposed that M. Gerbeau receive a bonus of £45,000 - 90 per cent of his maximum entitlement.

2.49 The Financial Memorandum between the Shareholder and the Company required the Shareholder to approve the remuneration of all executive and non-executive Board members. In determining the level of bonuses to be paid, the Company's Remuneration Committee consulted the Shareholder. Following discussion of the appropriate level of bonuses, the Department for Culture, Media and Sport obtained legal advice that company law overrode powers contained in the Financial Memorandum, and that the Shareholder therefore had no legal power to control the remuneration by the Company of its directors. As such, the Shareholder informed the Company's Executive Chairman that the matter remained for the Board.

2.50 The Millennium Commission's Accounting Officer concluded that the proposed bonus payments did not require the Commission's approval because they were not, in all the circumstances, 'novel' or 'contentious'. In the Commission's view the payments were not novel because they flowed from contractual commitments and they were not contentious because the process was not defective nor the decisions reached wholly unreasonable.

The bonus arrangements for the new management team

2.51 The Company's Executive Chairman, Mr David N James CBE, who was appointed on 5 September 2000, received a performance related payment in December 2001. The amount of bonus (£100,000 out of a possible £100,000) was decided by the Company's Board (excluding the Chairman) immediately prior to the appointment of the liquidators. The amount was determined by reference to the following criteria, set in June 2001:

- "whether the Company has been brought successfully to the point of readiness for voluntary liquidation, all outstanding material commercial, contractual and litigation matters had been dealt with (it is recognised that there may be outstanding criminal proceedings against third parties which might have relevance for …[the Company's] assets or liabilities or other matters wholly outside his control)"; and
- "the amount of grant to be returned to The Millennium Commission prior to the appointment of a liquidator, compared with the £19 million envisaged at 31 May 2001 as expected to be returned." In fact any unused grant will be at the disposal of the Commission on dissolution of the Company.

2.52 The Company's Finance Director, Mr Bob Hewes, appointed in December 2000, received a £70,000 retention bonus in accordance with his contract for remaining with the Company to 30 June 2001 (the term of his original contract). When the contract was extended to 31 December 2001, the Company's Board approved the same level of retention bonus for staying to the end of that term, and this has been paid.

2.53 The arrangements for these bonuses, and the amounts paid to other directors were set out in the Company's Annual Report and Financial Statements published in July 2001.

Running the Company and maintaining the Dome throughout 2001

2.54 Since the Dome closed on 31 December 2000 £28.4 million has been incurred on running the Company, preparing it for liquidation, and maintaining, servicing and decommissioning the Dome. Not all of these costs have been borne by the Company: English Partnerships has been responsible for some of the cost of the decommissioning, and since 1 July 2001, for the costs of managing, maintaining and securing the Dome site and structure.

Running the Company

2.55 These costs have been borne by the Company and since January 2001 have totalled £12.8 million. They include the costs of the staff and professional support services (financial, legal and public relations consultants) who were dealing with the wide range of issues that the Company needed to address before it could appoint the liquidators.

Maintaining and servicing the Dome

2.56 These costs cover maintenance, security, and utilities, and in the period January to December 2001 have totalled £3.2 million. The costs were borne by the Company up to 30 June 2001 (a total of £1.9 million) and by English Partnerships thereafter (£1.3 million).

Decommissioning the Dome

2.57 Two types of decommissioning costs have been incurred:

- the 'soft strip' involved removing items from the Dome for sale or for return to their owners. This work was carried out from January to March 2001 and the cost, £6.3 million, was borne by the Company; and
- the 'hard strip' includes dismantling and removing the internal structures of the Dome. Work carried out from June to December 2001 cost £6.1 million, which was borne by English Partnerships.

Part 3

The financial outcome of the project

3.1 The Company was handed over to the liquidators on 18 December 2001. This Part of the Report provides an update of the Company's financial position at that point.

The Company's overall financial position on appointment of the liquidators

3.2 Figure 1 (on page 2) shows in summary how the Company's financial position has changed over the life of the project, and sets out the September 2000 position to provide a comparison with the figures in the Comptroller and Auditor General's previous Report. The figures show that the Company's position has improved since the Comptroller and Auditor General last reported in that:

- expenditure on the appointment of the liquidators was £789 million (£4 million down on the Company's September 2000 forecast in the Comptroller and Auditor General's previous Report);
- total non-grant income was £189 million (£21 million up from September 2000, largely due to the higher than forecast visitor numbers towards the end of 2000); and
- the Company forecast that, at dissolution of the Company, £25 million out of its total lottery grant of £628 million would remain unspent. Under the terms of the Grant Memorandum between The Millennium Commission and the Company, this undrawn grant will remain with the Commission.

The expenditure figure excludes costs totalling £7.4 million borne by English Partnerships in respect of its share of the decommissioning work and in maintaining the Dome from 1 July 2001 to the end of the year (paragraphs 1.8, 2.9 and 2.14).

The final position on expenditure

3.3 **Figure 3** provides a detailed breakdown of the Company's estimate of its expenditure through to dissolution compared with the original May 1997 business plan.

3 Detailed breakdown of the Company's expenditure forecasts through to dissolution

	May 1997 £m	December 2001 £m
Dome site and structures[1,2]	254	301
Infrastructure and transport	53	30
Dome contents:		
Central arena	137	173
Outer exhibition	86	
Operations and marketing	144	161
Payroll and corporate services	27	50
National Programme[3]	57	45
Decommissioning/ close down	-	25
Liquidation expenditure[4]	-	4
Total expenditure	**758**	**789**

NOTES

1. During the build and fit out phases, £55 million was transferred from the 'Dome contents' budget head to 'Dome site and structures' to reflect the transfer of responsibility for building the central arena and some of the exhibition zones.

2. The Company's May 1997 budget, as approved by The Millennium Commission, included £3 million for decommissioning within the 'site and structures' budget head.

3. The National Programme was a range of events organised by the Company to celebrate the year 2000 nationwide.

4. The £4 million budget for liquidation includes the Trust Funds (holding £1.86 million) set up to cover potential expenditure relating to on-going and potential litigation (paragraph 3.9).

Source: The New Millennium Experience Company Limited.

3.4 During the build and fit-out phases of the project, budgeted costs were switched between expenditure heads as the project took shape and the scope of the work (for example, on fitting out the central show area and developing the content of the outer zones) became clearer. £55 million was transferred from Dome content to Dome site and structures, and the National Programme of events to celebrate the year 2000 nationwide was scaled back in the light of the Company's financial difficulties. The largest single element of the £31 million increase in the lifetime cost of the project is the £25 million for decommissioning and winding-up the affairs of the Company. The complexities of the wind-up process, together with the injection of additional financial and legal expertise into the Company in September 2000, is also reflected in the increase in the cost of payroll and corporate services.

The final position on income

3.5 **Figure 4** provides a breakdown of the Company's estimate of income through to dissolution, compared with the May 1997 business plan.

3.6 As the Comptroller and Auditor General's previous Report showed, the Company had to gradually revise its forecast for sponsorship, and in the final analysis the shortfall was £55 million. The £120 million received comprised £85 million cash and £35 million 'value in kind'. As part of its work to settle outstanding contractual matters (paragraph 2.20) the Company confirmed that it had received all the sponsorship that was contractually due.

4 Detailed breakdown of the Company's forecast income through to dissolution

	May 1997 £m	December 2001 £m
Sponsorship	175	120
Tickets	136	54
Retailing and catering	33	6
Income (net) from sale of the Dome	15	-
Income from sale of assets	-	5
Other	-	4
Total income (excluding lottery grant)	**359**	**189**

NOTE

Although the Company expects to receive a share of the proceeds from the sale of the Dome, or any other future deal relating to the use of the Dome, this was excluded from the Company's latest forecasts because the timing of the receipt is uncertain.

Source: The New Millennium Experience Company Limited.

3.7 The biggest single factor in the Company's financial difficulty was the lower than expected number of visitors and its adverse impact on trading income from ticketing, retailing and catering. But revenue yields (the amount each visitor paid for their ticket and then spent during their visit) were also lower than forecast and accounted for £21 million of the £109 million shortfall in trading income. Key issues relating to the basis for the visitor numbers target, weaknesses in marketing and sales, and the lack of operational expertise at the Company were examined in the Comptroller and Auditor General's previous Report.

3.8 In the light of retail performance at its shops at the Dome (income of £2 million against a budget of £24 million), the Company had to manage the risk of being left with large quantities of stock. The Company purchased stock for its retail operations based on its pre-opening estimate of 12 million visitors, and had to cut margins to reduce the level of stock unsold at the end of the year. The Company has identified a number of factors that impacted on its retail operation:

- the 2,500 product lines were far too many for a visitor attraction such as the Dome. A range of 800 to 1,000 items would have been more appropriate and more manageable;
- there were too few points of sale - on days of very high visitor numbers (in line with what would have been needed to achieve the total of 12 million visitors for the year), spend per visitor dropped due to congestion;
- weaknesses in the computer system for managing its retail inventory meant that the Company could not produce a detailed analysis of which lines and locations were responsible for stock shrinkage (£1 million); and
- the Company's original retail strategy was focused on maximising margin, not sales. By September 2000 the closing stock was forecast at £2.8 million, with proceeds estimated at 10-15 per cent of this. For the last four months of the year the operational focus was shifted to maximise sales at reduced margins. The Company considers that this change in strategy brought in an extra £1.5 million and reduced the book value of stock left when the Dome closed (£500,000 worth of stock remained and was written off although the stock was sold at auction).

Matters outstanding on the appointment of the liquidators

3.9 Prior to the liquidators being appointed, the Company compiled a close-down budget **(Figure 5)** which was approved by The Millennium Commission as part of the Deed of Grant that came into effect on 18 December 2001. The close-down budget covered expenditure expected to be incurred by the liquidators in dissolving the Company and any income due to the Company. The Company still had actual and potential liabilities relating to two ongoing and two potential cases of litigation. The Commission wished to ensure appropriate accountability and control over any expenditure that might be needed in relation to the litigation while providing comfort to the Company's directors that funds would be available. The Commission required the Company, therefore, to set up and pay funds, totalling £1.86 million, into Trust Funds. If the expenditure relating to litigation is less than the sum provided or there is no liability, the Trustees (the Company's liquidators) will repay the remaining amounts to the Commission. Any funds returned will continue to be allocated to the project by the Commission until dissolution of the Company. In the event that expenditure relating to litigation is higher than the sum provided, the liquidators will be able to apply to the Commission for further grant.

3.10 By the time the liquidators were appointed the Company had finalised the bulk of its contractual commitments. As part of the process of winding-up the Company, the liquidators have advertised the fact that the Company is to be dissolved and invited any outstanding creditors to present their claims. The liquidators are responsible for deciding on the merits of any claim.

3.11 The Company's right to proceeds from the sale of the Dome, or any future deal relating to use of the Dome, falls to be dealt with by the liquidators and will enure to the benefit of The Millennium Commission in due course. If the proceeds do not materialise until after the Company has been dissolved, the right to receive the monies may be held by the Department for Culture, Media and Sport acting as Trustee (or agent) for The Millennium Commission.

5 The Company's close-down budget at 18 December 2001

		Total budget for liquidation period (£000)
Liquidation Expenditure		
Liabilities:	creditors	414
	accruals	442
Liquidators' fees		280
Liquidation costs		220
Trust Funds for potential litigation expenditure		1,860
Main project		**3,216**
Contingency		425
Total expenditure		**3,641**
Liquidation income		
Other income:	debtors	472
	cash at bank on 18 December 2001	132
Total income before grant		**604**
Grant requirement		**3,037**

Source: The New Millennium Experience Company Limited.

Appendix 1 The National Audit Office's methods

Why we did this work

1 The Comptroller and Auditor General's earlier Report ("The Millennium Dome" HC 936, Session 1999-2000) covered the events surrounding the additional lottery grants provided to the The New Millennium Experience Company Limited during the year 2000. That Report was published before the Dome closed, so we decided, given the high public profile of the Dome project and the extent of the financial difficulties experienced during the year of operation, to provide Parliament with a follow-up report.

The scope of this Report

2 This Report covers the actions taken to wind-up the affairs of The New Millennium Experience Company Limited and sets out the financial position when the Company went into liquidation. The Report does not examine in detail the historical factors likely to have influenced the Company's final costs and income, including the design and construction of the Dome. The proposed sale of the Dome will be the subject of a separate examination, which may result in a further report to Parliament.

3 Our methodology reflected the fact that, with the Company working towards liquidation, we needed to conduct our examination as the work progressed. Our aim was to keep abreast of developments through interviews with key personnel and consultants, and examining documentation, while retaining the auditor's essential independence from day to day decision making by the various parties directly responsible for the business of winding-up the Company.

The questions we addressed

4 To provide Parliament with an account of the process of winding-up the affairs of The New Millennium Experience Company Limited the key questions we examined were:

- **What issues had to be addressed?** This is largely an account of the obstacles which had to be overcome in working through to appointment of the liquidators.
- **What is the financial position on the project?** The Comptroller and Auditor General's previous Report set out the position as at September 2000. Much has happened since then, and an important function of this Report is to show how the financial position has changed.
- **Has accountability been properly considered?** Placing The New Millennium Experience Company Limited into liquidation was an unusual step for a company which is also a non-departmental public body. Our focus was on how the various parties sought to ensure that accountability for public money would be maintained once the Company had been handed over to the liquidators.

The collection of information

5 We undertook a detailed examination of the key papers by using our access to the files of: the Department for Culture, Media and Sport; The Millennium Commission; The New Millennium Experience Company Limited; the Department for Transport, Local Government and the Regions; and English Partnerships. We also interviewed senior staff from these organisations to ensure that we had a proper appreciation of events, and we discussed our findings in detail with them.

Appendix 2 The key players

We have set out below the postholders throughout the life of the project

The New Millennium Experience Company Limited[4]

Under the Companies Act all the Directors of the Company were responsible, during their time in Office, for the decisions reached by the Board during the course of the project.

The Board

Executive Directors (period as Executive Director shown in brackets)

Mr David N James CBE, Executive Chairman (from September 2000 until December 2001)[5].

Ms Jennifer Page CBE, Chief Executive (from February 1997 until February 2000).

M. PY Gerbeau, Chief Executive (from February 2000 until January 2001).

Mr Bob Hewes, Executive Finance Director then Chief Executive (from December 2000 until December 2001)[5].

Mr Steve Brown, Finance and Corporate Services Director (from September 1997 until March 1999).

Mr Neil Spence, Finance and Corporate Services Director (from October 1998 until September 2000).

Mr Liam Kane, Managing Director (from April 1998 until April 2000).

Mr Ken Robinson CBE, Operations Director (from July 1999 until February 2000).

Mr Malcolm Hutchinson (from May 2000 until September 2000).

Mr John Darlington, Chief Executive, New Millennium Experience Company Legacy Group then Acting Finance Director (from September 2000 until February 2001).

4 The Company was incorporated as a limited liability company under the Companies Act 1985 on 16 October 1995, and was previously called Millennium Central Limited. The Company became operational on 12 February 1997 after being taken into public ownership by the transfer of the issued shares to a Minister of the Crown on behalf of the Government. On 2 July 1997 the Company changed its name from Millennium Central Limited to The New Millennium Experience Company Limited.

5 Although Mr David N James CBE and Mr Bob Hewes ceased to be Executive Directors on appointment of the liquidators in December 2001, they will continue to be directors of the Company until it is dissolved.

Non-executive Directors (period as Non-executive Director shown in brackets)

Mr Robert Ayling, Chairman (February 1997 until May 2000).

Mr David Quarmby, Deputy Chairman then Chairman then Deputy Chairman (from February 1997)[6].

Mr Sam Chisholm, Deputy Chairman (from August 1997 until September 2000).

Mr Ian Ash (from February 1997 until July 2001).

The Hon Mrs Sara Morrison (from February 1997 until July 2001).

Sir Brian Jenkins GBE (from February 1997)[6].

Councillor Len Duvall OBE (from February 1997)[6].

Sir Alan Cockshaw (from July 1997 until October 2000).

Mr Michael Grade CBE (from July 1997 until July 2001).

Ms Ruth MacKenzie OBE (from July 1997 until November 1999).

Ms Sue Whitaker (from June 2000 until July 2001).

Accounting Officer (period as Accounting Officer shown in brackets)

Ms Jennifer Page CBE (from February 1997 until February 2000).

Mr Neil Spence (from February 2000 until September 2000).

Mr David N James CBE (September 2000 until December 2001).

The Shareholder (period as Shareholder shown in brackets)

Rt Hon Roger Freeman MP, The Chancellor of the Duchy of Lancaster (February 1997 until May 1997).

Rt Hon Chris Smith MP, The Secretary of State for National Heritage (May 1997).

Rt Hon Peter Mandelson MP, The Minister without Portfolio (June 1997 until December 1998).

Rt Hon Chris Smith MP, The Secretary of State for Culture, Media and Sport (December 1998 until January 1999).

Lord Falconer of Thoroton QC, Minister of State, Department for Transport, Local Government and the Regions (from January 1999).

6 *Mr David Quarmby, Sir Brian Jenkins GBE and Councillor Len Duvall OBE will continue to be directors of the Company until it is dissolved.*

Accounting Officer of the Department for Culture, Media and Sport

Sir Hayden Phillips KCB (until March 1998).

Mr Robin Young (from April 1998 until April 2001).

Mr Nicholas Kroll CB (Acting, from April 2001 until November 2001).

Ms Sue Street (from November 2001).

The Millennium Commissioners (period as Commissioner shown in brackets)

All of the Commissioners, during their time in office, were responsible for the decisions made by the Commission.

Rt Hon Virginia Bottomley JP MP (Chair from July 1995 until May 1997).

Rt Hon Chris Smith MP (Chair from May 1997 until June 2001).

Rt Hon Tessa Jowell MP (Chair from June 2001).

Dr Heather Couper (from February 1994).

The Earl of Dalkeith KBE (from February 1994).

Lord Glentoran CBE (from February 1994).

Lord Heseltine CH (from February 1994).

Lord Montague CBE (from February 1994 until May 1997).

The Baroness Scotland of Asthal QC (from February 1994 until July 1999).

Sir John Hall (from February 1994 until January 2000).

Mr Simon Jenkins (from February 1994 until December 2000).

Rt Hon Dr David Clark (from May 1997 until November 1998).

Rt Hon Dr Jack Cunningham MP (from November 1998 until October 1999).

Rt Hon Dr Marjorie Mowlam (from November 1999 until June 2001).

Ms Floella Benjamin OBE (from January 2000).

Ms Judith Donovan CBE (from January 2000).

Mr Matthew d'Ancona (from May 2000).

Accounting Officer of The Millennium Commission

Ms Jennifer Page CBE (from 1996 until January 1997).

Mr Mike O'Connor CBE (acting during February 1997).

Mr Eric Sorensen (from March 1997 until February 1998).

Mr Mike O'Connor CBE (from March 1998).

WINDING-UP THE NEW MILLENNIUM EXPERIENCE COMPANY LIMITED

Appendix 3 The scope of the PricewaterhouseCoopers Review

PricewaterhouseCoopers were requested to:

- investigate the specific allegations of fraud and impropriety and, having regard to the weight and reliability of the evidence, assist the Company's Executive Chairman to decide what action to take;
- review the associated procedures, accounting controls, documentary evidence and interview key Company staff;
- identify the relevant control procedures which may have been overcome in each of the alleged fraud cases and consider the potential for fraud as a result of any such breakdowns in controls;
- having regard to the risk areas identified by the nature of the allegations made, identify other areas of risk concerning impropriety, primarily through the use of data matching techniques on contractors records so as to identify other possible fraudulent relationships;
- ensure procurement procedures were adequate and, having regard to any suspicious transactions identified, avoid retaining any contractors suspected of fraud in the decommissioning process;
- attempt to quantify potential losses as a direct result of fraud and advise upon any recovery strategies;
- liaise with the appropriate parties including the Company's internal auditor, and assist with the continuing Police investigations;
- prepare a report which will allow the Company to make informed decisions regarding the various allegations; and
- make recommendations on any further work that may need to be undertaken, having regard to associated risks to the Company.

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