

DEPARTMENT FOR CULTURE, MEDIA AND SPORT



# **Wembley National Stadium Project: Into Injury Time**

Government Response  
to the Sixth Report from the  
Culture, Media and Sport Select Committee  
Session 2001–2002

*Presented to Parliament  
By the Secretary of State for Culture, Media and Sport  
By Command of Her Majesty  
July 2002*

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# WEMBLEY NATIONAL STADIUM PROJECT: INTO INJURY TIME

## GOVERNMENT RESPONSE TO THE SIXTH REPORT FROM THE CULTURE, MEDIA AND SPORT SELECT COMMITTEE, SESSION 2001-2002

1. The Government welcomes the Culture, Media and Sport Committee's latest report into the new National Stadium project at Wembley. The Government notes the Committee's conclusion that the project is now in reasonable shape to proceed to the next stage. This supports the action taken by the Government to initiate Patrick Carter's review of the project in May 2001 and the decision in December 2001 to insist, as a condition of the Government's continuing support, that proper and effective safeguards be put in place to protect the significant public interest in the project. The Government has repeatedly made it clear that it will only confirm its support for the project if it is satisfied that the four conditions set out in the Secretary of State's statement of 19 December (Official Report column 291-3) have been met.

2. The Committee has drawn attention to a number of areas of concern about decisions taken in the past. There are clearly lessons that need to be learnt. The Government's financial directions to Lottery distributors already require them to identify how risks are to be managed and funded, and DCMS provides guidance to distributors on risk management. There is however a need to ensure that all distributors incorporate robust risk management procedures in making decisions about major projects and ensure that best advice is available at all critical points during a project's gestation. In her evidence to the Committee and her statement to the House of Commons on 23 May, the Secretary of State said that she intends to involve the Office for Government Commerce (OGC) in high-risk lottery projects. Risk management will also be considered as part of a wider review of Lottery funding. A consultation paper will be launched this summer.

### Select Committee Conclusions and Recommendations

**(a) Given the serious allegations concerning a project involving substantial Lottery funding and the potential for further public expenditure, we felt that not to proceed in our customary manner would be to fail in our remit as delegated by the House; in effect becoming collusive in the handling of Wembley and its problems. This we were not prepared to do. (Paragraph 16)**

3. The Government welcomes the way in which the Committee has handled this inquiry and in balancing the need to scrutinise this important national project, whilst at the same time being sensitive to commercial issues and the current state of negotiations between Wembley National Stadium Ltd (WNSL) and the banks.

**(b) We expect that in reply to us the Government will be able finally to report on the future of the Wembley project given the clarity of the Secretary of State's words to the House on 23 May: "Mr Speaker, I am clear — as indeed is the Football Association — that the current negotiations represent the last chance for Wembley." (Paragraph 18)**

4. Discussions between Wembley National Stadium Ltd (WNSL) and the banks are continuing. WNSL signed a mandate with West LB on 31 May, and good progress continues to be made. The Government hopes that the discussions between WNSL, the FA and the banks can be concluded quickly to enable WNSL to begin construction work as soon as possible. As the Committee have noted, the Government has made clear to the FA and WNSL, most recently on 23 May, that the current discussions on financing represent the last chance for the project at Wembley.

**(c) We conclude that Tropus has acted in good faith and has suffered the fate of many messengers with bad tidings. Thorough and independent review has confirmed grave deficiencies in relation to the substantive issues that Tropus alone brought to the attention of the WNSL Board. We note that the Secretary of State, on 23 May 2002, described the first Wembley proposal as over-ambitious, poorly managed and its tendering flawed. (Paragraph 26)**

5. The Government agrees that the independent review carried out by David James and Berwin Leighton Paisner revealed a number of concerns in relation to WNSL's management of the project. Since January 2002, the FA and WNSL have worked closely with the Government, Sport England and the London Development Agency to meet the concerns about WNSL's procurement and corporate governance procedures to ensure that in future, the significant public interests in the project, which the Committee has rightly highlighted, are properly safeguarded.

**(d) In 1999 a deadline of December 2002 to *start* construction of a new national stadium may have seemed generous. However, the very nature of this arrangement whereby 7 out of 31 acres purchased with Lottery funds can revert to the vendor without recompense is extremely unsatisfactory. It was unacceptable to expend significant public money on assets of which a significant portion could then simply be lost. Such laxity is symptomatic of almost everything to do with this project; one might term it "Wembley syndrome" – an infection to be eradicated in any future Lottery projects. (Paragraph 30)**

6. The decision to structure the purchase of the stadium site in this way was a commercial decision by WNSL in order to secure sufficient land for the new National Stadium under the best available terms. The decision only became an issue because of the project's wider problems and because the first proposal presented by WNSL to the banks did not succeed. The Government's proposals to improve risk management in Lottery funded projects by use of the OGC Gateway Review process will enable similar decisions in future to be taken after a thorough risk assessment.

**(e) We consider that high standards of conduct, transparency and accountability should have been adopted by Wembley National Stadium Limited, and required and enforced by Sport England. They were not. To regard WNSL as a "private concern" when it was almost entirely founded upon a substantial grant of Lottery money and remains in that position to date, is outrageous. In this we find ourselves in complete agreement with the assumptions of Mr James and Berwyn Leighton Paisner and their consequent conclusions. We were therefore heartened by Tessa Jowell's Statement to the House of 23 May in which she made clear that the Government was now acting to safeguard the public investment by insisting on**

**“best practice” public sector standards which would also reassure the market that the project was a worthy one in which to invest. We note the difficulty that this project has had in raising private finance and it is difficult to escape the conclusion that this may have been connected to the nature of the management, and lack of transparency, of the project. (Paragraph 41)**

7. As the Secretary of State made clear in her statement to the House of Commons on 19 December, the Government believes that the amount of public funding committed to the project makes it essential that an effective and transparent structure of corporate governance is introduced to ensure that the very important public interests in the project are properly safeguarded. The Government welcomes the FA and WNSL’s agreement to introduce robust procedures.

**(f) The precise legal status of the Wembley national stadium project is crucial to what view is taken of the conduct of WNSL. We believe that the project should have been a private commercial concern. Instead it has been mounted on a quasi-public, semi-commercial basis. Distinguishing between Lottery money for acquisition; Government money for non-stadium costs; and commercial funding for construction — and implying different standards of conduct for each — is utterly artificial. The public money, which also includes funds from the London Development Agency, is all subsidy for WNSL. To safeguard the Lottery funds committed, and to secure the appropriate use of the additional public money identified, this is a project whose execution clearly should have met the highest of standards in accounting and tendering; but did not. (Paragraph 42)**

8. The Committee have drawn attention to confusion about the proper lines of accountability of different stakeholders. The Government has made clear that WNSL must adopt standards of financial accountability and corporate governance acceptable to the three public funders. The Government is working with Sport England, the London Development Agency, WNSL and the FA to ensure that the appropriate protections are in place and has sought the advice of the National Audit Office on the arrangements. The Government will not give its final approval until such standards are in place.

**(g) We regard the absence of a precise definition of an important obligation for WNSL — its procurement procedures — within the Wembley Lottery Funding Agreement as a serious flaw in the drafting of that document by Sport England and its advisers. Despite the size of the Lottery grant, and the importance of the project, Sport England did not do its job. Possibly, the most important clause in the LFA was allowed to be reduced to a token technicality, easily avoided by WNSL with serious consequences for the progress of the project. (Paragraph 44)**

9. Sport England has recognised that lessons need to be learnt and have initiated an internal review to look at these issues. The Government welcomes this and has asked Sport England to publish the review’s findings in due course.

**(h) We accept the findings of Cyril Sweett and the Office of Government Commerce that the construction contract for the new Wembley national stadium represents reasonable value for money. We note the advice of Cyril Sweett on maintaining the security of the outturn price. We emphasise the need to maintain stringent monitoring and assessment procedures for when the project moves into the construction phase so that the assessments of Cyril Sweett and the OGC can be proved accurate. (Paragraph 55)**

10. A key aspect of meeting the Government's condition on corporate governance, one of the four conditions set out in the Secretary of State's statement of 19 December, is for WNSL to agree to the introduction of an effective system of monitoring to give the public funders greater confidence that public funds are being properly utilised. The Government, Sport England and the London Development Agency are currently discussing the detail of future arrangements but it is likely to include the appointment of a dedicated Project Monitoring Team, reporting to a new public funders group, with the appropriate skills and experience to act on behalf of the three public funders and have full access to all relevant information.

**(i) In addition to the advice of Cyril Sweett, we support the “strongest possible recommendation” made to us by Mr James that a full disclosure must be sought of the corporate structure of the business, which is undertaking the contract to construct the Wembley stadium. This disclosure is to ensure that the corporate entity established actually to execute the building contract has adequate assets to cover any liability that might arise. (Paragraph 56)**

11. The OGC's Gateway Review expressed concern about the complexity of the project structure proposed by WNSL and Multiplex and, in particular, the lack of a direct contractual relationship between WNSL and Multiplex. Following the OGC report, WNSL and Multiplex agreed to dispense with the special purpose vehicle to deliver the construction of the stadium. They have now agreed that WNSL will contract directly with the UK subsidiary, Multiplex Constructions (UK) Ltd. Multiplex Constructions (UK) Ltd will be backed by a parent company guarantee from Multiplex Constructions Pty. Ltd.

**(j) We recommend that WNSL appoint a compliance officer of the highest calibre with specific responsibilities and authority to investigate and report to the Board on performance against the standards of conduct to which WNSL has now signed up. The reports of this officer should be made to the WNSL Board but be available to Sport England, the DCMS and to this Committee, on request. We regard this as an indispensable signal of the sincerity and determination of WNSL to take the project forward with due regard to its public funding and significance. (Paragraph 59)**

**(k) We further recommend that, from now on, all organisations in receipt of Lottery funding of any kind are required to make an explicit statement recognising their responsibilities with regard to the public interest in the relevant project or operations. This should not be in itself an onerous undertaking. However, organisations granted substantial awards should all appoint compliance officers with the specific duties set out above. This whole sorry saga has highlighted an important aspect of Lottery funding, namely that too little of both the granting and monitoring of the funds appears to have been systematic. While this Report deals with the Wembley project, the lessons to be learned apply to all Lottery funding and all Lottery distributors. We therefore call upon the Secretary of State to deal with this fundamental issue in her response to this Report. (Paragraph 60)**

12. In her evidence to the Committee and her statement to the House of Commons on 23 May, the Secretary of State announced that she intended to involve the Office of Government Commerce in high-risk lottery projects to ensure full scrutiny of the

projects at all the crucial stages of development. This will ensure that project risks are properly identified and evaluated as the project develops in a structured and systematic way and this will help to build in effective monitoring arrangements, tailored for the specific project.

13. The Government is attracted to the Committee's suggestion, and is considering the merits of requiring WNSL to have a dedicated Compliance Officer as part of the current consideration on the detailed monitoring arrangements. It will be important for the Compliance Officer to be a senior executive of WNSL if this role is to enhance the protection of the public interest in the project. The Committee has also suggested that a named compliance officer be appointed for future projects. This is an interesting suggestion, and could assist in clarifying lines of accountability for future projects. This is being actively considered.

**(l) The new WNSL Board should be as manifestly independent as possible from the Football Association, have a mandate to proceed to build the stadium with the funds, executive structure and compliance function that ensure delivery of effective governance. (Paragraph 64)**

14. Given that WNSL is a wholly owned subsidiary of the FA, it is important for WNSL to have in place a strong management and effective systems of corporate governance and financial accountability. The Government, Sport England and the LDA are working with the FA and WNSL to ensure such systems are in place.

**(m) We conclude that, in not making the implications of the FA staging agreement with Wembley clear to Birmingham, the FA denied the partnership behind that proposal the opportunity to make a realistic assessment of its chances of success. This is particularly unsatisfactory in the light of the assertion by the partnership that the initiative came first from the Football Association itself. (Paragraph 66)**

15. The English National Stadium Review Team's terms of reference were published on 25 June 2001:

'In the light of the FA's announcement on 1 May about the project to develop a new English National Stadium at Wembley for Football and Rugby League, to examine if the project can be funded and managed at Wembley, or if that proved impractical, at another location in England. The review should report to Government within eight weeks'.

*[Official Report 25 June 2001 col 37w]*

17. The Birmingham Consortium was, therefore, aware from the outset that the review would be an independent evaluation of Wembley and other options and not a formal competitive process. They were also aware that were the FA to support the Birmingham proposals, the issue of the existing contractual agreements between the FA, Sport England and WNSL, including the staging agreement between the FA and WNSL, would need to be resolved.

18. The Committee will recall that Nic Coward from the FA set out details of the staging agreement in his evidence to the previous Committee's Inquiry into Staging International Sporting Events on 8 March 2001 in response to questions from David Faber. *Culture, Media and Sport Committee, Third Report "Staging International Sporting Events" – Volume II. HC 286 II. p135, paragraphs 273-275.*

- (n) Sport England's performance in monitoring the progress of the project has been slack, slovenly and supine. The evidence Sport England gave the Committee indicated that many procurement decisions were reported by WNSL as *faits-accomplis*. Sport England blamed the uncertainty over whether athletics was to be part of the project for a siege mentality adopted by WNSL in contrast to its previous openness over the design process. We have identified the more probable cause as being WNSL's perception that, once the Lottery money was spent, Sport England's legitimate role in the decision-making process was at an end. This is deplorable and should have been identified and tackled by Sport England. We are led to wonder whether the serious failings of Sport England are confined to Wembley or if other projects are in a similar parlous state. (Paragraph 70)**

19. The Government's financial directions require all distributors to have systems for monitoring Lottery projects so that they can be satisfied that Lottery resources are being used for the purposes for which the grant was given and that projects supported represent value for money. Sport England has accepted that its supervision of the project, and in particular its oversight of WNSL's procurement procedures, was not as effective or consistent as it should have been. Sport England's monitoring was clearly hampered by WNSL's management arrangements and the way in which key decisions were made. The David James/Berwin Leighton Paisner Report commented: "As far as we can ascertain the Board may not have always been fully and accurately reported to on significant issues arising concerning the procurement process. Whilst the board delegated the management to [names deleted], it is imperative that they should have been kept informed of key developments and changes, and involved in key decisions."

*Para G 15 of the report by David James-Berwin, Leighton Paisner to WNSL of 17 December 2001. A version of the report with deletions agreed with the Clerk to the Committee was reproduced as an Annex 2 of the Minutes of Evidence to the Committee's Report. Reference — Ev 20.*

20. In spite of this, it is clear that Sport England, as they highlighted in their Supplementary Memorandum to the Committee of 20 June 2002, did have concerns about the way WNSL had approached the procurement of the main construction contract and decided to withhold lottery payments for a period. The Sport England internal review will address this.

- (o) We were very concerned at the reduction of available seats for the public, and regard Sport England's agreement to this as a dereliction of duty. Sport England must not agree to any further changes, which will diminish the ability of ordinary members of the public to have access to a new Wembley stadium for which Lottery players have paid. We also believe that it is incumbent on Sport England and the Government to make clear when any such changes are applied for, in advance of their agreement. (Paragraph 73)**

21. As the Committee are aware, premium seats at the new National Stadium will make up around 20% of the total seats but contribute around 70% of the projected income. It is therefore critical that the business plan should seek to maximise the returns from premium seating to ensure that a viable project can go forward. The English National Stadium Review Team's report identified concerns about WNSL's business plan. WNSL concluded that they could enhance the attractiveness of the

corporate packages and improve project viability if all the premium seats were located on the stadium's middle tier. In order to avoid extensive design costs, WNSL proposed to retain the current design, but in doing so, needed to seek approval to increase the number of premium seats.

22. WNSL applied to Sport England to amend the terms of the Lottery Funding Agreement in order to change the balance between general public and premium seating. This was made ahead of discussions on the final agreements, simply because WNSL needed to incorporate their changes into the revised planning application. WNSL's application to Sport England was supported by a revised business plan and by thorough market research of the increased seating. Having considered WNSL's application carefully and in the light of Patrick Carter's interim report, Sport England agreed to make the necessary changes, having concluded that the change would help to ensure the viability of the project. As Sport England pointed out in their oral evidence of 21 May, the provisions within the agreement protecting general admission prices will not be affected. The number of public access seats at Wembley will exceed those available at any other stadium in the UK and will exceed the total number of seats at the Yokohama Stadium, the venue for the recent 2002 World Cup Final.

23. The Government notes the Committee's concerns about the way in which the announcement of the decision was handled by Sport England. The Government does not believe it would be practical for applications for lottery funding to be subject to public consultation, as the Committee appear to suggest, but does accept that Sport England could have done more to explain the detailed reasons for their decision, once that decision has been made.

**(p) Sport England created a rod for its own back in relation to the Wembley project. The Lottery grant was handed over prematurely and the money was spent on the purchase of the site and the stadium design. WNSL seemed then to behave as if this was the end of the public interest in the project with the bulk of the rest of the funding coming from non-public sources. (Paragraph 78)**

**(q) We repeat that Sport England's protection of the £120 million, the largest single lottery grant ever awarded to a sporting project, entirely fails to meet the standards to be expected of such a public body. We believe that Sport England's performance has been deficient to the point of dereliction. A new chairman of Sport England is due to be appointed. It must be the duty of the successful candidate to examine rigorously the lessons of the Wembley project. An assessment must be made as to whether the unique circumstances prayed in aid by Sport England do confine the failings identified in this Report to the oversight of the Wembley project. Sport England must provide Parliament and the public with reassurance that it has the ability and determination to put its house in order. (Paragraph 79)**

24. The Government agrees that there are lessons to be learnt by all the parties involved with the national stadium project. As mentioned earlier, Sport England has initiated an internal review of procedures. The Government welcomes this and has asked Sport England to publish the review's findings in due course.

25. Since December 2001, the Department for Culture, Media and Sport has itself been undertaking a significant programme of reform to improve the strategic capacity to deliver the Secretary of State's key objectives and to make the relationship with our Non Departmental Public Bodies more delivery-focused. This, together with the proposed improvements to the management of risk in high profile Lottery projects by the involvement of the Office of Government Commerce Gateway Review process will enable decisions on major projects to be made against clear criteria and after a full risk assessment.



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