

STATES OF JERSEY

COMMITTEE OF INQUIRY INTO TENDER PROCESS AND AWARD OF BUS SERVICE CONTRACT

BLAMPIED ROOM, STATES BUILDING

Committee: **Mr Huw Shephard (President)**
 Mr Christopher Blackstone (Member)
 Mr Trevor Garrett (Member)

In attendance **Mr Mac Spence (Committee Clerk)**

EVIDENCE FROM:

MRS E. VINCE
(Chief Internal Auditor)

on

Tuesday, 1st February 2005

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MR SHEPHEARD: Good morning, everyone. I think all who need to be here are here and we will begin this session of the Committee of Inquiry into the bus tendering process. Our witness this morning is Mrs Elizabeth Vince, who is the internal auditor for the entire States or?

MRS VINCE: Yes, I am the Chief Internal Auditor.

MR SHEPHEARD: You are the Chief Internal Auditor. Mrs Vince, I do not know if you are aware, but this Inquiry is receiving all the evidence given on oath and I will proceed to administer that oath to you.

The witness was sworn

MR SHEPHEARD: Thank you. Mrs Vince, the questioning will come from all three of us more likely than not, but we will begin, I think, with Mr Garrett.

MR GARRETT: Good morning.

MRS VINCE: Good morning.

MR GARRETT: Can I move straight on to the audit that you conducted? Can you just briefly outline the terms of reference that you were given for that audit?

MRS VINCE: Yes. This was agreed by John Richardson, the Chief Officer of Public Services, and it was strictly to review the paperwork trail in order to ascertain who knew what on which dates with regard to the drivers' shift allowance. It wasn't, as my report makes clear, to assess the legality or appropriateness of the payment that had been made to Connex. It was purely to try to assess the facts surrounding the paperwork.

MR GARRETT: And was that purely confined to who within Public Services or any person acting on behalf of the States, was aware?

MRS VINCE: It was basically to review all the paperwork that Public Services and Halcrow had between 1st January 2002 and 1st May 2002, whether that was correspondence to Public Services, from Public Services or to or from Halcrow and the tenderers.

MR GARRETT: Right, and the terms of reference were set by John Richardson?

MRS VINCE: Yes.

MR GARRETT: Did you ... can you just confirm that you actually notified John Richardson and Mr Muir of the scope of your audit on about 7th January?

MRS VINCE: I can't remember the exact date, but that would sound about the right time, yes.

MR GARRETT: Okay. When you commenced the audit, did you have a formal or informal meeting with Mr Richardson or Mr Muir?

MRS VINCE: Um, this is quite a long time ago, so it is quite difficult for me to remember, and I haven't had my files to look through either because I gave them to the Committee, but my understanding was that I had a meeting in the first instance with Mr Richardson to agree the scope of the work and then Mr Muir was asked to put together all the necessary correspondence and paperwork that he had within his offices, and these were all deposited within an office at South Hill which was to be used by the President of the Public Services Committee and I was able to use that office for the period that I was up there to review the papers.

MR GARRETT: Okay. At the conclusion of the audit, again, did you meet with Mr Richardson and Mr Muir?

MRS VINCE: I basically kept Mr Muir particularly informed throughout the course of what I was doing because obviously there were an awful lot of papers to review, and I was conscious that I needed to make sure that I was drawing the right conclusions from them. So where I had any concerns or issues or I thought there might be a gap, I sort of went to him straight away and he made himself available to answer any questions I had.

What happened at the end of the audit was that obviously this wasn't a conventional audit with conclusions and recommendations. I knew it was going to have to be set out, as I have in this tabular form. So what was agreed was I would go away and set this out as I saw it and send it to both Mr Richardson and Mr Muir to confirm factual accuracy.

MR GARRETT: Okay, and in the days after the submission of your initial draft, you received submissions from Mr Muir, Mr Richardson and, I think, Mr Collier; is that correct?

MRS VINCE: I don't remember receiving anything from Mr Collier.

MR GARRETT: It may have actually come through Mr Muir.

MRS VINCE: Mr Muir probably, yes.

MR GARRETT: Okay. And you actually forwarded a copy of your audit report to us. That is dated January 2004. Let me just show you a copy of that. **(Same handed to witness) That is**

the document that you sent us?

MRS VINCE: Yes, that is correct, yes.

MR GARRETT: Fine. That contains a schedule of all of the material that was examined by you during your audit?

MRS VINCE: Yes.

MR GARRETT: Can I now show you a letter addressed to Mr Richardson from Senator Vibert?

(Same handed to witness) Can I just show you some of the highlighted sections there?

(Pause) The next document goes with that one, which is a copy of some notes that were compiled by Chris Lewis relating to a meeting held on 28th February. **(Same handed to witness)** Again, if you would just look at the highlighted sections, in particular paragraph 2, which describes discussion on the wage claim. **(Pause)**

MRS VINCE: Okay.

MR GARRETT: Can I also show you a copy of the tender from Dunn-Line, the highlighted section, which makes an explicit reference to the shift allowance? **(Same handed to witness)**

(Pause) Was the letter from Mr Vibert shown to you during your audit?

MRS VINCE: I don't remember it being shown to me.

MR GARRETT: It doesn't appear on your ----

MRS VINCE: I was aware of Senator Vibert raising this issue with John Richardson because I was told he had maintained that Jersey Bus had said that Mr Muir was present at the time this was discussed in the meeting, but all I could go on was the information that they gave me when I went to Public Services, which was Halcrow's own note.

MR GARRETT: If you look at the date on the letter from Mr Vibert, you will notice that it is dated about one day before you started your audit. Would you have expected, bearing in mind the time that that was received, for somebody to have shown that to you?

MRS VINCE: Um, it would have been helpful if I'd seen the letter, because I don't know what else is in the letter which may have been helpful, but, in terms of the first two paragraphs, I was aware that Senator Vibert had brought to Public Services' attention that Jersey Bus was maintaining that Mr Muir was in the meeting and that the shift allowance had been discussed

there. Obviously, there is now these minutes which I haven't seen. All I would say is that, as an auditor, I would hope these were, as the other ones I saw were, a factual record of the discussion and that they were drawn up after the meeting and they are a true and fair reflection, although, of course, one can never be completely sure.

MR GARRETT: Can I just say that there is some discussion on that point at the moment, but, nevertheless, that was received by Mr Richardson 24 hours before you started your audit. Don't you think that it would have been reasonable to have shown you that material and possibly have provided you with an explanation which would have given you some guidance as to the value or otherwise of that material?

MRS VINCE: Did Mr Richardson receive this with this letter?

MR GARRETT: The two came together.

MRS VINCE: I mean, as I say, I haven't looked at my file for a long time, but presumably the Committee can confirm that there weren't copies of either of these on my file.

MR GARRETT: I have not found copies of those on your file.

MRS VINCE: In which case, I didn't see them because I copied everything on to the file.

MR GARRETT: Okay. How about the tender documents? Were you shown copies of the tender documents, because you will notice that the Dunn-Line ----

MRS VINCE: There were extracts of some bits of tender documents, but I don't recall seeing this one. But I do remember, in the section of my report which deals with the notes of the meetings, there was a reference, I think, to this company mentioning something about the allowance. If you will just bear with me, I will find it. **(Pause)** No, sorry, there wasn't. This is on page 8: "*25/2/02, handwritten notes of a meeting between Halcrow and Dunn-Line, and Dunn-Line confirmed they had included 5% for the 2002 pay award.*"

MR GARRETT: Can you tell me ----

MRS VINCE: Sorry, I was referring to ... if you look on page 9, with regard to the handwritten notes of a meeting between representatives of Halcrow and Anglian Coaches, the last line there refers to ... and, of course, one can't assume they meant this particular allowance, but it does say "*enhanced shift/overtime allowance included in shift/overtime allowance*". It is a rather

confusing statement, but I took that as perhaps meaning that they had also included the shift allowance in their bid, which is why I recorded that particular piece of information.

MR GARRETT: Okay. Did anybody also mention to you what has been referred to as “*three brown envelopes*” that were handed to Mr Muir on the day that the tenders were opened by Mr Childs?

MRS VINCE: No.

MR GARRETT: We have received evidence to say that those brown envelopes contained a full set of all documents that were received by or issued by Halcrow, including copies of the letter regarding the shift allowance.

MRS VINCE: Could you just repeat for me when you said that Mr Muir allegedly received those documents?

MR GARRETT: He received those on the day that the tenders were opened.

MRS VINCE: Right. All I can confirm to the Committee is that, from the files that were made available to me when I went to Public Services, I found no evidence of any paperwork regarding that shift allowance other than the faxed copy which had been obtained from Halcrow just before my audit.

MR GARRETT: If you had received a full copy of the tender documents, including specifically the Dunn-Line tender, which was opened in the presence of Mr Muir and examined in the presence of Mr Muir at the end of the tendering process in February; if you had received the brown envelopes, or been notified of the brown envelopes, which included the copy of the Transport and General Workers’ Union letter, which was delivered to Mr Muir on the day that the tenders were opened -- hand delivered to him -- and you had received copies of the letters from Senator Vibert with the notes compiled by Chris Lewis, do you think that would have made any difference to the outcome of your audit?

MRS VINCE: Um, certainly had I seen ... I mean, if this page you have just put in front of me from Dunn-Line was actually included in the tender information submitted and reviewed by the people who were opening the tenders, which I can only assume included Mr Muir, then I would (a) have hoped that I would have noticed that it said “*shift allowance*” on this piece of paper, and

(b) yes, I would have said that that was notification to the Public Services Department that at least one of the tenderers had included that. If I had that, I guess then I would have asked them what that in particular was about, because I would have obviously known about the shift allowance at the time I was doing the audit, whereas they maintained that they didn't. I'm not sure about these two pieces of paper. I was aware that Senator Vibert had said that Mr Muir was in the meeting and that during the meeting the bus drivers' shift allowance was discussed.

MR GARRETT: Would it have prompted an enquiry from you just to try to validate ----

MRS VINCE: I think, because the scope of my review was to record what information was in existence, then I would obviously have recorded this information had it been on one of the files I was given, but, of course, it wasn't. But effectively it is one group's word against another. With this alone, I still think it is difficult to conclude 100%. **This** is a more reliable source, in my opinion.

MR GARRETT: And I think, if the brown envelopes had been drawn to your attention, which included a copy of the letter from the Transport and General Workers' Union, I think that, too, would have been a little more conclusive; would you agree?

MRS VINCE: Yes. I would like to say to the Committee that when I went to Public Services, as I say, a series of lever arch folders like **this** had been put in the President's room for me to review and, when I went into Mr Collier's office, because Mr Muir was introducing me to him, I spotted (because I was very aware that I was very reliant on everybody giving me all the information), when I was in Mr Collier's office, I actually spotted a file on his bookshelf entitled "*Shift Allowance*", which you will see is the first file that I have referred to here. So I actually said to them "That looks like something I should have", and Mr Collier and Mr Muir told me that that file had been put together sort of after this issue had been raised with them by Jersey Bus, Senator Vibert and others and it had copies of information on and it was on that file that there was a copy of the fax from Halcrow attaching the Trade Union's claim, which they were maintaining was the first time they had seen it, but that is the copy that is on the file here, so you can see it was clearly a faxed version, but that file wasn't put in the room with the others.

MR GARRETT: And what was the date of that fax?

MRS VINCE: The date of that fax was ... **(Pause)** This is the information that I refer to on pages 15 and 16, so this is sort of the last reference to any paperwork. So this was a letter dated 15th December from Halcrow to Mr Muir on this file called the “*Shift Allowance*” file, which I had identified on Mr Collier’s shelf. The first thing I noted was that it wasn’t on headed paper, so I assumed it had been emailed, and the Department informed me that they did have a hard copy of the letter, which I must confess I didn’t see, but I didn’t think that was necessarily relevant. It dealt with a number of things, and I assumed that the reason the letter had been sent was because Halcrow had been informed that there was going to be a review of this whole situation. And this letter said that the first time Halcrow knew about the claim for the bus drivers was on 12th February 2002, which I know is correct because I managed to see evidence of that, where they received the fax from Jersey Bus with the claim attached, and that this was sent out to the tenderers with *Bulletin 2*. In this letter from Halcrow to Mr Muir, it said that they had sent both these documents to the States on 12th February. This is what they said happened. Public Services’ Officers told me that was the first time they had seen that claim, and that was the only place within the files that I was given that I saw a copy of that, other than on the information that Halcrow sent in.

MR GARRETT: Okay, just to summarise, you weren’t shown those documents during your audit. Nobody drew your attention to the receipt of the brown envelopes, but if you had known about those developments, it might have had an impact on the findings that were set out in your report?

MRS VINCE: I would agree with what you said, but I would qualify that by saying that **this**, to me, is more reliable evidence than **that**.

MR GARRETT: Yes, but I think ----

MRS VINCE: It would not have materially changed what I was saying; it would have merely been another piece of information to record and also, as part of my work, I wasn’t asked to review in detail the tender submissions. I was asked to review the correspondence and information which passed between the parties at that time.

MR GARRETT: Okay, but the brown envelopes, we are assured, included the ... they were

hand delivered from Halcrow to Mr Muir and they included a copy of the shift allowance letter and that was handed to Mr Muir on the day that the tenders were opened.

MRS VINCE: In that case, I don't know why they weren't on the files that I was reviewing.

MR GARRETT: But that would have made a difference if you had seen that material?

MRS VINCE: Yes.

MR GARRETT: Okay, thank you.

MR BLACKSTONE: Mrs Vince, I have not studied this area in detail -- this is Mr Garrett's speciality -- but I do have one or two questions. Did you get full co-operation from the Public Services Department in your examination?

MRS VINCE: Absolutely, yes.

MR BLACKSTONE: And yet they didn't show you the shift allowance file -- you noticed that in Mr Collier's shelves?

MRS VINCE: I did and, as the internal auditor, of course, I am always on the lookout for things that people don't show me, so obviously that was one of my concerns when I did do this piece of work, that something might not have been given to me, so obviously I was ... being very vigilant when I went into offices to see if I could see anything that perhaps hadn't been disclosed to me. I do believe that the explanation they gave me was appropriate, because, upon review of that folder, with the exception of the last document which I have just referred to, everything on there (and there wasn't a lot on there) was kind of key documents that were already on other files. So I think Mr Collier had just drawn these things out for his own purposes. But, nevertheless, I did ask to have the file and they did give it to me without any problem, and I literally just took it away from them then so there is no way anyone could have tampered with it.

MR BLACKSTONE: Now, Mr Richardson was the Chief Executive of the Public Services Department over this period of the tenders.

MRS VINCE: Yes.

MR BLACKSTONE: But in fact Mr Muir, his title, I believe, was Director of Transport, or something like that.

MRS VINCE: Traffic and Transportation, I think.

MR BLACKSTONE: Traffic and Transportation, yes. He was directly in charge of the tender process and was the prime contact with Halcrow. That is correct, is it?

MRS VINCE: That is my understanding, although that wasn't part of my remit for this particular piece of work, to establish that.

MR BLACKSTONE: And the tenders were opened in Jersey in the presence of Mr Muir on, I think it was, 18th February.

MRS VINCE: That was one of my dates that I put in bold on my form. Yes, 18th February is my understanding too. That was the deadline for tender submissions, but I did not review the process for opening tenders as part of this audit -- I must stress that.

MR BLACKSTONE: Now, as Mr Muir was in charge and as he was present at the opening of the tenders, would you consider that he had a responsibility then to know what was in the tenders, to make himself familiar with them?

MRS VINCE: Yes, I would.

MR BLACKSTONE: And in the tenders you have already seen the Dunn-Line tender contains a specific reference to the shift allowance. I can assure you that the other Halcrow documents which you have seen -- the letters to the tenderers of 12th February, including the TGWU's claim of 6th February -- that was also in the documents made available by Halcrow that day. We have had specific evidence to that effect by Mr Childs. Therefore, you would consider it reasonable that Mr Muir, being the PSD man responsible for this tendering process, should make himself familiar with all those documents on or soon after 18th February?

MRS VINCE: That is what I would have expected from somebody who was responsible for a tendering process, yes.

MR BLACKSTONE: And I believe Mr Muir's claim is that he did not know about the shift allowance until some time down in May.

MRS VINCE: That is correct.

MR BLACKSTONE: Thank you. No more questions.

MR SHEPHEARD: No, I have nothing for you. Mrs Vince, thank you very much for coming

here this morning.

MRS VINCE: Okay, thank you. Do you want **these** back, Mr Garrett?

MR GARRETT: No, you can keep those.

MRS VINCE: I would quite like to keep them.

MR GARRETT: Right. Can you keep them confidential for the next few days?

MRS VINCE: Of course I will, yes, yes.
