



PAC-R-268

Correspondence 3.14
Meeting – 02/02/2012

Health Service Executive
Parliamentary Affairs Division
Block D, 2nd floor
Parkgate Business Centre
Parkgate Street
Dublin 7

Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

30th January 2012

Mr. Ted Mc Enery,
Clerk,
Committee of Public Accounts,
Leinster House,
Dublin 2.



Tel. (01) 635 2505
Fax (01) 635 2508

Dear Mr Mc Enery,

I refer to correspondence from the Committee dated 13th January instructing HSE to engage with SIPTU on outstanding matters in relation to the SKILL Programme.

HSE Internal Audit wrote to SIPTU on 20th December, following the meeting of the PAC of 15th December, requesting that it supply HSE with the information required by 6th January in order to allow HSE complete the internal audit investigation. SIPTU responded on 5th January and the HSE responded on 17th and again requested the information in order to allow us complete the investigation. SIPTU also wrote to HSE's National Director of HR on 21st December. I attach copies of correspondence for your information.

The HSE has received further correspondence from SIPTU dated 25th January however in the latter part of this correspondence SIPTU is proposing an alternative approach to supplying the required information than that requested by the committee. HSE has responded to SIPTU today in relation to the issues raised in its correspondence (please find attached copies of this correspondence).

Given that we are approaching the end of January and the Committee has indicated its intention to hold a meeting on 1st March to continue its investigation of this issue we would be grateful for the Committee's further instructions on this matter at the earliest date.

Yours sincerely,

Ray Mitchell
Assistant National Director
Parliamentary & Regulatory Affairs Division



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Internal Audit Directorate,
Health Services Executive,
Phoenix Hall,
St. Mary's Hospital,
Phoenix Park,
Dublin 20.

Tel No: 603 8900
Fax No: 603 8915

Mr Joe O'Flynn,
General Secretary,
SIPTU,
Liberty Hall,
Dublin 1

20th December 2011.

Re: SIPTU National Health and Local Authority Levy Fund (NHLALF)

Dear Mr O'Flynn,

I refer to HSE's audits and the Public Accounts Committee's enquiries into the above.

As you are aware in April 2011 HSE Internal Audit raised a number of queries on SIPTU's Trustees report into the SIPTU NHLALF. Following approval by SIPTU Trustees, the Financial Advisors subsequently met with HSE Internal Audit on 25th May 2011. Your Financial Advisors, acting in accordance with their authority from SIPTU Trustees, were not in a position to provide answers to all of the queries raised.

In order to bring the matter of the above account to a conclusion in the public interest I would appreciate if you would request the SIPTU Trustees to revisit HSE's queries on the SIPTU Trustees' report with a view to providing answers to the specific outstanding queries raised by HSE Internal Audit. To assist you, I attach a list of the specific questions raised to which responses are still required in order to satisfactorily finalise this matter.

In addition, I also request that that SIPTU/SIPTU Trustees provide HSE Internal Audit with the following documentation:

1. The detailed analysis of payments as compiled by the Financial Advisors (from the bank and credit card statements and returned paid cheques) in order to allow the Trustees compile their report. I would appreciate if you would also provide copies of the bank statements, the credit cards statements and returned cheques to support the detailed analysis.
2. The detailed analysis of all receipts
3. Travel Refunds
 - a. A full list of persons who repaid the travel refunds received in 2009 and 2010, details of travel refunds and copies of any correspondence which accompanied such refunds

- b. a full list of persons who repaid travel refunds prior to 2009, details of travel refunds, and copies of any correspondence which accompanied such refunds.
- 4. A list of, and any information regarding, all trips as identified by SIPTU Trustees/ Financial Advisors
- 5. A full list and details of miscellaneous refunds and rebates of €347,086
- 6. A copy of the Grant Thornton forensic report
- 7. Confirmation of whether or not the cost of the Financial Advisors engaged by SIPTU/SIPTU Trustees was met from the SNHLALF and if so, please confirm the amount.
- 8. Confirmation of whether or not the costs of the Grant Thornton forensic report and the costs of legal advisors commissioned by Mr. Merrigan and Mr Kelly were met from by the SNHLALF and if so, please confirm the amounts.

I would welcome your assistance in bringing these matters to a speedy and satisfactory conclusion. The Public Accounts Committee will be resuming its examination of these matters in the New Year and I would appreciate if you could revert to me by January 6th 2012 with the requested documentation and responses to the outstanding queries.

Yours sincerely,

Geraldine Smith
Assistant National Director – Internal Audit

List of outstanding information/clarification required

1. List of expenditure items and total amount for each item
2. Shop steward training costs
3. Clarification of the difference identified between the total expenditure figure stated in the report and the sum of the individual amounts referred to throughout the report.
4.
 - i. Confirmation of amounts paid to Unions (as updated)
 - ii. Confirmation that SIPTU Finance division has confirmed receipt of amounts by SIPTU and that this represents the totality of funds received by SIPTU from the account
 - iii. An updated list of all the grants provided by HSE/OHM/SKILL/HSNPF.
5. List of persons who made refunds to account analysed by year

At a minimum in the first instance, please provide a listing of the persons who made the 2009 and 2010 refunds, as this will be the most readily available information
6. List of all trips including the details of the costs of each trip (flights, hotels, meals, other)
7. Confirmation of amounts spent on
 - i. bank drafts,
 - ii. DOHC consultant and
 - iii. Educational Support Grants
8. Confirmation of exact amount paid on promotional products
9. List of credit card expenditure.
10. The financial analysis and schedules of the lodgements and cheque payments compiled by Mazars.

/bd

21st December 2011.

Mr. Sean McGrath
National Director of Human Resources
Health Services Executive
Dr. Steeven's Hospital
DUBLIN 8.

Office of the
General Secretary
Joe O'Flynn

Dear Mr. McGrath,

I wish to refer to the PAC hearing on Thursday 15th December in respect of the joint HSE/Department of Health Report on the Skills Programme.

In the HSE evidence to the Committee it was stated that two payments of €190,000 each were paid to the SIPTU National Health & Local Authority Levy Account. You will recall these payments were the subject of correspondence dated 19th October 2011.

In my reply to you dated 15th November 2011, I specifically stated that no such payments were recorded as having been received into the SIPTU National Health & Local Authority Levy Fund, nor were such payments lodged into the SIPTU Head Office account.

Notwithstanding this confirmation the evidence presented to the PAC on the 15th Decembers has alleged that these sums were paid to the SIPTU National Health & Local Authority Levy Fund. Indeed, there were suggestions that these monies have gone missing.

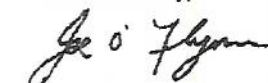
In the circumstances I am to request that you would furnish all relevant documentation regarding these payments and specifically

1. When were these payments authorised and by whom in the Department of Health & Children?
2. When were the payments issued?
3. Who issued the payments?
4. Who were the payments made out to?
5. Who were the payments forwarded to?
6. Can you provide copy of return payee cheques (both front and back)

If the payment was made by some other means, i.e. electronic payment, please forward the appropriate information i.e. name and address of the Bank, Account Name, Account Number etc.

We regard this as a most serious matter and request your co-operation in assisting us with the above information so that we can clarify the issue as a matter of urgency.

Yours sincerely,



Joe O'Flynn
GENERAL SECRETARY.

Health Service Executive
RECEIVED
22 DEC 2011
Cap Reg Post
National Dir. HR

Ceardchumann Seirbhísi, Tionsclaíoch, Gairmiúil agus Teicniúil
Services Industrial, Professional & Technical Union

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Organising For Fairness at Work and Justice in Society.

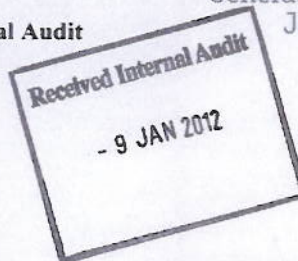
/bd

5th January 2012.

Dr. Geraldine Smith
Assistant National Director – Internal Audit
Health Services Executive
Phoenix Hall
St. Mary's Hospital
Phoenix Park
DUBLIN 20.



Office of the
General Secretary
Joe O'Flynn



Dear Dr. Smith,

I refer to your letter dated the 20th December 2011 regarding the "SIPTU National Health and Local Authority Levy Fund" received on the 22nd December 2011 and note your queries contained therein.

I wish to refer to the Public Accounts Committee hearing on 15th December at which the Comptroller and Auditor General's Report into the HSE Skills Training Programme was considered. At the hearing SIPTU and the "SIPTU National Health and Local Authority Levy Fund" were the subject of much comment. However, I wish to specifically focus on the reference to the two transactions of €190,000 each wherein you stated that "only recently – in the past week or so – we identified that two sums had gone into this SIPTU Account from 2001 and 2002 from the Office for Health Management. One of them ----." And your further quote, "There were two transactions of €190,000."

As you are aware I wrote to the HSE on the 15th November 2011 and advised that these sums were not received by SIPTU Head Office nor were they recorded as having been lodged to the SIPTU National Health and Local Authority Levy Fund Account." At the hearing you referred to this communication from us but you failed to advise the Committee that in my response to the HSE on this matter, I sought clarification as to whether this money was in fact paid and to whom? Indeed, I have again written to Mr. McGrath, letter dated the 21st December 2011, seeking this detailed information but, to date, I have not received a response. Your statement to the Committee that "we identified that two sums had gone into this SIPTU Account" led to a suggestion from members of the Public Accounts Committee that these monies were gone missing and were unaccounted for. In the circumstances, SIPTU was left with no option but to conclude that there may be fraud involved regarding this €380,000. Since SIPTU was implicated in this most serious

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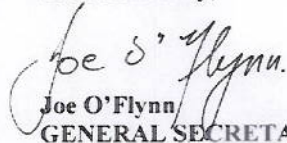
allegation I have referred a complaint to the Garda Fraud Squad for investigation.

I am most concerned that SIPTU's position had been misrepresented by the HSE and I again confirm that these payments were not received by SIPTU nor were they lodged to the SIPTU National Health and Local Authority Levy Fund.

Additionally, we have written to the Public Accounts Committee requesting the opportunity to attend to make a statement and give evidence regarding SIPTU's position in this whole matter. That request has been acceded to and we expect to meet the Public Accounts Committee within the coming weeks in this regard.

In the meantime, we intend to seek a meeting with Officials at the most senior level in the HSE and the Department of Health and Children to deal with the queries which you have raised in your letter.

Yours sincerely,


Joe O'Flynn

GENERAL SECRETARY.



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Internal Audit Directorate,
Health Services Executive,
Phoenix Hall,
St. Mary's Hospital,
Phoenix Park,
Dublin 20.

Tel No: 603 8900
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Mr Joe O'Flynn,
General Secretary,
SIPTU,
Liberty Hall,
Dublin 1

17th January 2012.

Re: SIPTU National Health and Local Authority Levy Fund (NHLALF)

Dear Mr O'Flynn,

I refer to your letter of 5th January 2012. I also refer to your letter to Mr Sean McGrath dated 21st December and my letter to you dated 20th December.

This response deal with the three issues raised in the above correspondence:

1. Statements to the PAC regarding the £150k and €190k (your letter to me dated 5th January 2012)
2. Information sought by SIPTU on the two amounts of £150k and €190k(your letter to Mr Sean McGrath dated 21st December 2011)
3. Information previously sought by HSE IA on the SIPTU Trustees report (my letter to you dated 20th December 2011)

I shall deal with each issue separately below.

1. Statements to the PAC regarding the £150k and €190k

In your letter of 5th January you state that I had informed the PAC that *"only recently – in past week or so – we identified that two sums had gone into the SIPTU account from 2001 and 2002 from the office for Health management"*, and you state that this led to a suggestion that the monies had gone missing and were unaccounted for and that *"SIPTU was implicated in this most serious allegation"*. In your letter to Mr McGrath dated 21st December you state that *"[...] evidence presented to the*

PAC...has alleged that these sums were paid to the SIPTU National Health and Local Authority Levy Fund."

I would like to refer you to the official transcript of the PAC dated 15th December which shows that I informed the PAC on three occasions during the meeting that SIPTU had confirmed that neither it nor the unauthorised SIPTU National Health and Local Authority Levy Fund had received these sums. The specific details contained in the transcripts are as follows:

Page 11 - Dr Geraldine Smith [...] *"We asked SIPTU, first, to check its head office accounts in case the sums were paid into those accounts in error and, second, to request its financial advisers to look in the SIPTU levy account. SIPTU came back to us to confirm that those amounts were in neither their head office account nor the levy account."*

Page 34 - Dr Geraldine Smith [...] *"We went to SIPTU and asked it if the levy account received this money or if SIPTU head office received it. Again we were trying to cover all angles. Again it came back and informed us that, according to its financial advisers, neither the SIPTU head office account nor the SIPTU levy account actually identified those funds."*

Page 40 - Dr Geraldine Smith [...] *"Yes, it [SIPTU] is stating it cannot see it in the levy account statements to which it has obtained access"*.

In addition, documentation on the receipts and payments flows compiled by HSE Internal Audit for the PAC clearly identified SIPTU had been unable to confirm receipts of these amounts and that enquiries into this matter were ongoing.

I note that you have referred the matter to An Garda Siochana.

2 Information on the two amounts of £150k and €190k

I refer to your letter to Mr McGrath dated 21st December in which you requested details of the two payments of £150k (July 2001) and €190k (April 2002).

The situation regarding these amounts is as follows:

- HSE Internal Audit requested the DOHC to provide a list of all payments sanctioned and paid by the DOHC in respect of SIPTU.
- The DOHC provided a list of all such funds. Included on the list were the two amounts £150k (July 2001) and €190k (April 2002) which the DOHC stated *“appear to have been paid to SIPTU via the Office for Health Management”*. It also listed other amounts of £50,000 (which it approved in November 1998) and £25,000 (which it approved on 15th Nov 1999) and stated that these were “potentially relevant” although it also stated that it has no definitive information that these were paid to SNHLALF
- On receipt of this information from the DOHC, HSE IA reviewed SIPTU’s Trustees’ report to identify if these sums had been reported therein. They were not.
- Mr Sean McGrath wrote to you on 27th October to advise you that the DOHC had provided this information and he emphasised that the DOH&C has stated that these amounts “appear to have been made” to SIPTU or may be potentially relevant. He included details of all the amounts under query and requested you confirm whether or not the above mentioned funds were received by SIPTU Head Office and whether or not the Mazars papers identified if any of these sums had been received by SNHLALF.
- On 15th November 2011 you confirmed to Mr McGrath that neither the SIPTU Head Office Account nor the SNHLALF bank account had received these sums.
- HSE IA advised the DOHC of your response and requested that the DOHC recheck its records to confirm if these amounts were paid.
- The DOHC subsequently provided HSE with copies of:
 - correspondence from the DOHC to the General Manager of OHM dated 27th July 2001 stating that £150,000 was being provided for the Frontline Supervisors Programme and requesting that it be paid to SIPTU

- a letter dated 23rd August 2001 from the General Manager OHM to the DOHC to advise that he had made the relevant payment to a named SIPTU employee
- correspondence dated 12th April 2002 from a DOHC director to the General Manager of OHM stating that €190k was being provided for the Frontline Supervisors programme.

I enclose copies of this documentation for your information.

The current situation is that HSE Internal Audit is continuing to investigate these amounts and further enquiries are being made with the Department and other parties to resolve the matter. As soon as there is clarity and a resolution to this matter I will notify you of the outcome.

3. Information previously sought by HSE IA from SIPTU on the SIPTU Trustees report

In my letter of 20th December 2011 I requested that SIPTU/ SIPTU Trustees provide HSE Internal Audit with documentation in response to outstanding queries raised in April 2011 by HSE Internal Audit on SIPTU's Trustees' report and which SIPTU's Financial Advisers were not authorised to release to HSE Internal Audit. I also requested further information to allow HSE and the PAC bring this matter to close. This information was requested by 6th January.

In your response to me of 5th January you state that you *"intend to seek a meeting with Officials at the most senior level in the HSE and the Department of Health and Children to deal with the queries you have raised in your letter"*.

I note that the PAC has corresponded with you on 13th January requesting that SIPTU give HSE Internal Audit full access to information contained in the bank statements of the SNHLALF, the credit card statements that were related to the accounts and the Grant Thornton Report into the examination of the SNHLALF account.

In order to avoid any unnecessary delays, and as I am the most senior official in the HSE who is tasked with investigating this matter, I request that you provide the required information and documentation, as set out in my letter of 20th December 2011 and the PAC's correspondence of 13th January 2012, directly to me by Monday

23rd January at the very latest. As the PAC has scheduled the next meeting for 1st March 2012 it is essential that all the required information is provided to HSE Internal Audit in a timely manner and that any unnecessary delays are avoided. I would appreciate if you would contact me directly to confirm that all the information sought will be made available to me by the extended due date and to advise the date on which it will be delivered.

Yours sincerely,

Geraldine Smith

Assistant National Director- Internal Audit

/bd

25 January 2012.

Dr. Geraldine Smith
Assistant National Director – Internal Audit
Health Services Executive
Phoenix Hall
St. Mary's Hospital
Phoenix Park
DUBLIN 20.

Office of the
General Secretary
Joe O'Flynn

Received Internal Audit

26 JAN 2012

Dear Dr. Smith,

I refer to your letter dated the 17th January 2012 received on the 18th January 2012.

I have noted that you made statements to the PAC that SIPTU said that neither SIPTU or the "SIPTU National Health and Local Authority Levy Fund" had received the two payments in question i.e. €190,000 in 2001 and €190,000 in 2002.

However, despite your detailed response your letter failed to deal with the statement which you made to the PAC and I quote from the transcript, page 46, "we identified that two sums had gone into the SIPTU Account from 2001 and 2002 from the office of Health Management". One would assume that you must have records available to you given that you were able to make such a definitive statement to the PAC.

The copies of the letters enclosed with your letter of 17th January, i.e.

- letter of 21st July 2001 to Mr. Alan Smith from Teresa Cody
- copy of letter dated 23rd August 2001 from Alan Smith to Teresa Cody and,
- a further letter dated 12th April 2002 to Alan Smith from Frank Ahern

are ambiguous to say the least and I suggest could not be relied upon to be used in evidence to the PAC to enable you to make the statement that "we identified that two sums had gone into the SIPTU Account".

As a result the PAC and the public at large were left with the impression that SIPTU received these sums and led to allegations that these monies were "gone missing and were unaccounted for". Your failure to produce any evidence to the PAC that such payments were made by the Office of Health Management or received by SIPTU is of serious concern. If as you stated, these monies "had gone into a SIPTU Account", it should be possible to verify from the records into which Bank Account these funds were lodged.

It seems little consideration was given to the possibility that the monies may not have been received by SIPTU or the "Levy Account" leaving the HSE with very serious questions to answer as to what happened to the said funds.

The suggestion that SIPTU received the said monies is not correct. The failure to point out that you could not substantiate the allegation that SIPTU received such monies and that you had no records demonstrating that the said funds had been lodged to either SIPTU or the "SIPTU National Health and Local Authority Levy Fund Account" was unfair to a party who was not either invited or in attendance at the PAC hearing.

The fact that you took such a course of action, knowing that SIPTU's independent financial advisor had confirmed that the monies were not received demonstrates a particular bias in the manner in which you gave your evidence to the Committee.

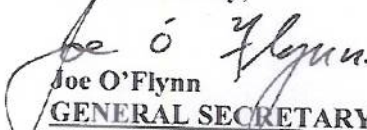
This is particularly disquieting as SIPTU have at all times, endeavoured to fully co-operate with the investigation into the "Levy Account" and indeed intends to continue to co-operate.

It now appears that members of the HSE bear responsibility for the failure to account for €380,000 of public funds. It is clear to us that certain members of the HSE may be the subject of investigation in respect of these payments. Of further concern is the fact that the HSE may also be the subject matter of Garda investigations, one which they initiated themselves and one initiated by SIPTU. In the circumstances, we believe it is not appropriate that SIPTU provide the HSE with further documentation as we do not view the HSE as independent or the appropriate party to investigate this matter.

We restate that we intend to co-operate fully with the PAC. To this end, we have specifically requested to be permitted to attend before the PAC and our request has been acceded to. We have done so voluntarily and because we are anxious to correct certain assertions that have been made to this Body in our absence. It is our intention to provide detailed information to the PAC and to invite the Comptroller and Auditor General to verify the accuracy of this information by providing full access to the Bank records, of the "Levy Account".

In the meantime, we again refer to our previous requests that you immediately provide all evidence that the two payments of €190,000 were received by SIPTU. In particular, please provide details of the manner which these payments were allegedly made specifically copy of cheques, front and back and the Bank Account name and number from which they were debited and which they were credited.

Yours sincerely,


Joe O'Flynn
GENERAL SECRETARY.



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Internal Audit Directorate,
Health Services Executive,
Phoenix Hall,
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Tel No: 603 8900
Fax No: 603 8915

Mr Joe O'Flynn,
General Secretary,
SIPTU,
Liberty Hall,
Dublin 1

30th January 2012.

Re: SIPTU National Health and Local Authority Levy Fund (SNHLALF)

Dear Mr O'Flynn,

I refer to your letter of 25th January 2012 in response to mine of 20th December and 17th January.

In my correspondence I requested that SIPTU provide HSE Internal Audit with information in relation to the SIPTU National Health and Local Authority Levy Fund by 6th January 2012 and this date was further extended to 23rd January. I note that this information has not yet been provided.

Throughout your letter you refer to two sums (£150k and €190k) from 2001 and 2002 which the DOHC believed were paid to the SIPTU National Health and Local Authority Levy Fund and which HSE Internal Audit is endeavouring to resolve, as far as that is possible. It is important to recall that these potential transactions occurred at least three years before HSE was established and in respect of a non health board establishment (i.e. the Office for Health Management (OHM)). The lack of readily available, full relevant records and documentation on the part of the DOHC and the OHM has resulted in a situation whereby the trail of such funding is not clear and transparent.

It is also important to emphasise that HSE Internal Audit's investigation into, and the PAC's examination of the matter concerning, the funds paid to the SIPTU National Health and Local Authority Levy Fund relates to at least €5m in public funds and not solely to the two sums of £150k and €190k. HSE Internal Audit's requests to SIPTU for information has been for the purpose of compiling a comprehensive account for the PAC, as far as is possible, of all the public funds paid to and expended by the SIPTU National Health and Local Authority Levy Fund and not solely for the two sums of £150k and €190k.

I now wish to refer to various points raised by you in your letter which concern 4 issues:

- (1) Non disclosure by HSE to PAC that SIPTU stated it did not receive two specific sums,
- (2) DOHC documentation and assertion that the two sums were provided to SIPTU,
- (3) HSE Internal Audit bias, and
- (4) Non provision of documentation to HSE.

(1) Non disclosure by HSE to PAC that SIPTU stated it did not receive the two sums.

In paragraph 3 and 4 of your letter you state that on page 46 of the PAC transcript I stated that the funds had gone into the SIPTU account and you query the basis on which such a definitive statement was made and that (in your paragraph 7) you state that the suggestion that SIPTU received monies is not correct and that the failure to point out that these allegations could not be substantiated was unfair to a party who was not in attendance.

I wish to state that the record of the PAC clearly shows that on at least three instances prior to page 46 I had already clearly stated during the PAC meeting that SIPTU had confirmed it did not receive the funds (see pages 11, 34 and 40 of the PAC transcript). HSE Internal Audit records provided to the PAC also clearly identified that SIPTU had been unable to confirm receipts of these amounts and that enquiries into this matter were ongoing. It is not appropriate for SIPTU to take one reference out of context when the record clearly shows that throughout the PAC session I clearly stated that SIPTU and its advisors checked, at HSE's request, SIPTU's own bank

accounts and the SIPTU Levy account and confirmed that the specific sums of £150k and €190k were not in either of the accounts. I would also draw your attention to the fact that the information provided by the DOHC to HSE Internal Audit, namely correspondence between the DOHC and OHM in July and August 2001 in which the DOHC confirmed to the OHM General Manager that DOHC was providing £150,000 for the Front Line Supervisors Programme and requesting that *“you could ensure that the relevant amount is paid over to SIPTU in respect of the Frontline Supervisors Programme”* and the OHM manager’s response of 23rd August 2001 in which he confirmed that he had *“made the relevant payments to Mr Matt Merrigan, National Secretary of SIPTU in relation to the SIPTU National Health and Local Authority Levy Fund and Study visit”* is indicative that the money was received by OHM and paid over.

HSE, like all witnesses appearing before the PAC, is obliged to provide the PAC with full and up-to-date information relating to its investigation and to answer all the PAC’s questions in a complete and transparent manner. Failure to inform the PAC of a potentially material issue which was known to HSE at the time of the PAC’s examination of HSE officials could not, and would not, be countenanced by HSE. HSE has provided the PAC with all information available to it at each hearing and we will continue to fully co-operate with the PAC and make available to it all the information available to HSE at the time of each hearing in order that the PAC is in possession of the most up to date information in exercising its mandate in holding public bodies accountable for their expenditure of taxpayers’ funds.

(2) DOHC documentation and assertion that the two sums were provided to SIPTU

I note your observations (in paragraph 4) on the documentation I provided to you which the DOHC provided to HSE Internal Audit in support of the DOHC’s assertions that 2 sums were paid by the DOHC to the OHM for SIPTU (Paragraphs 5, 6 and 12 of your letter also refer). Again, I wish to refer you to my letter of 17th January in which I outlined in detail how the issue of the two sums arose. Specifically:

- HSE Internal Audit requested the DOHC to provide a list of all payments sanctioned and paid by the DOHC in respect of SIPTU.

- The DOHC provided a list of all such funds. Included on the list were the two amounts £150k (July 2001) and €190k (April 2002) which the DOHC stated *“appear to have been paid to SIPTU via the Office for Health Management”*. It also listed other amounts of £50,000 (which it approved in November 1998) and £25,000 (which it approved on 15th Nov 1999) and stated that these were “potentially relevant” although it also stated that it has no definitive information that these were paid to the SIPTU National Health and Local Authority Levy Fund. I note that you only have access to detailed records of transactions on the SIPTU National Health and Local Authority Levy Fund since 2001.
- On receipt of this information from the DOHC, HSE Internal Audit reviewed SIPTU’s Trustees’ report to identify if these sums had been reported therein and they were not.
- Mr Sean McGrath wrote to you on 27th October to advise you that the DOHC had provided this information and he emphasised that the DOH&C has stated that these amounts “appear to have been made” to SIPTU or may be potentially relevant. He included details of all the amounts under query and requested you confirm whether or not the above mentioned funds were received by SIPTU Head Office and whether or not the Mazars papers identified if any of these sums had been received by the SIPTU National Health and Local Authority Levy Fund.
- On 15th November 2011 you confirmed to Mr McGrath that neither the SIPTU Head Office Account nor the SIPTU National Health and Local Authority Levy Fund bank account had received these sums.
- HSE Internal Audit advised the DOHC of your response and requested that the DOHC recheck its records to confirm if these amounts were paid.
- The DOHC subsequently provided HSE with copies of:

- correspondence from the DOHC to the General Manager of OHM dated 27th July 2001 stating that £150,000 was being provided for the Frontline Supervisors Programme and requesting that it be paid to SIPTU
- a letter dated 23rd August 2001 from the General Manager OHM to the DOHC to advise **that he had made the relevant payment to Mr Matt Merrigan, National Secretary of SIPTU**
- correspondence dated 12th April 2002 from a DOHC director to the General Manager of OHM stating that €190k was being provided for the Frontline Supervisors programme.

Based on the experience of all other payments whereby amounts sanctioned by the DOHC line division were paid by the DOHC to OHM (and latterly SKILL) and subsequently paid in a single transaction (ie the full amount paid) to SIPTU National Health and Local Authority Levy Fund, the DOHC considered that it was reasonable that the two sums should remain on the list of funds they had provided to HSE Internal Audit as part of HSE Internal Audit's investigation into this matter until the matter has been fully resolved.

As I outlined in my letter of 17th January the current situation is that HSE Internal Audit is continuing to investigate these amounts and further enquiries have been, and are being made, with the Department and other parties, including OHM bankers, to resolve the matter. As soon as there is clarity and a resolution to this matter I will notify you and the PAC of the outcome.

It is important to remember that the overall objective of this work is to provide as far as is possible, bearing in mind the significant informational deficits on the part of all parties (i.e. HSE-SKILL, OHM, DOHC and SIPTU), a definitive list of funding paid by the State in respect of SIPTU National Health and Local Authority Levy Fund.

(3) Bias

I note that in paragraph 8 of your letter you allege that my actions in not informing the PAC that SIPTU had not received the monies "demonstrated a particular bias" on my part.

I again refer you to the PAC transcript (as outlined above and previously) in which I clearly informed the PAC that HSE asked SIPTU to check whether the funds were in its Head Office account and to ask your independent financial advisers to check the SIPTU Levy account records to determine if the amounts were in that account and you confirmed they were not. Copies of all correspondence from HSE to you in this regard, and your responses, were also provided to the PAC.

I must refute your allegation of bias on my part and by extension on the part of the HSE Internal Audit Directorate. The reports on SKILL and Partnership issued by HSE Internal Audit have been critical of many parties including HSE senior management, SKILL management, HSNPF management, the DOHC, and the Department of Finance. As I stated in my letter of 23rd November 2009 to you in response to a similar allegation, the motivation in pursuing this matter is simply to ensure that public monies have been spent in an appropriate way and to seek the co-operation of all persons and organisations who might have had custody of that money or through whom it is routed or in whose bank accounts it may have been deposited. As a public official, like all public officials, I am obliged to provide the PAC with the information it requires in a full, comprehensive and transparent manner as possible in order to bring transparency and clarity to the use of the public funds paid to the SIPTU National Health and Local Authority Levy Fund.

Since 2009, HSE has sought your co-operation on many occasions to help us achieve the objective of providing transparency and accountability to the PAC for the spending of these public funds totalling approximately €5m. The PAC has also instructed that SIPTU provide all the requisite information directly to HSE Internal Audit.

(4) Non provision of information to HSE

I note that in paragraphs 10 and 11 of your correspondence you state that you believe it is not appropriate to provide HSE with the information sought as you consider it is not independent or appropriate to investigate this matter, that you intend to fully co-operate with the PAC and you intend to provide the C&AG with access to the bank records.

I wish to clarify that HSE Internal Audit sought access to more than just the bank records.

Regarding your comment in paragraph 10 that members of the HSE bear responsibility for the failure to account for €380k of public funds, it is important to recall that these transactions occurred in 2001 and 2002, that is at least three years before the HSE was established and in relation to a body (OHM) that was not a health board establishment.

It is also important to re-emphasise that HSE Internal Audit's investigation into, and the PAC's examination of the matter concerning, the funds paid to the SIPTU National Health and Local Authority Levy Fund relate to at least €5m in public funds and not solely the two sums of £150k and €190k which are the primary subject of your letter.

Regarding your comments about the independence of HSE investigating this matter, HSE Internal Audit is an independent, professional function within HSE reporting to HSE's Audit Committee. Our independence is assured by the fact that we do not report to line management. We report in an objective and impartial manner on HSE's systems and processes. Since 2009 HSE Internal Audit has endeavoured to pursue all lines of inquiry with all relevant parties concerning SKILL and the (then previously unidentified) SIPTU levy account. As I have outlined in my various correspondence to you since 2009, the lack of comprehensive records in the DOHC, the SKILL Office and the OHM, coupled with the fact that the manager of SKILL and OHM was not available to HSE Internal Audit during the audit, or since, has hindered the investigation significantly. SIPTU's gaining possession of the SIPTU Levy account's records in the autumn of 2010, access to which had been previously refused to HSE Internal Audit by your employee, held out the possibility that this crucial expanse of records detailing the receipts and payments into the account would finally and comprehensively provide an opportunity to compile an account, as far as was possible, of activities funded by these public monies. Your Trustee's investigation report was most helpful but it has raised additional queries which need to be addressed.

It is in the public interest that that this matter is resolved as quickly as possible and that full transparency is brought to a situation that has not, to date, been fully transparent.

I note your comments about not providing the requested information to HSE Internal Audit but rather to the C&AG. I wish to advise you that HSE has referred the matter to the PAC for its instruction on the next steps, and obviously we will be complying with its decision as to how the matter should be further progressed with a view to finalisation.

Yours sincerely,

Geraldine Smith

Assistant National Director- Internal Audit