

**NATIONAL TRUSTEES SUB-COMMITTEE REPORT ON ITS ENQUIRY  
INTO ASSERTIONS MADE BY THE HEALTH SERVICE EXECUTIVE**

**1. FOREWORD**

1.1. In June 2010, there was significant adverse publicity concerning State funds being channelled into a bank account with the SIPTU name attached. The Trustees of the Union were naturally extremely concerned at the nature and extent of the commentary and were most anxious to establish the facts of the matters then under widespread discussion.

1.2. The then Trustees appointed two of their number, the undersigned Mr. Jimmy Brennan and Mr. Noel Pocock to form an inquiry sub-committee. We were tasked with the following terms of reference;

*“At the special meeting of the National Trustees held on Wednesday 23rd June 2010 it was agreed to establish a sub-committee comprising of two National Trustees, supported by whatever external specialist support it considers appropriate, to enquire into the assertions made by the Health Service Executive (HSE) to the effect that €2.353 million had been paid into SIPTU and to report back to the National Trustees on its progress and conclusions for the earliest possible attention of the National Executive Council. The sub-committee will be serviced by the Head of Finance and Administration and have the authority to enquire from any source within the Union in relation to the matter”.*

1.3. This has been a most difficult and painstaking undertaking. We immersed ourselves in significant volumes of documents and we had to be cognisant of the other inquiries which were also being undertaken. In particular we were mindful of the fact that taxpayer’s money was under consideration and that the Public Accounts Committee, on behalf of the Oireachtas, was conducting its own inquiries.

1.4. In order to conclude our own work it was necessary to await delivery of a forensic report commissioned by the legal advisors to Mr. Merrigan and Mr. Kelly who were the cheque signatories on the SIPTU National Health and Local Authority “Levy Fund” (“Levy Fund”). That report was made available to us in late January 2011.

1.5. We have also drawn upon documentation published by the Public Accounts Committee on its web site [www.oireachtas.ie](http://www.oireachtas.ie) which we advise readers to consult further as required.

1.6. During the course of our inquiries we have met with Mr. Merrigan and Mr. Kelly. We met with Mr. Joe O’Flynn, General Secretary, SIPTU. We also met with Mr. Michael Scanlon, Secretary General of the then Department of Health and Children together with a number of his staff, and we met with Mr. Cathal Magee, Chief Executive Officer of the HSE and Mr. Sean McGrath, Director of Human Resources at the HSE.

- 1.7. We wish to express our gratitude to all with whom we came in contact for their unfailing courtesy and patience.
- 1.8. We are particularly grateful to the staff of Bank of Ireland for their unstinting efforts in supplying us with the voluminous details of transactions on this account.
- 1.9. We wish to also acknowledge the extent of the concern and upset which the subject matter of this report has caused to our Union membership, our voluntary representatives, our staff and the wider public. Notwithstanding the real hurt felt by all of these individuals, we have been afforded the utmost respect in allowing us to arrive at our conclusions in our own time. For the patience shown to us we are particularly grateful.
- 1.10. We would like to thank Mr. Martin Naughton, Head of Finance and Administration SIPTU, and his team for all their help and support.

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MR. JIMMY BRENNAN

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MR. NOEL POCOCK

## **2. INTRODUCTION**

2.1. On the 28<sup>th</sup> September 2009, an internal auditor with the Health Service Executive (HSE) telephoned the General Secretary of SIPTU to seek an urgent meeting. This request was readily acceded to for later that day. In attendance at that meeting in Liberty Hall were;

- Dr. Geraldine Smith, Assistant National Director, Internal Audit, HSE
- Mr. Joe O'Flynn, General Secretary, SIPTU
- Mr. Martin Naughton, Head of Finance and Administration, SIPTU

2.2. A detailed contemporaneous note was made of that meeting and from that and our subsequent interviews with the General Secretary we understand what transpired. Dr. Smith was compiling an internal audit report on the Skill programme Administrative Expenditure, which at that time she was close to finalising. However HSE internal audit was having difficulty contacting Mr. Merrigan who was on extended sick leave following a serious accident.

2.3. At the meeting Dr. Smith indicated that funds had been provided by the HSE to the "Levy Fund" through the office of the National Industrial Secretary, Mr. Matt Merrigan. At the meeting the General Secretary, Mr. Joe O'Flynn, clearly asserted that he had no knowledge of the receipt of any funds from the HSE to SIPTU, and that no such funds were accounted for in the audited accounts of the Union. Copies of the audited accounts for a number of years were furnished to Dr. Smith at that meeting. After this meeting the General Secretary sought unsuccessfully to secure a copy of the then draft HSE internal audit report.

2.4. Eventually through the Public Accounts Committee web site we have now seen a copy of that report, which is dated 8<sup>th</sup> June 2010, and is addressed to Mr. Sean McGrath, National Director of Human Resources, HSE.

## **3. THE BANK ACCOUNT**

3.1. A bank account in the name of the "SIPTU National Health and Local Authority "Levy Fund" was opened at Bank of Ireland O'Connell St. on or about 3<sup>rd</sup> December 1998. A copy of the mandate is reproduced at Appendix 1 to this report. The bank mandate indicates that the account would have two signatories; Mr. Matt Merrigan and Mr. Jack Kelly. Mr. Merrigan is a full time senior official of the Union and Mr. Kelly was a member of the National Executive Council at that time. The bank mandate identifies Mr. Merrigan as a trustee of the fund.

3.2. There are no records in the Union to indicate that the opening of this account was approved or sanctioned by any of the officers of the Union or by either the National Executive Council or the Head of Finance and Administration within the Union. This has been confirmed by all the current serving General Officers and all of the retired General Officers who served during the period covered by this report, see below.

Jack O'Connor, General President, 2003 – Vice President – 2000 – 2003

Des Geraghty, General President, 1999 – 2003. Vice President, 1997 – 1999

Jimmy Somers, General President, 1997 – 1999. Vice President, 1994 – 1997

Brendan Hayes, Vice President, 2004 – 2010

Joe O'Flynn, General Secretary, 2002 -

John McDonnell, General Secretary, 1998 – 2002

William A. Attley, General President, 1990 – 1994. General Secretary, 1994 – 1998

Also; John Fay, Former Head of Finance and Administration 1991-2004

Martin Naughton, Head of Finance and Administration 2005 -

3.3. Under the legislation governing trade unions all assets of a trade union are vested in the National Trustees for the time being of the Union and Unions are required to provide in their rule book for the appointment and removal of the trustees. Neither Mr Merrigan nor Mr Kelly held the position of National Trustee of the Union.

3.4. Mr. Merrigan has drawn attention to a copy of correspondence he claims to have issued to Mr. Conor Whelan, a member of the clerical staff in the Finance department, which states the following;

*"26<sup>th</sup> February 1999*

*Dear Conor,*

*I refer to previous discussions and wish to advise you that a SIPTU National Health & Local Authority "Levy Fund", account No. 49294636 has been set up with the Bank of Ireland, O'Connell Street, with Jack Kelly and the undersigned as signatories.*

*Yours Sincerely,*

*Matt Merrigan*

*National Industrial Secretary"*

3.5. An extensive trawl of all of the records in the possession of the Union was undertaken and no copy of this correspondence or any other notes on the opening of this levy account could be found. After a written inquiry we have received written communication from Mr. Conor Whelan in which he states the following:

*"Further to your letter dated 18<sup>th</sup> October 2010 regarding "SIPTU National Health & Local Authority "Levy Fund" Bank Account, contents which are noted. I wish to advise that I did not approve the opening of this account, and in all the years I was involved with Union bank accounts I never approved the opening of any bank account, as I did not, at any time have the authority to do so."*

3.6. The conclusion of the trustee's sub-committee is therefore that the opening of this account was carried out by Mr. Merrigan and Mr. Kelly, the named cheque signatories without reference to either the General Officers or the Head of Finance and Administration in the Union.

#### **4. USE OF THE TERM "LEVY FUND"**

- 4.1. Within the Union the term "Levy Fund" has a specific meaning indicating an account operated by a Branch under their own control and rules and governed by the Branch Trustees. Crucially, such funds derive their income from the branch members themselves, and the commonly understood use of the term "levy" was to indicate a levy on the particular branch membership. Typically, such funds are intended to assist members with educational grants or contributions to alleviate hardship or otherwise to assist members as the trustees of such funds shall decide. The Union is aware of many such levy funds bearing the name SIPTU in their title. They are managed by the trustees of those funds and are not accounted for or included in the Union's books and records. They are however, accounted for on an annual basis by the Branch Trustees to the Annual General Meeting of the branch. Having made our own inquiries we can state that to the best of our knowledge all such levy funds are supported by the membership and are not in receipt of any public funding.
- 4.2. To the extent that any members of the SIPTU financial staff had any awareness of the "Levy Fund", it is our belief that they assumed it was a typical levy fund of the type described above. Until the intervention of Dr. Smith from the HSE Audit unit, there was no knowledge that this fund was not in fact a "Levy Fund" at all, but rather an account which was in receipt of funds from a number of third parties including the HSE.
- 4.3. This bank account was opened in December 1998. We have been unable to ascertain why the term "levy" was attached to it. For their part, Mr. Merrigan and Mr. Kelly gave no explanation as to why they applied the term "levy" other than to speculate that this was a term often used. Mr. Merrigan subsequently stated to us that while this was the title chosen for the fund *"it could have been any other name"*.
- 4.4. To the best of our knowledge no funding went into this account which was sourced in the first instance by a levy on any of our membership. The use of the term "levy" contributed significantly to the misdirection of those who happened upon the account in the course of Union business.

#### **5. FIRST ACCOUNTANTS REPORT**

- 5.1. Following the meeting with the HSE internal auditors in September 2009, the General Secretary arranged a meeting with Mr. Merrigan who at that time was recovering from a very serious accident. At that meeting it was asserted by Mr. Merrigan that the "Levy Fund" was under Mr. Merrigan's administration and control, as part of the HSE Skills project, outside the umbrella of SIPTU, and had not been subject to audit by any third party. Following on this meeting Mr. Merrigan sought his own legal and accounting advice. Subsequently, it was arranged by Mr.

Merrigan that a Chartered Accountant would prepare an audited account of the "Levy Fund" and he appointed Mahon & Co. based in Dun Laoghaire to undertake the work.

- 5.2. Mahon & Co. presented their report to Mr. Merrigan and Mr. Kelly on 3rd March 2010. We believe the HSE met with Mr. Merrigan and Mr. Kelly at the offices of Mahon & Co. at this time.
- 5.3. Following press coverage in advance of the publication of the HSE Annual report it became clear that the HSE claimed they were not satisfied with the outcome from the Mahon & Co. audit and its interviews with Mr. Merrigan and Mr. Kelly.
- 5.4. It was not until late June 2010 that a copy of the Mahon & Co. report of 3rd March 2010 was made available to the General Secretary through the office of the HSE. While providing more information on the scale of the bank account and its operation, it was a heavily qualified report in many respects.

In particular it noted;

*"We cannot verify the accuracy and completeness of either the accounting records or the information and explanations provided to us."*

*"Due to the limitations on scope as described we cannot express any opinion on the financial information."*

- 5.5. On the 8<sup>th</sup> July 2010, Mr. Sean McGrath, National Director of Human Resources at the HSE wrote to the General Secretary, and made the following comments; *"I can also confirm that any records provided by your senior employee were incomplete and inadequate."* In relation to the provision of a report by Mahon & Co., Mr. McGrath quoted from a letter issued by his Internal Audit Directorate on 19<sup>th</sup> May 2010 to Mr. Merrigan. In that correspondence the following was stated:

*"The document entitled "Extracts from Financial Summary" provided by you at our meeting on 3<sup>rd</sup> March could not be deemed to represent "the provision of accounts" as it does not contain the standard accounting and disclosure information and certification as required by generally accepted accounting principles namely accounting policies, detailed income and expenditure account, detailed balance sheet, notes to the accounts, a trustees' report and an independent auditors report."*

- 5.6. The lack of any clear information flow from the HSE rendered the Unions position extremely difficult in responding to the allegations which were then in the public domain. There was also a persistent flow of information compiled by the HSE which subsequently emerged in the national media.
- 5.7. Having studied the Mahon & Co. report we formed the view that it was imperative to seek a mechanism to take immediate control of the bank account. To that end we sought and received the agreement of the cheque signatories to desist from any further transactions. With the co-operation of the Bank of Ireland the National Trustees of the Union assumed control of the account pending the outcome of our inquiries as mandated by the National Trustees. Since the Trustees have assumed control, no payments have been made from this account. To advance

our inquiry we determined to obtain copies of all bank transactions from Bank of Ireland in order to better understand how this account operated.

## 6. BANK ACCOUNT OPERATION

6.1. We met with and discussed with Mr. Merrigan and Mr. Kelly the operation of the bank account. Both were signatories on the bank account and the bank mandate indicated that any one signature would suffice. In practice, it seems there were always two signatures on every cheque. The administration of the account rested with Mr. Merrigan. In his own words Mr. Merrigan advised us that he *"agreed to manage the funds and drive the program"*. This agreement was not with any member of Union staff but rather with the HSE. It seems likely both assumed that the bank required two signatures at all times. Cheque books for the account were maintained in Mr. Merrigan's office. The bank statements were posted by the bank to Mr. Matt Merrigan, SIPTU, Liberty Hall, Dublin 1.

6.2. We have relied heavily on the photocopies of returned paid cheques and lodgement slips supplied by Bank of Ireland to build up our understanding of this bank account. We have received copies of most cheques and lodgements for the period January 2001 to 1st July 2010. Detailed records of transactions prior to 2001 were not available.

6.3. A summary of the bank account details is as follows for the period January 2001 to 18<sup>th</sup> March 2011;

Opening balance	€ 100,472
Lodgements	€4,493,796
Payments	€3,896,374
Balance at 18 <sup>th</sup> March 2011	€ 697,894

6.4. In most cases no detail or record was maintained on the cheque stubs. Neither was there any detailed records maintained of lodgements or payments made. Nor indeed were Income and Expenditure Accounts maintained which might have allowed us to better analyse and understand the detailed copy records we received from Bank of Ireland.

## 7. SOURCES OF FUNDS

7.1. We believe the principal sources of funds making up the lodgements to the bank account over this period were the following:

Office of Health Management/HSE	€2,174,360
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National Partnership Forum (H.S.N.P.F.)	€ 943,751
Local Gov. Management Services Board (L.A.N.P.A.G).	€ 788,703
Beaumont Hospital	€ 100,000
Miscellaneous receipts /rebates	€ 347,086
Refunds from individuals	€ 139,896
Total Lodgements	€4,493,796

7.2. Before commenting in detail on the sources of these funds, we would make the following general observations. All of the correspondence which we have been able to obtain relating to income sources was addressed to Mr. Merrigan. Nowhere have we found any requirement or request from any of the funders to provide regular Income and Expenditure Accounts and, most surprisingly of all, no request for an audited account of the use to which these funds were put.

## 8. OFFICE OF HEALTH MANAGEMENT (OHM)/HSE

8.1. The first grant for which we can find a record was for €75,000 in May 2000. This was described as an additional once off funding in respect of the development of Management Programmes for Frontline Supervisors. This predates the period for which records are available. The next correspondence we have sourced documents a grant received from the OHM for €90,000 and was lodged to the bank account on the 19th December 2002. One year later in December 2003, there was a receipt from them for €190,000, with a further €190,000 lodged in October 2004. After this date the annual grant came from the HSE and was for a sum of €250,000 per annum.

8.2. We have been able to obtain copies of some correspondence in relation to these grant sums.

The grant of €90,000 was accompanied by a letter from Mr. Alan Smith General Manager at the OHM dated 18<sup>th</sup> December 2002. The correspondence states *"I refer to previous discussions with the Department of Health and Children and SIPTU. I am now enclosing a cheque in the value of €90,000 made payable to SIPTU in respect of staff "Levy Fund" (€40K) and partnership Study Visit (€50K)"*.

8.3. In 2003 the payment to the bank account of €190,000 appears to be on foot of the provision in the budget of the Midland Health Board for a once off payment to the OHM regarding *"front line supervision programmes for health sector managers"*.

Correspondence in respect of the €190,000 lodged in October 2004 is in several parts.



8.4. On 17<sup>th</sup> August 2004 Mr. Merrigan wrote to Mr. Frank Ahern Assistant Secretary General at the Department of Health and Children. In this correspondence he acknowledges the funding being made available through the OHM and refers to the announcement that this office is to be streamlined into the HSE. He sought agreement on the future funding arrangements of *“this important collaborative approach and that it be put on a firm footing going forward”*.

8.5. In September 2004 Mr. Merrigan received a letter addressed to himself as National Industrial Secretary from the Department of Health and Children, which was signed by the then Minister, Mr. Micheál Martin T.D.

This letter reads as follows;

*“Dear Mr Merrigan,*

*I refer to your request for the provision of support for SIPTU front line supervisors training, which is facilitated by the Office for Health Management in conjunction with the University of Limerick.*

*I am pleased to inform you that funding is being provided for the continuation of this initiative.”*

8.6. On the 14<sup>th</sup> September 2004 the Chief Executive Officer at the Midland Health Board was informed by a principal officer in Personnel Management at the Department of Health and Children that an adjustment was being made to the Board’s allocation to take account of an allocation to the OHM for the Front Line Supervisor Training. The amount provided was €190,000. On 18<sup>th</sup> October 2004 the General Manager at the OHM, Mr. Alan Smith, issued a letter to Mr. Merrigan enclosing the cheque for €190,000 and copying the correspondence to the Principal Officer at the Department of Health and Children.

8.7. On the 12<sup>th</sup> December 2004, Mr. Merrigan received a reply from Bernard Carey, Director, Personnel Management and Development, the Department of Health and Children to his request that future funding be put on a firm footing. This correspondence is the only detail supplied by the Department in support of its ongoing grant of €250,000 per annum for 2005 and subsequent years. The letter states that €250,000 of ongoing funding *“has been earmarked to maintain support for SIPTU’s human resource/personnel development schemes and the development of management/union partnerships of best practice in health enterprises”*. The letter went on to note that *“the effect of this will be to put the current ad hoc arrangement on a firm footing into the future with an enhanced funding provision”*. The fund administrator failed to bring this letter to the attention of the Union Officers.

8.8. It has to be noted that none of this correspondence was addressed to or copied to any other member of the Union staff apart from Mr. Merrigan.

8.9. We can confirm that on foot of this arrangement the following funds were lodged by Mr. Merrigan to the “Levy Fund” bank account:

February 2005	€250,000
September 2006	€250,000

March 2007	€250,000
February 2008	€250,000
December 2008	€ 41,800
March 2009	€208,200

8.10. While sanctioned by the Department of Health & Children, from February 2005 the HSE was the funding agency for the sums above. In his interactions with HSE in 2009 the General Secretary of SIPTU requested sight of any service level agreement or grant document which the HSE had to support the payment of these sums to the "Levy Fund". From the replies received it is clear that no such documentation ever existed.

8.11. It appears extraordinary that the HSE could dispense such State funds without requesting or insisting on any form of accountability for that money. At no stage prior to September 2009 was any General Officer of SIPTU made aware of the fact that €250,000 per annum was being received from the HSE Skills Project and lodged to the "Levy Fund" account. Neither were there any requests to Mr. Merrigan to account for the uses to which this money was put prior to the commencement of the 2009 audit. Mr. Merrigan asserted to us that *"We did not appraise the union of any of the details relating to the account because it was not involved in it in any way"*. He also stated that *"the monies were not provided to the Union. They were provided to the projects"*.

8.12. Mr. Merrigan, as administrator of the bank account to which the money was lodged, claims that his only instructions in relation to how this money should be used are contained in the letter of 12<sup>th</sup> December 2004, quoted above. The absence of governance, transparency or accountability requirements in that letter, or any subsequent correspondence, displays failings in operational standards on the part of the funding agencies. It also raises questions about why normal governance standards of reporting and accountability were dispensed with in this case by State authorities.

8.13. It is for the State Agencies to explain how so many years elapsed before any questions were raised within the HSE concerning accountability for these funds. It seems from the information available to us that the HSE and the Department of Health and Children ought to have had a full record of both the dispensing of these funds and the uses to which they were put. The HSE raised questions with the Union Officers for the first time, some seven years after funding was first provided to the account and nearly five years after the Departments letter of 12<sup>th</sup> December 2004.

8.14. In addition to the funding outlined above, the "Levy Fund" also recorded lodgements from the HSE as follows;

28 <sup>th</sup> November 2006	€ 9,637
24 <sup>th</sup> January 2007	€ 15,000
24 <sup>th</sup> October 2007	€ 92,500

29 <sup>th</sup> September 2008	€ 81,000
8 <sup>th</sup> December 2008	€ 38,800
23 <sup>rd</sup> December 2008	€109,164

8.15. Mr. Merrigan has indicated that he provided a breakdown/analysis for the following reimbursement amounts:

October 2007	€ 92,500
August 2008	€ 81,000
December 2008	<u>€109,164</u>
Total	<u>€282,664</u>

We have seen copies of the breakdown provided by Mr. Merrigan for the €92,500 and the €81,000. In respect of the third item, €109,164, we understand that 12 invoices were supplied to the HSE Internal Audit Directorate by Mr. Merrigan in October 2009.

In the HSE Internal Audit Report of 8<sup>th</sup> June 2010, it was acknowledged that invoices were submitted to the Skills Office totalling €348,211.<sup>1</sup>

These invoices were approved for payment by the General Manager HSE Skills Project office.

From our review it is clear that the three reimbursements itemised above make up a substantial amount of the €348,211 identified by the HSE, as not being supported by sufficient documentation. While some argument may be proposed as to the sufficiency of documentation, it is clear that there was supporting documentation for these payments.

In any event, our understanding is that all of the above mentioned sums were claimed from the Skills Project office with the cheque payments being drawn on the HSE bank account. We have to assume that whatever about the round sum grants referred to above (€250,000 per annum), when it came to these additional payments the Skills Project office would have been obligated to provide sufficient documentation to obtain cheques from the HSE. We have not had any access to the records of the Skills Project office or to the cheque paying department of the HSE. However, it is clear from Mr. Merrigan, and from the HSE Audit Report, that he did supply supporting documentation to the HSE for a very significant proportion of these payments. His own analysis has concluded that there may be the possibility of a refund due to the HSE in respect of €45,000.

<sup>1</sup> HSE Internal Audit Directorate Report of 8<sup>th</sup> June 2010 "Audit of Skill Programme Administrative Expenditure" Page 40

## 9. HEALTH SERVICES NATIONAL PARTNERSHIP FORUM

9.1. The Health Services National Partnership Forum "HSNPF", was established as a independent non statutory consultative group. The HSNPF consisted of 24 members, comprising 12 senior health and social service managers and 12 senior officials from various unions. Accordingly the HSEA (and subsequently the HSE) and the Dept of Health and Children had representation on the

board of the HSNPF. Management and unions both nominated the joint Chairs. The Union representative joint Chair was Mr. Merrigan. The HSNPF is audited by the Comptroller and Auditor General.

9.2. The HSNPF was the source of considerable funding in the period under review.

Between 2002 and 2009 we have identified lodgements to the "Levy Fund" from this source of €943,750, and these can be further analysed as follows:

<b>DATE</b>	<b>AMOUNT</b>
Dec 2002	€ 350
Aug 2004	€ 5,000
Sept 2004	€ 15,462
Dec 2004	€ 17,476
Dec 2004	€ 16,866
Nov 2005	€ 67,630
Dec 2005	€ 50,205
Apr 2006	€ 1,654
May 2006	€ 48,324
June 2006	€ 1,941
Feb 2007	€ 200,000
Sept 2007	€ 250,000
Aug 2008	€ 18,842
Dec 2008	€ 250,000

9.3. Taken together the HSE and the HSNPF lodged €3.118 million to the "Levy Fund" account between 2002 and 2009.

9.4. The goal of deepening workplace partnership in order to enhance the quality and delivery of care to health service users and also to improve the working arrangements for health service staff is considered to be a necessary requirement for ongoing development of the health services. The Action Plan for People Management (APPM) was a programme, the aim of which was to up skill managers, employees and Union representatives in people management skills, including the skills of working together effectively and of handling changes and conflicts in a constructive manner. Mr. Merrigan has asserted that these funds supported the training of in excess of 5,000 employees.

9.5. Mr. Michael Scanlon Secretary General, Department of Health and Children stated the following at a hearing of the Public Accounts Committee on 16<sup>th</sup> December 2010;

*“The development of a partnership approach to managing change within the health service and the investment in training initiatives for support staff both had a clear policy rationale and had the full support of the Department.”*

We strongly endorse this view and acknowledge the benefits which have been derived by employees, managers and end users from the implementation of these initiatives.

## **10. LOCAL AUTHORITY NATIONAL PARTNERSHIP ADVISORY GROUP (LANPAG)**

10.1. The LANPAG was established in 1999 jointly by local authority management and unions. It comprises representatives of city and county managers, trade unions, the Department of the Environment, Heritage and Local Government and the Local Government Management Agency. It is jointly chaired by a management and union representative. The union representative Joint Chair was Mr. Merrigan.

10.2. Partnership structures operate at national and individual local authority levels. The key objective of partnership was to deliver the most efficient and effective services to the general public. This was achieved through significantly improved management – employee – union relations and through joint approaches to organisational change and improvement.

10.3. On 27<sup>th</sup> October 2010 the Accounting Officer for LANPAG furnished a note to the Public Accounts Committee. That note acknowledges that relevant invoices/documentation were received in respect of a substantial proportion of the funds it paid into the “Levy Fund”. However, it acknowledges that monies advanced to the “Levy Fund” of circa €200,000, out of total advances of €788,703 were not supported by appropriate documentation. We understand these monies were intended for ongoing training, and some delays have occurred in bringing this training to a conclusion. Until all costs have been fully incurred, we realise invoices cannot be provided in full.

## **11. EXPENDITURE FROM BANK ACCOUNT**

11.1. During the period covered by our review, 2001 to 1<sup>st</sup> July 2010, there were total expenditures from this bank account of €3,896,374. The Bank of Ireland has supplied us with copy return paid cheques for almost all of the cheques drawn on this account. A small number of return paid cheques could not be sourced by the bank, but we are satisfied that the level of disclosure obtained is sufficient for us to draw reasonable conclusions. In addition to return paid cheques we also gained access to the credit card statements for two separate credit cards paid by direct debit from the levy bank account. These direct debits accounted for just over €300,000 of the payments from the account.

11.2. All of the payments are from the one bank account and accordingly it has not been possible for us to distinguish which payments relate to which source of funding. No detailed record was

maintained by the bank account administrator relating to the purpose and funding source for every individual payment. Our analysis of payments has been based on our review of the return paid cheques and the credit card statements. Given the vast extent of different payees who received monies from the bank account we could not seek to obtain independent verification from each payee of the services provided for which they received payment. However, on two separate occasions during interviews with both Mr. Merrigan and Mr. Kelly these payments were discussed. There is a strong bias in the totality of cheque payments towards the discharge of a range of training and up-skilling activities which we believe is consistent with the wishes of the grantees as understood by Mr. Merrigan.

- 11.3. It would appear from our interviews with Mr. Merrigan and Mr. Kelly that full and complete records of the numbers of training days provided, or the numbers and roles of those who received that training were not maintained. We find this to be a serious omission. Mr. Merrigan and Mr. Kelly have estimated that approximately 13,000 training days were provided for approximately 5,000 employees out of this fund. For the avoidance of doubt this is separate and distinct from any training provided by the Skills programme. There was also a failure of the administrator, Mr. Merrigan, to keep an appropriate level of detail on the nature and extent of the training given and its measurable impacts.
- 11.4. A substantial proportion of the payments over the nine year period examined by us were for the delivery of training courses and the provision of training facilities at a range of conference facilities well known for their use as training course venues. Based on the number of training days provided, as asserted by Mr. Merrigan, the average cost per training day incurred by the "Levy Fund" was less than €300. There did appear to us to be an element of payment in advance to certain trainers and consultants and there was evidence of repayments from some trainers where the training did not proceed.
- 11.5. We must also express our disquiet at the payments to one consultant who had formerly been in the employ of the Department of Health and Children and who had been in correspondence with Mr. Merrigan on the matter of funding while a State employee. We are not suggesting that services were not rendered for the payments issued, but we believe both his employment by Mr. Merrigan and the acceptance of paid consultancy by the individual were ill judged and could leave the operation of the fund open to accusations of cronyism in respect of this hire.
- 11.6. A further area of concern for us has been the payment of cheques from this bank account to the manager of the HSE Skills office, who was a regular attendee on overseas trips arranged and paid for by the "Levy Fund". In total these cheques amounted to €13,530. We asked Mr. Merrigan about these cheques, and were informed that the payments were in respect of attendance at meetings, and the support of delegations on occasions when Mr. Merrigan himself could not attend.

## **12. PURCHASE OF BANK DRAFTS**

- 12.1. The fund engaged with and supported universities and training centres abroad, as well as supporting travel to a number of such centres. These activities involving foreign establishments or foreign travel expenses were often funded through the purchase of foreign currency drafts. The universities at Southampton and Cornell are examples of establishments which were paid

significant sums by way of sterling drafts and dollar drafts. These foreign currency drafts were typically purchased in Bank of Ireland, O'Connell Street.

### 13. PAYMENTS TO TRADE UNIONS

13.1. We have identified the following payments to Trade Unions from the "Levy Fund" account :

ATGWU/UNITE	€ 15,000
IMPACT	€124,618
INO	€ 85,000
MLSA	€ 25,000
PNA	€ 25,000
SIPTU	€ 41,258
TEEU	€ 20,000

13.2. It appears that various State Agencies sought to dispense monies to the trade unions through this fund for training and development purposes. The Assistant National Director of Internal Audit at the HSE, Dr. Geraldine Smith commented, in the following terms on this matter, in a letter to the General Secretary on 9<sup>th</sup> July 2010 "*Documentation available to Internal Audit indicates that SIPTU agreed that it would facilitate the processing of APPM claims from other Trade Unions and that it would validate and pay claims from other Trade Unions and seek reimbursements from the HSNPF in respect of these claims*". It was completely inappropriate that Mr. Merrigan entered into such an arrangement of which SIPTU had no knowledge and which we believe it certainly would never have endorsed. We fail to understand how it was deemed appropriate to make use of the "Levy Fund" as a conduit for the disbursement of funding to other trade unions.

### 14. CHARITABLE DONATIONS

14.1. A review of the return paid cheques indicates that a range of charitable organisations benefitted from the "Levy Fund". The amounts donated in total were of the order of €35,000 with the most favoured organisation, Special Olympics Ireland, receiving €25,000. The balance of the monies was distributed across a range of charities. We understand that decisions on who should benefit from donations and to what extent were made on an ad hoc basis by Mr. Merrigan alone, without any recourse by him to the HSE, the Skills office or other funders. As administrator of the fund he dispensed the funds in response to requests as they arose. While we have no issue in principle with the support of charitable works, we are concerned that decisions to dispense taxpayer's money in this way rested entirely with one individual without recourse to any guidelines or principles.

## **15. EDUCATIONAL SUPPORT GRANTS**

15.1. A number of SIPTU members working in the Health service were supported with educational grants to pursue further education. Such grants were typically €1,500 each. Other members were given grants to pursue college education, one for an amount of €6,000. There was a specific programme of Masters in Nursing at Trinity College Dublin which the "Levy Fund" supported by way of scholarship. The need for such educational supports is well understood, but it is regrettable that more formal and transparent processes were not put in place.

## **16. PAYMENTS TO CHEQUE SIGNATORY**

16.1. Between 2005 and 2009 there were a number of payments to Mr. Jack Kelly a signatory on the bank account. In total over the period these amounted to €12,893. All but two of the payments related to a range of relatively minor sums which we are told were reimbursements for raffles, hardship case payments, open day prizes as well as some subsistence payments in relation to travel. There were two payments of €3,000 each, in September 2008 and July 2009, which were for a different purpose. We have been told that these two payments represent educational grants, and are a reimbursement to Mr. Kelly of College fees he incurred on behalf of a relative, who was both a HSE employee and a SIPTU member. This is the payment referred to in paragraph 15.1.

## **17. PROMOTIONAL PRODUCTS**

17.1. In total over the entire period we have identified more than €250,000 in payments to suppliers of merchandised materials. These payments were primarily for materials supporting the skills training programmes.

17.2. We are advised by Mr. Merrigan that some of these purchases were made at the request of the HSE on the clear understanding that they would be subsequently refunded in full. We are further advised by him that this mechanism was used, notwithstanding the procurement requirements which would apply if the purchases were made directly by the HSE.

## **18. FOREIGN TRIPS/STUDY VISITS**

18.1. We have carried out extensive inquiries in relation to the extent of travel funded from this bank account. We have been limited in our enquiries in that there was a lack of documentation maintained by the account administrator, Mr. Merrigan. We have therefore relied heavily on the return paid cheques and credit card statements to give us an understanding of the sums involved. We have then tried to cross reference this knowledge with the details supplied by various Government agencies to the Public Accounts Committee (PAC) as published on the PAC web site. Mr. Merrigan supplied additional documentation which outlines some information behind a number of the trips undertaken. However, he was not able to supply us with a detailed



analysis. Accordingly, our knowledge as to the number of trips, number of participants and locations visited remains incomplete.

18.2. We understand that it was also not unusual for participants on these trips to be accompanied by partners/spouses. Over the years many of the individuals subsequently made lodgements back to the bank account, and we have been advised these lodgements were to retrospectively reimburse the "Levy Fund" for the travel of partners/spouses.

18.3. We have been able to identify the following payments from the "Levy Fund" as relating directly to travel and accommodation costs:

Travel Cheques	€387,000
Credit Card Payments -Travel Costs	€ 76,000
Credit Card Payments-Hotels	€ 79,000
Total	€542,000

18.4. It is important to record the extent of knowledge which existed within SIPTU as to the operation and organisation of this travel. Mr Merrigan and Mr. Kelly both travelled on many occasions and in our view understood the source of funding which allowed for that travel and were obviously aware of the bank account from which it was paid. Within SIPTU those who had knowledge of some of the trips taken believed that they were trips directly funded by State Agencies. Within the State Agencies it appears the frequent travellers believed that the trips were arranged and paid for by a fund controlled and administered by Mr. Merrigan.

18.5. Much has been made in the national media of 31 trips associated with this "Levy Fund", and there has been a widespread inference that SIPTU members were prominent participants on all such trips. Our inquiries indicate that the vast majority of the people who travelled on trips arranged by Mr. Merrigan had no connection with SIPTU. Mr. Merrigan confirmed to us that *"the majority of those who participated were senior management personnel"*. Many of those who travelled regularly were employed at the highest levels within the Public Service. These included, the Office of Health Management (OHM), the Skills office, the HSE, the HSEA, the Department of Health and Children and the Department of Finance. To a lesser extent a number of business and training consultants and representatives from other trade unions were also invited to participate. Mr. Merrigan has also confirmed to us that *"Anyone not directly involved in the subject matter of the visits paid their own way by reimbursing the cost to the fund"*

18.6. At this remove it is difficult to form a clear impression on the worth of all of the trips undertaken. Neither can we confirm the extent of those trips or the number of people who attended. We can confirm that in addition to Mr. Matt Merrigan, two currently serving SIPTU staff members did participate in one study visit each. In relation to attendance on the trips by those employed within the HSE an independent investigation concluded that *"the study visits seem to have been comprehensive and worthwhile"*.

18.7. Apart from the trips referred to above and the many training courses arranged around Ireland, a number of workers in the health sector travelled to the UK to participate in training courses

designed to improve their understanding of modern methods of service delivery. These study trips were also funded from the levy bank account.

## 19. FOOD AND ACCOMMODATION COSTS

19.1. A large proportion of food and accommodation costs incurred over the nine year period were charged against separate credit cards, both of which were maintained in the name of SIPTU Health and Local Authority "Levy Fund". The cards were paid monthly by direct debit on the "Levy Fund" bank account at Bank of Ireland. There were also some cheques to restaurants, but the vast majority fell into the credit card category.

19.2. It has not been our intention to fully analyse every credit card charge, nor do we think we have any obligation to account for the use of cards which were employed by Mr. Merrigan in the operation of this "Levy Fund". We have however carried out a summary analysis which suggests to us that over a six year period approximately €302,000 was expended on these cards, an analysis of which is as follows;

Travel costs (principally airlines)	€ 76,000
Hotels	€ 79,000
Restaurants	€108,000
Other charges	€ 39,000

## 20. PERSONAL EXPENDITURES AND REFUNDS

20.1. It became clear in conducting an analysis of the lodgements to the levy bank account that there had been a considerable number of lodgements from individuals over the years. These lodgements appeared to us to be in the nature of refunds for personal expenditures incurred initially by the levy bank account. Mr. Merrigan confirmed to us that this was the case.

A summary of these refunds by year is as follows;

YEAR	AMOUNT
2002	€ 5,161
2003	€ 6,347
2004	€ 8,159
2005	€ 8,200
2006	€ 1,684
2007	€ 3,292
2008	€ 5,006

2009	€19,167
2010	€82,880

- 20.2. We have identified 36 individuals who have made lodgements by way of refund. Some individuals made lodgements on more than one occasion. We are assuming that in the majority of cases these lodgements were to refund the "Levy Fund" with the cost of travel for spouses/partners. A number of individuals made lodgements at the end of June 2010. Included in this latter group are Jack Kelly and Matt Merrigan the signatories on the account.
- 20.3. It is clear that a pattern of refunds existed over the years but there is a significant increase in the amounts being refunded in late 2009 and 2010.

## 21. CONCLUSIONS

- 21.1. Based on our extensive enquiries we have reached the following conclusions:
- 21.2. The opening of this account was carried out by the signatories without the authorisation of the General Officers or Head of Finance and Administration of SIPTU.
- 21.3. The General Officers of SIPTU had no knowledge that state funds in the form of annual grants and expense reimbursements was being lodged to the bank account in question.
- 21.4. The monies lodged to the "Levy Fund" account were not for the benefit of SIPTU. The administrator of the fund confirms he never appraised the Union of the details relating to the account *"because it was not involved in it in any way"*. In his words *"the monies were not provided to the union. They were provided to the projects"*
- 21.5. The current balance in the "Levy Fund" Account is €697,894.
- 21.6. No income and expenditure accounts were maintained by the administrator/cheque signatories despite the control they exercised over the significant sums involved.
- 21.7. There was no service level agreement between the administrator and the funding agencies underpinning grant aid for training and up-skilling projects lodged to this bank account from any of the State Agencies, which is incomprehensible.
- 21.8. There were failures in a number of State Agencies, namely, the HSE, the HSNPF, the Department of Health and Children, to implement and adhere to the most basic standards of governance, transparency and accountability in relation to the disbursement of public monies.
- 21.9. The nature of the SIPTU organisation requires its officials to take a significant measure of personal responsibility for self management and they are trusted and expected to adhere to the reporting mechanisms which ensure the General Officers are fully informed in all matters having a bearing on the Union's membership. The outcomes from this inquiry demonstrate that the mechanisms of accountability were not sufficiently robust and that there are shortcomings in the oversight and reporting mechanisms within the Union which should be addressed as a matter of priority.

- 21.10. Expenditures from this account were not governed by normal procurement practices expected to be found in respect of the disbursement of public funds.
- 21.11. The use of the term "Levy Fund" in the title of the bank account contributed significantly to the misdirection of those who happened upon the account in the course of Union business.
- 21.12. Our inquiries lead us to conclude that a significant majority of participants on foreign travel/study visits had no connection with SIPTU.
- 21.13. Travel and associated costs disbursed by way of the "Levy Fund" accounted for approximately 13.9% of total expenditures.
- 21.14. While there was a clear pattern of travel reimbursements to the "Levy Fund" from participants on foreign travel/study visits, there was a substantial increase in the amounts refunded in late 2009 and in 2010.
- 21.15. There was a strong bias in the cheque payments towards the discharge of a range of training and up-skilling activities, which we believe was consistent with the wishes of the grantees as understood by Mr. Merrigan.
- 21.16. Significant reputational damage has been inflicted on SIPTU by its perceived association with the administration of this fund and also by the lack of proper governance exercised by those who had responsibility for the disbursement of public money.
- 21.17. The General Officers, National Executive Council and the Trustees should review the processes and procedures required of Union officials to keep the General Officers informed within the Union, in relation to the requirement placed upon them for the management of income and disbursements handled in the name of the Union.
- 21.18. An extensive review is required of the protocols surrounding the use of the title "SIPTU" in all bank accounts, publications, stationery and advertisements.

To the Governor and Company of the

**Bank of Ireland**



Please pass the Resolution set out overleaf.  
Having done so, please complete sections 1-5 below:

285

**1 The Name of your Company / Society / Club / School / Church / Charity:**

St. Peter's Swimming Club, 100, G. Way, Frongoch, Co. Wick.

BLOCK CAPITALS

**2 The Branch where this account will be held:**

20, W. G. Way, Frongoch, Co. Wick.

BLOCK CAPITALS

**3 Names of person(s) authorised to carry out transactions and give instructions as per Resolution overleaf plus a sample of their signature(s):**

NAME(S) (BLOCK CAPITALS)

1	NAME(S)
2	NAME(S)
3	NAME(S)
4	NAME(S)
5	NAME(S)
6	NAME(S)

SIGNATURE(S)

*Just Kelly*  
*Scott Kelly*

**4 How many of these signatures are required for the carrying out of a transaction and giving of an instruction:**

Please tick one box:

- Any ONE of the above signatures
- Any TWO of the above signatures
- ALL of the signatures must be present

**5 Confirmation:**

The account holder named above shall be bound by, and requires the Bank to act on, the instructions contained in the Resolution which I certify to be a true copy of the original Resolution duly passed at a meeting of the Board of Directors/Committee/Board of the said account holder on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

*Just Kelly* Date: 3/12/98

THANK YOU FOR BANKING WITH BANK OF IRELAND

For Bank use Only:

NSC 000035

BRANCH:

ACCOUNT NO. 5

49294636

Branch grid

Branch grid

1-01 188 / 95

Approved for opening / continuing accounts of Corporates or unincorporated bodies

Part B

Yes  No

Is person to be identified an existing Bank of Ireland Group customer? **BOI 28 O'Connell St**

IF YES: Name of branch/keep funds: **BOI 28 O'Connell St**

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IF YES: Name of branch/keep funds: **BOI 28 O'Connell St**

Part A

Yes  No

NON-PERSONAL CUSTOMER IDENTIFICATION FORM

ACCOUNT NAME: **NIRO MORTGAGE ACCOUNT**

NAME: **NIRO MORTGAGE**

DATE: **15/12/85**

TRUSTEE:  BENEFICIARY OF TRUST:

Signature of Director:  Signature of Club/Service Electrical Official:

Signature of person to be identified: **NIRO MORTGAGE**

Reference of this person to the charge certificate for year 1984

IF YES: Name of branch/keep funds: **BOI 28 O'Connell St**

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