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Centre for Health Information
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Honourable Ross Wiseman, MHA

Public Accounts Committee

Chair: Jim Bennett, MHA

Vice-Chair: David Brazil, MHA

Members:

Sandy Collins, MHA
Eli Cross, MHA
Eddie Joyce, MHA
Christopher Mitchelmore, MHA
Kevin Parsons, MHA

Clerk of the Committee: Elizabeth Murphy

Appearing:

Office of the Auditor General

Terry Paddon, Auditor General
Sandra Russell, Deputy Auditor General
Brad Sullivan, Audit Senior

Centre for Health Information

Mike Barron, President and CEO
Steve Clark, Vice-President Business Services and CFO
Ray Dillon, Chair of the Board
Jim Janes, Chair of the Finance and Audit Committee

The Committee met at 9:00 a.m. in the House of Assembly Chamber.

CHAIR (Bennett): Good morning, again. I say again because this is a resumption of a previous hearing where we ran out of time. We have had some change in the individuals who are here, I believe, so I think it might be useful if people introduced themselves again, because this is being televised internally right now and also it is being recorded for Hansard purposes.

I am Jim Bennett, Chair of the Public Accounts Committee. I will go to Mr. Paddon and go back to the members.

MR. PADDON: Terry Paddon, Auditor General, Province of Newfoundland and Labrador.

MR. SULLIVAN: Brad Sullivan, Audit Senior.

MS RUSSELL: Sandra Russell, Deputy Auditor General.

MR. BARRON: Mike Barron, President and CEO of the Newfoundland and Labrador Centre for Health Information.

MR. DILLON: Ray Dillon, Chair of the Newfoundland and Labrador Centre for Health Information.

MR. JANES: Jim Janes, Board Member, Newfoundland and Labrador Centre for Health Information.

MR. CLARK: Steve Clark, Chief Financial Officer.

MR. BRAZIL: David Brazil, Vice-Chair of Public Accounts.

MR. K. PARSONS: Kevin Parsons, Member for Cape St. Francis.

MR. CROSS: Eli Cross, Member for Bonavista North.

MR. MITCHELMORE: Christopher Mitchelmore, Member for The Straits – White Bay North.

MR. JOYCE: Eddie Joyce, Bay of Islands.

CHAIR: Our Clerk is Ms Murphy.

One individual who started with us, Mr. Peach, is not here because of a death in the family, but I think we are all sworn and everybody is familiar with it from being here previously so we can just get right into the questioning and continue. We hope to conclude in the morning; it is not necessarily the case, but hopefully it will be.

I will start with Mr. Joyce for Bay of Islands.

MR. JOYCE: Thank you.

First of all, I saw some comments in the paper this weekend: This became a distraction.

Can you clarify those remarks?

MR. BARRON: Well, Sir, if you were employed under a certain contract and all of a sudden somebody said your contract is changing – not me, now; I am talking about the people at the Centre – for this not to be a distraction would not be natural. Essentially, what the interviewer asked me: Was it a distraction? If somebody wanted to be honest and speak for the employees of the Centre, yes, it is a distraction.

MR. JOYCE: I apologize if trying to keep reins on the funds, the people's money, that it is a distraction to you.

MR. BARRON: That is not the distraction.

MR. JOYCE: I apologize to you.

Mr. Chair, from my understanding, the last time we met we were supposed to get some minutes from the meetings. Did we request some minutes from meetings you had when the increases were given? There were minutes in the meetings.

CHAIR: Mr. Joyce, we received a very substantial package that was circulated.

MR. JOYCE: Okay, I never received the package.

In the minutes, and I go back again, because when we discussed this before - I just want to go back and refresh my memory with my notes - Ross Wiseman was the minister. Billy Fanning was the Chairperson. Am I correct on that?

My understanding, from your testimony in the previous meeting that we had, is that Billy Fanning went to the minister, who gave him the wink and the nod, came back and informed you, yes, go ahead and give yourself and everybody else the big pay raise. Am I correct in that? Is there anything in the minutes to confirm that?

MR. BARRON: I know there is; I am just going to find it now.

MR. JOYCE: Perfect.

MR. BARRON: It is unfortunate that you did not have the package, because it is all there.

MR. CLARK: We did provide a package to the Committee. Included in the package, there were board meeting minutes.

MR. JOYCE: Which stated that –

MR. CLARK: Yes, Sir, they were there.

MR. JOYCE: Was there anything in writing besides just the verbal that Mr. Fanning brought back to the board?

MR. CLARK: There was a letter, I believe, that went to the minister, indicating that the board had decided to proceed; then there was a motion by the board and they did approve to move forward with the salaries, yes.

MR. JOYCE: My question again is: Was there any letter back from the minister saying yes, this has been approved?

MR. CLARK: No, there was not.

MR. JOYCE: I ask the Auditor General: Did you ever see any of those minutes where there was any approval given for these increases?

MR. PADDON: The minutes that were provided as part of the package of information were made available to us during our audit, so it is the same information that we had seen back then. There is nothing here that would change the content of our report.

MR. JOYCE: Do you feel that there was not permission given?

MR. PADDON: I guess there are two elements to it. There is a substantial amount of legal back and forth as part of the package. The act does provide the Centre with some autonomy in terms of compensation and those sorts of things, so I do not think that was the point we were necessarily making.

There were a couple of points. One was that there was some discussion at the board about whether they should proceed in the absence of approval from the minister; and, ultimately, I think they did.

The second – our point was not necessarily could they do it, because I think their act probably does give them some ability to provide some compensation. The question was should they or should the amount of compensation be where it was and should there then be, after they set their compensation, sort of the level of increases within a certain period of time after that. I think those are the points we are really trying to get at.

MR. JOYCE: Okay.

Is there now some guidelines given from the Department of Education, or is it the same as before? Are there guidelines now –

MR. BARRON: I would assume you mean Health, I am sorry?

MR. JOYCE: Pardon me; Department of Health, yes.

MR. BARRON: Yes.

Guidelines – what we are doing is we are aligning our policies fully with Human Resource Secretariat policies. They are not the policies of the department; they are the policies of overall government. So what we are doing is aligning fully with the government compensation regime.

MR. JOYCE: When did this start?

MR. BARRON: That started subsequent to the Auditor General's report.

MR. JOYCE: Okay.

So, my question to you is: If you feel that you did not need any autonomy, why all of a sudden the big change? If you honestly, and the last time we spoke here, felt there was no need to check, there was no need, but now why the change if you feel, after the Auditor General's report came out – why do you feel now that there is a change to comply and to fall in the guidelines if before you never, after the big raises?

MR. BARRON: At the time that the compensation system was approved by the board, I acted upon the instructions of the board, essentially. Five years, we submitted budgets to the government and the budgets were approved with the individual compensations involved; and when the AG report came out and there obviously was some concern at that time, the board felt that we should do what the government wanted.

We had never received anything to say not to do it, when we did it five years ago. All of a sudden now – obviously, there was a bit of issue with the salary regime, so the board agreed to align with the government compensation system.

MR. JOYCE: Again, I just want to get this straight. At the time, the minister, Ross Wiseman, never, ever gave a letter of permission to go ahead with those raises. It was just a wink and a nod to Billy Fanning who came back, who then had a board meeting who approved the minutes for the board, and went on with the

raises. There was never a confirmation letter on file from the minister. Is that correct?

MR. BARRON: Not to my knowledge.

MR. JOYCE: Not to your knowledge.

Is it also correct – was there ever a rep from the Department of Health on your board to act as liaison between your board and the Department of Health?

MR. BARRON: We always had a representative from government, and at that time it was the Assistant Deputy Minister of the Department of Health and Community Services.

MR. JOYCE: So the assistant deputy minister was on the board at that time?

MR. BARRON: Yes.

MR. JOYCE: The positions now that come up in your area, are they all advertised? Obviously, back before when there were increases, they would just give it to the people who were already in the positions. If there is any new increase in funds or any new positions coming up, are they advertised publicly now through the Public Service Commission?

MR. BARRON: They are advertised publicly, yes – our positions. Unless it is a position that is determined that may be able to be filled internally, but then it is still advertised internally for those employees to apply for.

MR. JOYCE: Okay, because there were some concern with the Auditor General's report that a lot of the people within the division were just given the raises and there was no advertisement publicly for a lot of these positions where you could have gotten the best qualified candidate but you just took the person internally.

MR. BARRON: Well, I would say that we had the best qualified candidate and those people were usually –

MR. JOYCE: I know –

MR. BARRON: We have the best qualified candidate, in our mind, because they came through the system. The same as if you had a small business, you would expand people's responsibilities as your business got bigger; and, essentially, since the growth period occurred, we always advertise our positions.

MR. JOYCE: I do not know; I have to give you credit or something when you say this is nothing but a distraction. Now you are saying you always had the best qualified. You do not know who is around Newfoundland and Labrador, who is around Nova Scotia who could have applied.

To me, just from a member of the government, the Public Accounts, it is almost like saying okay, I am going to do this; here is what I am doing. I know who is best; I know what is better. It is not the way government operates when it is public money, Sir; I can assure you. If you always feel that you had the best qualified without going public, you would have never have known – never have known.

I feel that even now, what you are saying that you always felt you had the best qualified, it follows on the line of the article that it is a distraction.

I ask the Auditor General: Did you have any time to follow up to see if they are compliant with the regulations now for hiring in the –

MR. PADDON: We have not done any follow-up at this point in time; it will probably be another year or so before we would follow up.

MR. JOYCE: Okay.

Can I have one last question? I know I am up to my ten minutes, but this is my last question. Are you compliant now with the Public Service Commission in hiring, or are you going through the Department of Health, or are you just doing it internally yourself again?

MR. BARRON: We are aligning with government policies. So, whatever the government policy stipulates, that is what we

would follow. The policies were approved by the board subject to confirmation by government that they were aligned, and that process is occurring as we speak.

MR. JOYCE: Are you getting confirmation in writing, or a wink and a nod?

MR. BARRON: We would always act on the appropriate written authority.

MR. JOYCE: Written authority now?

MR. BARRON: Yes.

MR. JOYCE: Okay, thank you. I know my ten minutes is up.

CHAIR: Mr. Brazil.

MR. BRAZIL: Thank you, Mr. Chair.

Welcome, gentlemen. Before we go anywhere, I am going to go to the Auditor General and ask the question – and I am just reading the Executive Summary, but I am also going through some of the discussions we had previously.

While you outline concerns around compensation and recruitment practices and governance, are you saying that in your opinion, or your interpretation or your understanding, is that the Centre for Health Information had the authority to make different compensation offers and packages to its (inaudible) prior to what Treasury Board indicated would be the new standard for all Crown agencies and organizations within the realm of government responsibility?

MR. PADDON: That is right. If you look at page 173 of my report, right upfront we acknowledge that Section 12 of the Centre's act does give them the power to employ or engage the service of those persons it considers necessary, so on and so forth – and I guess then there is some supporting legal interpretation that that does give them the authority to set their own compensation.

I guess, at the end of the day, it was not necessarily can they do it; it is then a question of you have the power, how do you implement and how do you use it. That was more the issue for us.

MR. BRAZIL: Okay, fair enough.

The recommendation and what the Centre has acknowledged that they will be doing is following the compensation and hiring process that government has already implemented.

MR. PADDON: I guess the issue of government requiring consistent compensation practices certainly started to occur somewhere around 2012, somewhere in that time frame. So, it was sort of before the release of our report, but certainly after or at the back end of the audit period that we covered.

MR. BRAZIL: Fair enough, and I think all of us on the Committee realize that prior to your report and prior to them implementing the new process, there were some concerns about the compensation packages.

In some cases, we understand why. The recruitment, particularly in those fields where there is a specialized set of asset skills that you must have, that there is a recruitment process, and it is why we have it in a number of agencies and Crown corporations to do that.

With that being said, we are still responsible for trying to staying in line with what we have indicated as a policy for all agencies.

I have gone through the notes; I have read them over the last few days to get more familiar with it, and the first part of our hearing. What I would like to know now is just the last three months, bring us a little more up to speed after identifying – and I do accept and realize that the Centre had started to put in place the process to bring us up with what Treasury Board policy would be to direct that. If you could take us where we are in the last three months, how we have moved that forward – and I know it is summer and everything else, but particularly, if you are running into any struggles; but, more

importantly, I would like to be able to know that this is working, that the process is moving in place, that the accountability, the compensation, the recruitment process falls well in line with every other agency and board we may have in this government.

MR. BARRON: I keep forgetting, Mr. Bennett, to identify ourselves when we are speaking. I am Mike Barron, President and CEO of the Centre.

The Centre's board has approved a set of policies, actually, and we just got a response back from government last week to align with the government policies. Essentially what we will do is make exactly our policies to align, even the wording, of what the government policies are.

When it comes to the pay scales, we have not had a date set yet, but we have been working closely with the Human Resource Secretariat on doing a complete re-evaluation of every position at the Centre. So that will essentially create the new regime. That would be the government-aligned process of doing that.

As well, as you are aware of the package we sent, we did send a road map for that alignment to occur that would allow for a smooth transition from the current regime to the new regime. That, to my knowledge, is being discussed and will be brought back to us in the near term.

MR. BRAZIL: Okay, great.

MR. BARRON: Really, we have spent a lot of energy to get where we need to get.

MR. BRAZIL: So it is your plan to be able to implement this come new fiscal, April 1? Everything will be in place, people will know their job specs, they will know their classifications, and these types of things?

MR. BARRON: Well, certainly the job salaries for any new positions will be known at that time. How we deal with the current positions will be a matter of discussion between the government policy and ourselves. Outside of where you may

need to red circle people and things of that nature, depending on how it all works out, we will be certainly in that position.

MR. BRAZIL: Okay, great.

A question around governance, and I think most of it has been addressed: Are you comfortable now – and I will ask the Auditor General after – that the whole governance process of appointing members to board and everything else has been now following the process that was originally set out? I know there were some glitches there in 2011 and even early 2012.

MR. DILLON: From a governance perspective, yes, we have looked at what the Auditor General has had to say and changes have been made. Obviously my position, appointed Chair, is part of that. We do now have a member from Health and Community Services on the board as well.

A third comment the Auditor General put forward was around models as to whether a CEO should be or should not be part of a board, and I think it was more of a statement as opposed to a directive, if you will, or a recommendation. We did look at that and Mike has since stepped away from being a voting member of the board. I think from a governance perspective, we have addressed, I believe, everything the AG has asked for.

MR. BRAZIL: Okay, thank you.

Are there set time frames for the liaison committee or the board itself meeting, or is it periodic when there are issues on the agenda?

MR. DILLON: We have regular quarterly meetings, as well as an AGM and then committee meetings. There are a number of committees that are struck from the existing membership that get together in advance of all of the board meetings. It is fairly well structured and regimented.

MR. BRAZIL: Is that information then shared with the department, particularly at the minister's level or executive level?

MR. DILLON: There is a representative from the Department of Health and Community Services who sits on the board. I do not know that we have a protocol to send exact meeting minutes to the Department of Health and Community Services. Certainly, their membership on the board, that member would be –

MR. BRAZIL: Responsible for bringing it back.

MR. DILLON: Yes, if they wanted to bring back the details of the board meetings.

MR. BRAZIL: I just wanted to make sure I clarify that so that if information is not being distributed, then Health and Community Services have to take some responsibility for delays that they have there.

Gentlemen, after going through everything and, like I said, we have been through the hearing, the concerns, I know from my point of view, were about the process that the Auditor General had outlined, the compensation packages that we had adopted as an Administration that everybody would be under one umbrella and what process would be followed, and compensation, in cases – and there are rare cases, but they do serve a purpose where compensation has to be different than the scale that we have, then that would be justified and approved in a proper manner.

From the steps that you have outlined and discussions with the Auditor General, I am pleased at this point to be able to say if things move accordingly then there will not be any problems when we do the review in a year or so.

Thank you for that. If there is anything else, I may come back later on, Mr. Chair. I will pass it to Mr. Mitchelmore.

CHAIR: Mr. Mitchelmore.

MR. MITCHELMORE: Thank you, Mr. Chair.

This is the second opportunity I have had to question the Centre for Health Information. The Auditor General's report certainly was eye opening in the fact of what it revealed about the salaries that happen at the Newfoundland Centre for Health Information and how they were not in line with other government agencies. It raises me to question, I guess, going back to the size of your organization, and your operating budgets, how has the operating budget grown since inception on a year-over-year basis? Because it is primarily funded by the provincial taxpayer.

I mean, in the documentation I have seen it looked like the budget topped out at about \$70 million in terms of funding, in terms of capital projects, at a point in the literature that was supplied for job descriptions.

MR. BARRON: Actually, the funding, the \$70 million, would have referred to the money that we got from an investment fund from Canada Health Infoway. Of course, when you are in a project mode, as you spend that money, that gets blended into your operational budget for purposes of accounting and auditing.

The chart on page 168 clearly shows what the budget of the Centre went to in 2012; and, essentially, it is not that much different today. Right now, today, we have gone from what appears to be around \$12 million in 2007 to over \$25 million. It is usually between \$25 million and \$30 million right now, depending on what phases the projects are in at any one time.

The provincial funding currently, Steve, is –

MR. CLARK: Currently at about \$23.5 million.

MR. MITCHELMORE: In 2007 the Salaries and Benefits, it looks to me, were about \$2 million. We fast-forward five years later and they go from \$2 million to \$70 million. Is that correct?

MR. CLARK: Could you repeat the question?

MR. MITCHELMORE: Page 168, the chart you just referred to, in 2007 the Salaries and Benefits were about \$2 million; and, in 2012, if

we fast-forward, they look to be about \$70 million.

MR. CLARK: It would not be \$70 million; it would be about \$12 million.

MR. MITCHELMORE: Right, I am looking at the other side of employees.

MR. CLARK: That is okay. The staff complement is on the right side of the scale. You would see that there was a significant in staff complement.

MR. MITCHELMORE: Right.

How many employees would account for this staff increase? In 2007, how many employees were actually working? It was about eighty employees, from the chart?

WITNESS: (Inaudible).

MR. MITCHELMORE: Okay.

MR. PADDON: In 2007, there were about fifty-four employees, which made up \$2.6 million in salaries. In 2012, there were 156 employees, which made up about \$11.7 million in salaries.

MR. MITCHELMORE: Okay.

Based on the documentation that has been provided, it seems like the Centre for Health Information has been pushing for quite some time to look at increasing its salaries, from letters that it had sent to the Department of Health and Community Services, asking for a new compensation package back during those earlier years; and, certainly, did not get anything in writing.

Now, we see, fast-forwarding to 2013, the Minister of Health and Community Services, in a letter you supplied February 7, by Minister Susan Sullivan, it states: Your Chief Executive Officer, Mike Barron, has discussed these issues with the Deputy Minister, Bruce Cooper, on several occasions – this is referring to the salaries and compensation – the department has considered the views put forth. As I am sure

you are aware, there have been numerous contacts with your organization requesting compliance with government policy, specifically compensation policies and the market adjustment policy.

It seems like the Centre for Health Information has gone out of its way to not be compliant and has enlisted the legal opinion of McInnes Cooper in the documentation that was supplied in 2007, 2013, and 2008; Benson Buffet in 2012, 2013. There was a request asking for the cost of outside services, like legal services.

Can we have a breakdown of what this non-compliance or failure to listen to the Department of Health and Community Services has actually cost the taxpayer in terms of salaries? Because, even in your roadmap, it highlights that you are going to be red-circling, but that means that the salaries are still going to maintain at that level, well beyond the general public service for comparative work being done. How much has been cost in legal fees in pursuit of maintaining higher salaries?

MR. BARRON: I can certainly find that out for you. I would not have that information directly at my fingertips here, but it has not been exorbitant at all.

MR. MITCHELMORE: I guess I question because, in one piece of the documentation, it had one legal firm basically do some research around comparing the salaries of Nalcor, other Crown corporations like Eastern Health, Memorial University, the Newfoundland and Labrador Housing Corporation, and comparing the salaries.

I guess I initially started off my question asking about the employees and the scale of budget. If we look at the scale of budget at Memorial University and the comparison of the department and the amount of oversight and work that is being done by these individuals compared to the Centre of Health Information, it is very difficult to compare one organization to another, when the size is very different, budgets are different, employees are different, and the work is quite different.

It found that the salaries at the Centre for Health Information were very closely linked, at par, or in that range of those large organizations.

MR. BARRON: It is also important to see where the Centre fits in the scheme of things with the health system. The Centre is a provincial relationship broker and maker of larger things than the organization. The whole point of the organization is to try to bring regional health authorities together, for example, to do these provincial projects because the Centre cannot do these projects without the full involvement, buy-in, and engagement of the regional health authorities.

For example, when you look at the Centre's vice-presidents involved with the actual Electronic Health Record work, we have oversight committees and group committees that involve the vice-presidents of the regional health authorities, Assistant Deputy Minister of Health, as well as our people. So it is not just the size of the organization; the broader impact is really on the larger health system.

MR. MITCHELMORE: What has changed since 2007 to 2012 when it comes to the roles of the senior managers who started off as managers, moved up to a director or now vice-president, and hirer positions, hirer titles, basically? What has changed in the scope of their work beyond the increase of salary and benefits?

MR. BARRON: The scope of the work essentially relates to the projects in most cases. As more projects are approved, that would be a broader responsibility basis. For example, with the Pharmacy Network, as that became more operational, we began a project called the iEHR/Labs Project, which was a \$32 million project once again involving all the regional health authorities. That is what really changes, to a larger extent.

Of course, when you get into these projects, then certain portfolios are also expanded. For example, getting the standards and the nomenclature involved with these health information systems, that would expand as well.

Of course, when we go through the re-evaluation process, the current state of the Centre's operations will be considered as part of all that.

MR. MITCHELMORE: I guess I am not clear, actually, as to in 2007 with the budget that was operated, the Centre for Health Information would have peaked at a certain point when it came to the amount of money it was able to secure from Infoway or other federal sources, and now it primarily depends on provincial sources for funds. I question the scope of the work that the employees in senior management positions are doing that would justify such large increases in salary. In the minutes that were provided, it had said there were potentially recruitment issues as being a challenge.

Was there an indication that staff would actually leave? We have seen consistently the same staff signing off on documents that have been put here in the review. They are still with the Centre for Health Information, in most cases. That is not always the case with a government department or agency.

MR. BARRON: I do not understand your question.

MR. MITCHELMORE: In 2007 your senior – now the Vice-Presidents, I guess, of the Centre for Health Information. What were their positions in 2007, their titles?

MR. BARRON: I would have to go back and check that, but certainly I can get that back to you. We provided some information to you folks as part of the –

MR. MITCHELMORE: I read the information and –

MR. BARRON: Yes. So just let me – rather than me just speak out of my memory.

MR. MITCHELMORE: I think we need to go through this and actually get a thorough view of what the employees were doing in 2007, what their salary ranges were, and to see the increases over the years to justify that.

This is a public organization that is publicly funded; it is not a private enterprise, so it operates quite differently. In my view of the Public Accounts and with the findings of the Auditor General's report, it is quite appalling, in some cases, if there is no justification and there is no documentation from the Minister of Health when the wage increases were requested. Mr. Joyce had questioned that earlier, about this lack of documentation; but the current Minister of Health has been providing documentation saying the Centre really needs to get in line. This has obviously cost the taxpayers a significant amount of money over the years, and it needs to be justified.

CHAIR: Mr. Mitchelmore, will you be content to have that in a letter form? Mr. Barron indicated that he did not want to trust his memory. Would you be content to receive that –

MR. MITCHELMORE: I would prefer to have this information discussed and debated. I am willing to wait until another time, if that is needed, but I feel those are legitimate questions. This is what the Auditor General's report was specifically about; it was about the salaries and the compensation at the Centre for Health Information. Right now, the Centre for Health Information has said we cannot provide the legal costs; we do not know them over the years –

MR. BARRON: We do know them. We do not have them in front of us.

MR. MITCHELMORE: Right.

CHAIR: I need to really understand the question because we may get a written response. I am not sure; what is it exactly – this is not a criticism; it seems like it might be useful information. Mr. Barron said he would not want to trust his memory, so there must be some precise way to put the question that it can be answered.

MR. MITCHELMORE: This is the point of having the hearing, I believe, Mr. Chair, is to ask questions of the documentation that was supplied. There is documentation supplied around the directorships, the vice-president –

MR. BARRON: We can go through this.

MR. MITCHELMORE: These details are there and I would like to take the time to go through it.

MR. BARRON: Sure.

CHAIR: You can do it in your next ten-minute interval, or we can come back the third time. There is no reason the Centre cannot come back in January or February, if we cannot get the information now.

MR. MITCHELMORE: Right.

CHAIR: We could move on to Mr. Parsons because of the time –

MR. MITCHELMORE: I have no problem with that.

CHAIR: – and you can pick up the line of questioning, which I think is quite appropriate, when the time comes.

MR. MITCHELMORE: Sure.

MR. K. PARSONS: Thank you very much, Mr. Chair. Again, welcome back you guys.

I just have a few questions here this morning, and I just want you to take – we looked at 2007; the Auditor General said you have fifty-four employees and now you are gone to 156. Could you just explain to us how you have changed from 2007, what role and how the whole organization has grown? Your demands, obviously, in 2007 were a lot different than what they are at 2012. So if you could just bring us through some of the changes in your organization.

MR. BARRON: Certainly the biggest change in the organization is as a result of the large capital projects that we have been involved with. We have transitioned somewhat from largely a project-based organization –

MR. K. PARSONS: Can you give us an example of some of the programs?

MR. BARRON: Well, the Pharmacy Network project, for example; there was a build phase of that, that would have required a lot of energy and time of various people. Then we moved into an iEHR/Labs Project that we are currently in. Anyway, the Pharmacy, as that became operational, then you need a certain amount of people to feed and nurture that particular system.

The nature of the Centre is we have more operations to maintain as a result of those projects. We have a Client Registry, we have a Provider Registry, we have a Pharmacy Network, and we have a provincial Picture Archiving Communications System, which are the radiology images for throughout the Province. All of those things require feed, nurturing, and caring, so that is your operational base.

As the organization has matured now, we still are adding projects depending on the availability of public funds and the approval of government because we do not take on the project unless the Department of Health and Community Services requires it. We do have now a solid operational base, which needs to be maintained to maintain those previous investments.

At the same time, we still have a significant project component of people who do these large-scale provincial projects that tie in together. As a matter of fact, the project we are currently working on is the first step to tying all those projects together so there would be one-stop shopping for health providers in the Province to garner that information in a timely and accurate basis.

MR. K. PARSONS: Okay.

I am going to go back. Mr. Joyce was asking some questions about the increases over the last number of years. When you do read the Auditor General's report, it is pretty astounding, actually, to see the increases of 119 per cent. For example, with the Human Resource and Strategic Planning person, VP, did anything change in the work that he was doing, or person who was doing that work? To see increases of 103 per cent and 119 percent – obviously, I do

not know if it is a standard with other Centres for Health – how can you justify increases with that much money?

MR. BARRON: Really, it has nothing to do with the Centre for Health or equivalents; it has to do with the timing in the evolution of the organization.

MR. K. PARSONS: Explain, though, why –

MR. BARRON: It is quite clear that the organization became much more complex and it had to grow in a very significant – actually, in a very short period of time in order to meet its obligations. As a result of that, and of course, we have said it before, these things could never happen today because we are in a mature situation with the organization as a whole, and we will be aligning with government policies.

At the time that those things happened, the Centre was in an extremely volatile growth mode. In terms of getting the resources it needed was difficult enough, but to maintain the ones we had was also extremely important. So while those percentages optically do not look good, they occurred over a period of time, even though sometimes a short period of time –

MR. K. PARSONS: Five years.

MR. BARRON: I have the timelines here. They had to happen. Of course, when you look at trying to recruit, it can take you six to twelve months to recruit a particular position; but when you are in absolute growth mode with capital funding at the table and projects already in process, you have to do what you have to do within the boundaries of the board and the board approval to do the job, and that is essentially what we did.

MR. K. PARSONS: Okay, but when I look at increases of 119 per cent over five years, I hope that there is no ransom there over someone's head, that in order to get this person we have to pay whatever it is. That is not the way any organization should work.

The other question I have – I just have one more question here – it was with the competition, and again, Mr. Joyce asked a question on that also. Any time that there is a posting or anything at all, I believe in fair competition, and if there is a person within an organization then they have just as much right as a person from outside the organization, and the best possible person be qualified for the position. It seems like in this case there was a lot of internal and just moving up the scale. Can you explain?

MR. BARRON: Much the same as the previous answer. We were in that massive growth mode and we had people who were gaining expertise you could not buy off the street, first of all, because they were doing on the job – they were learning. Even from a business perspective, dealing with Infoway investment funds, these are not grants; that is a fairly complex thing just to account for these kinds of things. Essentially, the only answer I can give you – and once again, it was with full board approval – is that it was an extremely volatile, risky growth period in the Centre's evolution and that today could never occur, ever again, because the Centre would never be in a position to grow like that again first of all.

In those days, it went from a very small group of people to a very large, complex group of people; large, being more in complexity, in some cases, than in numbers.

MR. CLARK: If I could add as well in terms of additional responsibilities, because I know that was the root of the questions. Maybe I will speak to myself. If I could just speak even to my own situation, which really I would prefer not to, but it is the one I know the most about so it may provide some insight.

In 2007 we became a Crown agency. Up to that point in time, I was the Manager of Finance. I have a finance background. I also have other skills as well.

We became a Crown agency. Prior to 2007, things like procurement would have been administered by Eastern Health, because we were part of Eastern Health; things like facilities

and so forth. After 2007, I was given additional responsibilities to manage procurement. As you can appreciate, there were a number of multi-million dollar procurements and I had expertise in that area, so I assumed that responsibility.

Then, of course, we had to manage our facilities, when you are growing staff complements, so I took on facilities. We also had now a board; I needed to become the corporate secretary. There was a need for that. We also needed a project management office and, again, I needed to fill that role. I am a PMP and I am a certified professional project manager. Again, I had that expertise.

Again, that is my own personal situation; but, as you transition to a Crown corp., there are different needs which were administered by Eastern Health and we had to take on those responsibilities, which are key to the organization's success. So, hopefully, that provides some insight.

MR. K. PARSONS: Yes, that is where I wanted to go with the question. If there is a huge increase, when you see 119, obviously I was hoping that the answer was what you just gave us; that, obviously, your demands for your time and everything else and the expertise that you need to provide also came up the scale, too. Okay, that is good.

I just have one question to the Auditor General. I know the responses that they gave and stuff like that – and actually, I think this is probably the one that we will be really interested in two years' time or a year's time when we get the report back from you guys to see where you have come. As of 2005, this was a very new organization; this is not something that has been on the go for twenty years or whatever. Again, I am interested – the responses were okay; but is there anything in particular, out of the hearings that we have had and what you have heard here this morning, that you are going to be looking for in their –

MR. PADDON: Really, what we would do is we will take each recommendation that we have made, we will formally ask the Centre for a

response or for an update as to where they are in terms of implementation of those recommendations; it is up to them how they wish to respond, whether they agree or disagree or whatever. Then, we will do some evaluation of the responses, so we will go back in a take a look.

Some of the issues here are around how the Centre is going to align itself with government's compensation policies.

MR. K. PARSONS: Yes.

MR. PADDON: I would presume that there would be some agreement between the Centre and the Department of Health and Community Services as to how they move forward on that, so that would sort of almost be a touch point against which we can evaluate where they are. I think that is really how we would approach it. It is a bit too early to be able to provide any sort of evaluation here on the spot.

MR. K. PARSONS: Okay, I can understand that.

I guess you guys understand the importance of the optics portion. Obviously, when you read it first, you look the increases of 119 per cent and job competitions and stuff like that, so it is going to be very interesting to see what comes back in your next report, to see where you are and where you have aligned yourself with government policies. It will be interesting to see.

Mr. Chair, that is it for me for the time being.

CHAIR: Mr. Joyce.

MR. JOYCE: I am just going to ask a few general questions and I just have a few smaller questions that I have to ask.

First of all, if you had the legal opinions – and this was something that I could not understand – if you had the legal opinion saying that you could do it on your own, why were you so adamant that you needed government approval or going through the Minister of Health? Were you 100 per cent sure on your legal opinions that

you could give these pay increases on your own or –

MR. BARRON: You would have to ask the board Chair that question. I was not the one dealing directly with government.

MR. JOYCE: Weren't you on the board at the time? Weren't you a board member?

MR. BARRON: Yes, but I removed myself from issues regarding compensation as a board member, the same as I would not vote on the financial statements.

MR. JOYCE: There is no board Chair here, so we cannot ask that.

Okay, that is just something that – so we do not know why. There was a reason why. Obviously, you were not 100 per cent sure you could do it.

No answer? Okay. I did not think there would be an answer.

MR. BARRON: I would not be able to answer that.

MR. JOYCE: The last time we spoke, I spoke to you when we were asking questions – and if I am wrong, I am just going on memory, and I read the minutes. When the board was going to make the decision, my understanding is Billy Fanning went and met with the minister, Ross Wiseman, who said yes, or Billy Fanning came back and told the board yes, Ross Wiseman said go ahead and do it, and then it was approved by the board.

Am I correct in that?

MR. BARRON: That is not my understanding.

MR. JOYCE: Pardon me?

MR. BARRON: That is not my understanding. My understanding –

MR. JOYCE: Well, from my understanding that is what was said the last time, that Billy

Fanning spoke to the minister, the minister came back and spoke to you, and said yes, go ahead, we have approval, and that is how it was done.

MR. BARRON: I have never heard that, no. My recollection would be that Mr. Fanning went to the minister and when he came back he directed us as executives to put in the system.

MR. JOYCE: Yes, that is what I just said.

MR. BARRON: Oh, sorry. It did not sound like that. I am sorry.

MR. JOYCE: Yes, that is what I said. He spoke to the minister, the minister would not put anything in writing, Ross Wiseman, but Mr. Fanning came back and said: No, I have the verbal; go ahead and do it.

MR. BARRON: I cannot recollect Mr. Fanning saying that.

MR. JOYCE: You just said he came back and told you.

MR. BARRON: I did not say what he said. I cannot quote the man. I was not at the meeting with him and the minister.

MR. JOYCE: So you never, ever spoke to Billy Fanning about any of those issues that he spoke to the minister, whatsoever? There is something –

MR. BARRON: There are minutes there that show Mr. Fanning came back to the board and discussed certain things, but all I can say from my perspective as the CEO because I would not even have been in the room when some of those discussions had happened, depending –

MR. JOYCE: I will check the minutes from the last meeting.

MR. BARRON: Well, sometimes I was and sometimes I was not.

MR. JOYCE: I will have to check the minutes from the last meeting, because my understanding from the last meeting is that you said Billy

Fanning came back, said he spoke to the minister who said yes, approval, and go ahead and do it. I will have to check that because this is where a lot of – I could be wrong, too, but I do not think so.

Anyway, I will just move on. Of course, we could not get the answer, Mr. Chair. I just want that on record. We could not get the answer. If they had complete authority, which they thought, why were they going to the minister trying to get authority to go ahead with permission to do it? So obviously there was not 100 per cent complete authority given to you guys to give these great pay raises at the time.

On page 179 of the Auditor General's report, it says right here, "Centre officials indicated that the Minister had not responded to their letter regarding the implementation of the new pay structure."

It was raised at the time. Can anybody tell me why – I do not know who was in on the discussions at the time, or if there is anybody there now who were in on the discussions. If you felt you had the authority, why was it so adamant that you needed the minister's permission? After you were seeking the minister's permission and you did not get it, why was it done without his written permission?

MR. BARRON: The paragraph above discusses a special board meeting where the board certainly knowing its authority, proceeded with approval of the new salary scales because the Centre was having difficulty recruiting and was having difficulty doing what it needed to do as per its legislation.

The sentence below was a sentence that, certainly when the Auditor General came in, when they asked: Did we have a letter? No, we did not have a letter.

MR. JOYCE: It was just a wink and a nod from (inaudible).

MR. BARRON: No, I had a letter from Mr. Fanning that outlined that he, along with the rest of the board – not me, because I would not vote

on that – once again, that special meeting to proceed with putting in that salary structure. That is what the executive would have acted on, would be the letter from Mr. Fanning.

MR. JOYCE: I just want clarification. I think the Chairperson just mentioned, now they have someone on the board from the Department of Health. From my understanding, was there not someone on the board when this was done also?

MR. BARRON: Yes.

MR. JOYCE: Yes, because you mentioned that now with the new realignment there is someone on the board but there was always someone on the board at the time. If you notice in the Auditor General's report here, is that this person – who was the CEO at the time?

MR. BARRON: I was the CEO.

MR. JOYCE: Okay. Can I ask a question then? Again, I am just going by what is in the Auditor General's report.

"Despite the concerns raised by the Board representative from the Department and the CEO, the Board approved the new salary structure." If you were excluding yourself, did you have input into this?

MR. BARRON: I would have input into most issues if the board sought my opinion on anything.

MR. JOYCE: I am getting confused here.

MR. BARRON: No, no, there is no confusion.

MR. JOYCE: No, no, don't say I am not confused, because I am. I know it is a distraction to you. I am confused because you are saying you would step aside if there is any issue with the compensation but here you have input into it. You cannot have it both ways, Sir. Either you excluded yourself from all of that and let someone else take the role, or you did have input. You cannot have it both ways.

MR. BARRON: I would have had input.

MR. JOYCE: So you did not exclude yourself.

MR. BARRON: But I would not have voted.

MR. JOYCE: Okay, but you can have input.

I ask the Auditor General, is this normal for someone who is going to benefit from it to have input into it until they get to the board; now all of a sudden: No, boys, I can't vote now. Did you ever see a board structure – because in my experience with board structures, first of all the CEO would never be able to vote anyway. I do not know how that ever came about. Is that common?

MR. PADDON: I think that was the point we were making in the report. That having the CEO as a voting board member is an odd structure because it does create some issue. It is not unusual. As a matter of fact, it is probably the norm that the CEO, even if they are not a board member, would attend board meetings just because of the nature of the position and that sort of thing, and clearly would provide input into whatever issues are being discussed at the board.

Even if it is compensation issues, I suspect there is clearly a role there for the CEO to provide the information to the board. If the CEO is also a voting board member, then it stands to reason that they probably would excuse themselves from voting if they are a beneficiary of a particular issue. I think that is what I heard Mr. Barron say, that he did exclude himself.

MR. JOYCE: Okay, you can have input but not vote. That is a good one. Okay.

I am going to go to page 175. It says here, “The Public Service Commission recommends a competition file contain documentation such as screening criteria...”, and I see it was not done here. Is that being done now for any new positions or any –?

MR. BARRON: All of our recruitment at this time is already following the policies of the Public Service Commission.

MR. JOYCE: Okay. I just want to get it clear again, that when the chairperson said that Health and Community Services has a member on the board, there always was a member on that board, the ADM or the DM. That is nothing new, from my understanding?

MR. BARRON: That is not new. No, Sir.

MR. JOYCE: That is not new, no. Okay.

I will go to page 176. This is coming back to something you said, that you know you had the best qualified person, “applicant assessments resulting from the interview process were not documented in any of the 10 files. As a result, the Centre could not demonstrate that the most suitable applicant interviewed was selected.”

If that was the process, how are you sure that you had the most qualified person instead of just picking somebody, giving them a huge increase, and saying take the job?

MR. BARRON: I do not believe that refers to the executive positions we were talking about previously.

MR. JOYCE: Any positions.

MR. BARRON: Yes, but these positions here, what would have happened there – well, for example, if you view having everything done as 100 per cent, the Centre did 90 per cent. What that refers to is that on the front end there was not a written record of how – say there were fifty job resumes came in. Well, our people certainly were not sitting there with a column and a spreadsheet ticking them all off.

A lot of times, particularly when you are in growth mode, you would certainly look at these and take out people who met the basic qualifications immediately, you put them to one side, and they would be the ones you would have a tendency to try to pursue as part of recruitment. All of the rest of the processes involved with the recruitment process, including having hiring boards, documenting best candidates, et cetera, all of that would have been taken care of, yes.

Just to let you know, as of now, we are doing exactly what the Auditor General has pointed out. We are now documenting every resume that comes in to ensure that nobody slips between the cracks.

MR. JOYCE: I am confused again. I will just read it. “Our review of 10 job competition files identified issues with the completeness of the documentation to support the competition process.” He went through it, “screening assessments were not documented in any of the 10...” So we do not even know how someone was screened in or someone was screened out.

“As a result, the Centre could not demonstrate the most suitable Candidates were interviewed; and applicant assessments resulting from the interview process were not documented in any of the 10 files.” I mean ten out of ten. “As a result, the Centre could not demonstrate that the most suitable applicant interviewed was selected.”

MR. BARRON: I would suggest that would be because of the expediency required at the time. It was not as a means to determine people or to screen out people who were qualified. Essentially, people were very busy and they had big stacks of resumes. That would have been the approach taken at that time.

MR. JOYCE: There is no way to confirm that you had the best qualified person picked for the position? As you said earlier, we just picked the best qualified. There is no way to determine that.

MR. BARRON: I would suggest that the candidates, when they are hired, if they were not qualified then you would take whatever other means you need to.

MR. JOYCE: I am missing –

MR. BARRON: I mean, that is what it is. I just explained that in the future –

MR. JOYCE: When you say that here – I am just going with the Auditor General – when you say to us and say here that we picked the best

qualified candidate, yet when you picked ten out of ten, there is no documentation to show that you picked the best qualified candidate, it is hard to justify your statements that the best qualified candidate was picked when there is absolutely no documentation, out of ten out of ten files, to suggest that.

MR. BARRON: That is not correct that there is no documentation. There was no documentation of the initial assessments. There is documentation of the interview process.

MR. JOYCE: I think you should read page 176.

CHAIR: Mr. Joyce, we should move on to Mr. Cross now.

MR. JOYCE: Sure.

MR. CROSS: Thank you, Mr. Chair.

This being our second go-around, I guess most of my questions that I would have asked in the beginning would have received an answer.

Just to review, I guess, the dates in most of the documentation here indicate things that have happened since 2005 and 2008; 2012 is when the Auditor General did the report. Today is 2013; 2014 is when the Auditor General is going to come back and look at what has been happening. In looking at this organization, it has grown from approximately fifty employees to 160-plus, from a budget that is quadrupled or tripled in that same amount of time as well.

I have two or three areas that I just want to look at and the main theme, I guess, or the main question about what I am asking is: How is this done today? Not how it was done in 2005 or 2008, or what you expect to be ready for 2014, but 2013, today.

We know that Mr. Joyce has referred to, on a couple of occasions today, concerns by the board representative from the department and the CEO. I will just read from page 179. This is a 2008 scenario.

It says, “At a Board meeting on January 16, 2008, the Board considered the new classification and salary scales proposed...” – and I will jump ahead, it says, “Also documented in the minutes was the CEO’s comment that ‘this is similar to the pharmacy market differential which was not supported by Government. However, if we proceed with implementation and it is taken in the wrong context by Government, there is a fair amount of risk for the CEO.’ He agreed with the Board representative from the Department, that the Board should wait for a response from Government. It is also on record that the Board representative from the Department voted against the motion.” Despite all of these concerns, a vote was taken and action was done.

How would that be done today? Is this still the same practice? What would be in place today that would show us that there is a growth from that?

MR. BARRON: Certainly the main thing that is in place today is the complete alignment as we move forward with government policies. When it comes to the authority of the Centre, the legislative authority of the Centre has not changed, but the board of the Centre has certainly agreed – because, once again, salaries have changed even in the public service since that time. What we are working with now is hoping that those increases in the public service, as well as potentially using the market adjustment policy of government down the road for those really tough to recruit positions, will hopefully meet the needs of what the Centre’s mandate is. That is the thought.

As a result of that, the board right now is completely in line with and certainly agrees with the Auditor General’s recommendation for the Centre to become fully aligned with government policy. It is really a mentality thing of the board; the board agrees that we will align with the government compensation regime.

MR. CROSS: Okay.

Table 3 on page 181, talking about the difference between the Centre salary scales and

government salary scales – this is of October 2012 – there were points where the Hay point totals and the Hay scale was used and the Centre’s scale was used. It had pretty similar statistics, yet the pay difference was quite a bit.

Has that come more closely in line, has it been red-circled, or how is that differential in the salary for someone who is conceivably at the same point as a government employee?

MR. BARRON: As part of the alignment process, we are working with the Human Resource Secretariat to re-evaluate every position so a new Hay point total will result from that process and, at that time, we will be matched up with whatever the equivalent government process is.

The Hay system in government is not the same as the Hay system that was employed by the Centre. As a matter of fact, the Hay system in government was put in twenty-five years ago; it is not the same. We will be working with the Human Resource Secretariat to re-evaluate all of our positions on the government scale and match them up with the appropriate compensation. That is part of the alignment process that we refer to.

MR. CROSS: Okay, so there is no indication of what the difference in salary may be right now versus what it was a year ago or where it will be in 2014 or going beyond?

MR. BARRON: No, there is not; but, certainly, our indication would be that it will happen this fall.

MR. CROSS: On page 191, the first are bunch of recommendations here, and I guess not necessarily how is this done today or how close to implementation are these recommendations – recommendations: The Centre should conduct and document job competitions for all job postings.

MR. BARRON: We do.

MR. CROSS: So that is done, signed off, and up-to-date?

MR. BARRON: Yes.

MR. CROSS: Ensure compensation policies are consistent with those of government.

MR. BARRON: We have a board set of policies that were submitted to government. We vote our policies to align with the government compensation policies and the board approves subject to government confirming they were aligned. It was just last week that we received documentation of some wordsmithing, more than anything else, and we will wordsmith exactly as we have been asked to do to make our policies completely aligned with government.

MR. CROSS: Okay, you are talking about wordsmithing, so out of the vague language that was used in some of the previous things that we looked through, like on page 182, we talked about performances and step increases. There seemed to be a lot of language there that left a lot of leeway. So you are talking about the wordsmithing that is going to tighten that up, and that is going to –

MR. BARRON: Well, it is a couple of things. Sometimes, we would have had two policies, for example, where the government may only have one. That kind of stuff, really, is what I am more referring to.

MR. CROSS: Okay.

MR. BARRON: Of course, these policies are vague. Even when you look at the civil service policies, there is a little bit of vagueness to some of them; but, for the most part, they are very self-explanatory. Our language over the next week – like I said, we just received this last week. Our language will reflect exactly the language of government. There will not be any room for whoever follows in the Centre to get a different determination of what –

MR. CROSS: So we should not be confused when we –

MR. BARRON: Well, it will be the government policy.

MR. CROSS: Okay.

To ensure Centre policy is followed regarding: an effort to hire at step 1 prior to upscale hiring.

MR. BARRON: Absolutely. That is the current practice right now at the Centre.

MR. CROSS: Okay.

Consider whether a position vacancy can be filled with a permanent or temporary salaried hire prior to a decision to outsource work. So outsourcing and contracting out, how –

MR. BARRON: We always try to do that, and we will continue to try to do that. Once again, depending on your project milestones and the timelines associated with a project, you need to do what is right for the project. We always look to see if we can hire somebody, as opposed to going external.

As you can appreciate, you cannot always hire somebody, particularly temporarily, that have the specific skillset in the area that you require that will leave a permanent job to come to a temporary position associated with a project; but we always try that.

MR. CROSS: Okay.

I guess I did not plan my ten minutes so well, but that concludes what I have ask right now. I do reserve the right to come back a little later.

CHAIR: Mr. Mitchelmore.

MR. MITCHELMORE: Prior to the new pay structure that was implemented in 2008, the Newfoundland and Labrador Centre for Health Information had the ability, through different hiring means, to look at if an employee was difficult to recruit. As with other agencies and departments, there is a process through the Treasury Board and through ministerial approval that could be sought. That is correct, right?

MR. BARRON: Well, certainly we are aware of the market adjustment policy as it currently exists today.

MR. MITCHELMORE: Right, but prior to 2008, prior to these changes, that option always existed for your organization.

MR. BARRON: I am not aware that it was. The only thing I am aware of in the health system would have been the pharmacists. It may have been called a market adjustment or it may have been called a market differential.

MR. MITCHELMORE: I guess depending on the skill set and demand.

MR. BARRON: It was really difficult to hire, yes. To my knowledge, that policy only came in around 2008 with government for that, and it was only for a couple of positions. Once again, I am not in government so I do not know.

MR. MITCHELMORE: Right.

Government has a policy that allows for wage differentials and upscale hiring in certain instances.

MR. BARRON: Today they do, yes.

MR. MITCHELMORE: The Centre for Health Information in 2008 went through the process that was in its mandate and in its legislation where it prepared and put forward documentation to the Minister of Health and Community Services at the time to seek approval. There was nothing in writing and the Auditor General requested that letter. It has been referred to this morning and also in the last meeting.

Did the Auditor General have the ability to ask maybe the Department of Health and Community Services if there was a letter to seek out that information, or is that not a possibility?

MR. PADDON: We certainly do have the ability to ask the department, but in this case we just inquired of the Centre had they received a letter or a response from their initial request, and the answer was no.

MR. MITCHELMORE: Okay.

The Auditor General's report also highlighted in the board meeting that the department official with Health and Community Services voted against these wage increases. So there was no written approval by the Minister of Health and Community Services in agreement with these new pay structures. The department official voted against this pay structure, but the board saw it was appropriate to look at increasing the wages of these individuals without the authority, basically. That is correct, right, Mr. Barron?

MR. BARRON: The board voted majority to proceed with the wage regime, yes.

MR. MITCHELMORE: The votes were basically all of the non-government, non-Department of Health agency voted against. One vote –

MR. BARRON: There were government people – actually, at least one who voted for.

MR. MITCHELMORE: What government position was that?

MR. BARRON: OCIO.

MR. MITCHELMORE: Okay.

MR. BARRON: There was also a member of Nalcor as well who would have voted for that, or an employee of Nalcor who would have voted for approval.

MR. MITCHELMORE: Okay.

On page 180, it highlights the salary increases for the Director of Finance, the Chief Privacy Officer, and basically six positions that received an average increase of about \$15,500 each, while all the other employees at the organization received about \$2,000 in increase. My original line of questioning was: What has changed in terms of the organization?

You provided some response to Mr. Parsons when he had asked about the work and the scope of the individuals to justify or look to justify these large salary increases, because they have

jumped, in a short time span, up to 135 per cent. That is significant.

My question to you would be: What positions did you have that were difficult to recruit back in 2007-2008?

MR. BARRON: I would have to go back and see. We do have a record of what positions. I can assure you that anything involving information technology would have been difficult to recruit, and that would be consistent with the advice and consultation I would have had with the OCIO at the time. These jobs are difficult to recruit, and it is not about recruiting somebody with a title. It is about recruiting somebody who can go to work immediately as opposed to us bringing them up to scratch.

MR. MITCHELMORE: I want to point out then that if you are talking about technology, and there is certainly a high skill level for certain technology positions, they may be difficult to recruit. I would like to see that, but the positions we are talking about here that received the salary increases, and the bulk of them were management positions that were already on staff who had basic title changes and some additional duties added, while the rest of the staff received the average of \$2,100 each. Those would be those technology people and whatnot, those difficult to recruit positions. Am I not seeing something here?

MR. BARRON: I do not know where the \$2,000 is coming from.

MR. MITCHELMORE: It is on page 180. It says the average increase of the other fifty-two employees.

I guess we would need to see a breakdown of the actual jobs that were – the positions and the salary ranges, before and after.

MR. BARRON: We can certainly supply that to you.

MR. MITCHELMORE: Because we need to see to show where you had difficulty in recruiting for that hiring process to justify how

salaries were being increased. It seems like the top management positions received a significant increase in salary and there is no indication that these positions could not be filled by other people. There were no job competitions for them.

I question then: Were there job competitions opened up? Once people were promoted to a vice-president position, the management position or the position below that stayed, were there open job competitions for those positions?

MR. BARRON: In some cases there would have been positions. In some cases there may not even have been a position.

Once again, you are going back right now to about 2008. When you look at the management, I believe I have mentioned it to the committee before, our job was to make sure we solidified at the top. While in that time frame you may see the \$2,000, over time the employees at the Centre, outside of people who were reclassified, everybody was treated the same after we got through that growth period into 2008-2009 time.

MR. MITCHELMORE: Okay. During that process I would like to have the legal fees that have been expended through the Centre for Health Information leading up to this job classification and then after the fact, because there has been a lot of legal fees, legal services retained.

MR. BARRON: Could you provide us the dates and we will provide that information?

MR. MITCHELMORE: I would like a breakdown for each year.

MR. BARRON: From what year, I am sorry?

MR. MITCHELMORE: From 2007, 2008, 2009, 2010, 2011 and 2012.

MR. BARRON: Absolutely.

MR. MITCHELMORE: If it could be provided, further information on that. I appreciate that the Centre for Health Information

in our questioning did provide a significant amount of documentation which helps in the accountability process but I still see significant flaws in how wages were increased for a number of employees at the Centre for Health Information without seeking appropriate approval to the rules and policies that existed.

It is quite clear that the Centre for Health Information did not have the approval from the Department of Health and Community Services. It sought a significant amount of legal opinion to basically fight this to – I question about the oversight and the ability of how a Crown corporation feels that it has such authority to do so, and the board of directors to go against government policy. I would like to know what the cost is in legal fees and in salaries above the amounts, because right now there are a number of employees who are being red-circled. Correct?

MR. BARRON: No, actually; we are awaiting a response on our road map, which you have a draft of, for the official move toward where we need to go.

MR. MITCHELMORE: So the road map was supplied, and you had said you had received a response from the Department of Health and Community Services on this road map?

MR. BARRON: On the policies, not on the road map.

MR. MITCHELMORE: Okay.

So what policies is the Centre for Health Information taking? Is it doing red-circling? Are there people who are going through the voluntary process of receiving a lower salary at the reduction of 10 per cent?

MR. BARRON: We await the direction of Treasury Board, I believe, which is where that would sit.

MR. MITCHELMORE: So is the Treasury Board providing you with some information as to the overall costing of what these decisions have made by the board that did not have

approval by Department of Health and Community Services?

MR. BARRON: No.

MR. MITCHELMORE: Can costing be looked at? I think the taxpayers need to know how much this has actually cost, this decision that did not have approval by the Department of Health and Community Services.

MR. BARRON: It will be difficult, but certainly when the new evaluations are in place, you would be in a position to get an indication of what it would have been like. It is hard to compare apples to apples there, but certainly, yes, that information, you could come up with a number.

MR. MITCHELMORE: There could be cases where individuals, if red-circling is the option taken, would be well beyond a comparable government salary for a similar position being done. I am correct in that, right?

MR. BARRON: Possibly, yes.

CHAIR: Mr. Mitchelmore, we should move on to Mr. Brazil.

MR. MITCHELMORE: Okay.

CHAIR: We will take a ten-minute break when Mr. Brazil finishes, a mid-morning break.

MR. BRAZIL: Perfect.

I do respect my colleagues' questions and they are very pertinent to us clarifying where we are, but particularly how we got to where we are at this point. I suspect I still do have, but I feel much better now that we are on the right track. I like the template you have set out in addressing these issues and the concerns about the amount of increases that were there.

My first question, again, is just to an understanding. As a former civil servant and somebody who has gone through recruiting employees, understanding you can negotiate to a certain level in what step in the scales that we

worked on. I understand the scope of work changes from the day somebody gets hired to the day you do reclassification or a new realignment and these types of things.

When you did your assessment, obviously maybe the base amount was particularly around what the government levels were on the Hay scale or the HL scale, did you look at other jurisdictions? What did you just base it on?

Arbitrarily, just looking at qualifications, experience, or the scope of their work is one thing, but there has to be a template somewhere. Was it Nova Scotia, Ontario, anywhere else in the world, that you would say here is what somebody doing comparable responsibilities would be compensated for?

MR. BARRON: We employed an external company that does those types of things, and they utilized the Hay level methodology and they used the blended public-private sector rate for Atlantic Canada. That would have included 80 per cent public, I believe, and 20 per cent private. That would be our market; that Atlantic Canada market was essentially the environment from which we were competing as opposed to in just, say, a St. John's market, for example.

That is what was used and, once again, that was supplied to us through the consulting company.

MR. BRAZIL: Did that take into account the increases then that were negotiated for the public servants, nearly 21 per cent?

MR. BARRON: Actually, I do not know if the provincial government information is part of that particular group, particularly where the Hay level in government is reasonably old. So, I do not know.

MR. BRAZIL: I am trying to get my head around – I have no problem with a disparity between the two entities because maybe the responsibilities, again I keep saying the scope of work, but the nature of the thing and the expertise you may have to have. When it becomes this big, it becomes more of a concern. Now, if it is less and less because what was then

negotiated with the civil service would have brought everybody up at the end of the scale, fair enough, then we know if there is disparity it is part of that process. I will research some more of that and find out exactly where we are.

My issue now is on a go-forward basis to make sure that we have covered every basis here. One that the governance process is dealt with now; that the process from the CEO to the voting concept is all in line with what we do with other Crown agencies and associations and organizations within government. Am I correct on that?

MR. BARRON: Well, there are still instances I am sure in the public sector that the CEO may be on the board.

MR. BRAZIL: There is no doubt there is unique – there is an umbrella, but it is not etched in stone how it does it. Every agency –

MR. BARRON: I can show you certainly, and maybe Mr. Dillon can talk to the governance, but –

MR. DILLON: From a governance perspective, Mr. Barron did resign from the board. So, as would be expected, he certainly is there to help us out at our board meetings, supply us with the information, but he is no longer a voting board member whatsoever. So, it is not a case of excusing himself from certain things; he is no longer a voting member of the board.

MR. BRAZIL: Okay. Thank you on that.

I do realize – and I appreciate Mr. Mitchelmore's question, too, about the amount of money being spent, and I do understand from your organization's point of view. You wanted clarification as to what your responsibilities were when it came to compensation from the act itself. There is no doubt, I would think, parts of the act would have to be reviewed to be clarified exactly so everybody understands what it means and what the interpretations are. I think the Auditor General has alluded to that also.

I am going on the assumption that you guys assumed you had that pure responsibility and authority to be able to compensate based on your own internal reviews of what the roles and responsibility would be in the compensation package for that.

MR. BARRON: Yes, and certainly from my observations being on the board at the time, the business leaders and senior members of other public agencies who were on that board felt this is the route that had to go.

MR. BRAZIL: It may be not a fair question, but do you think you still should have that same authority now?

MR. BARRON: I think there are ways now where government compensation has gone up quite a bit over the last six years. With the new market adjustment policy, there are ways we could work within the public system to meet our needs on a go-forward basis.

MR. BRAZIL: Okay. That is the right answer from my perspective.

MR. BARRON: Yes, and once again, that remains to be seen but that is certainly what we are going to do.

MR. BRAZIL: Okay, that is reassuring.

My only last comment was we all must understand where we come from. It was alarming when we saw the disparity, not only from a taxpayer point of view but even from a bureaucratic point of view, from other bureaucrats trying to understand exactly why, particularly people in line departments who in their own responsibility would think they do a similar type of work, what went on there.

With that being said, we do realize recruiting people in with specific skill sets is very important. We want to get the best person or best individual to be able to do the best scope of that work. To be able to do that, we have to be accountable for what we pay out. More importantly, one of the concerns my colleagues had outlined, too, was about everything being

documented. I have no problems in appointing somebody in a temporary position. We do that every day. It is part of the process.

No doubt, then, when the job spec is put out there that it is an open competition, be it internal or external at the end of the day, and that the process as followed is transparent, that we know why this individual got it or why the individual scored second but was offered the position for a number of reasons. That happens in any organization; it happens within government. It makes it easier for us, but more importantly, the taxpayers know exactly what is being spent and why it is being spent.

The accountability is very important, and that is what this is about. I am glad to see that within the last six months even the process has been put in place. What has been outlined in the documentation shared with us does outline that you are moving in the right direction.

I would make government a little bit more accountable for reviewing the act, to make sure the act falls in line with what the perception of transparency, authority, and autonomy is versus being able to be out there and then challenging that down the road. I do not feel it is appropriate for any agency to spend hundreds of thousands of dollars of taxpayers' money to be able to either justify doing something or coming back and saying: Government, we need authority to do it. It should be thought out in advance so that it is in the best interest of everybody being served, particularly in this case, the taxpayers.

I do thank the Auditor General in this case, too, for outlining the concerns here, and obviously back and forth. I do appreciate the fact that you guys have accepted the fact that major changes need to be made in the organization to bring it in line with other agencies within government. Hopefully, this process continues to get to a point where there is no discrepancy. Pay discrepancy I have no problem with, once it is justified and transparent.

With that being said, Mr. Chair, I am comfortable to know we have moved forward. At the end of the hearing, obviously, we will see

from the Auditor General's point of view where he thinks we have gone, and obviously we will hear that from our colleagues as the morning goes on. At this point, I am quite comfortable where we are.

CHAIR: We will take a ten minute break. I am going to ask people to keep the ten minutes sharp because we will try to conclude this morning, but if we cannot, we will have to roll over. If we use up too much time with breaks in the morning, we will find ourselves back here in the afternoon; not that that would not be a wonderful experience, but everybody is busy and if we can do it this morning we should try to get it done this morning.

Thank you.

Recess

CHAIR: Okay, ladies and gentlemen, we are back on. We will resume questioning with Mr. Joyce.

MR. JOYCE: Thank you again.

I am just going to ask some questions about the minutes that I had some time to review. I will just go through it and I will ask for clarification and just give an opportunity to look at it.

If you go back to the minutes of January 16, 2008 – Mr. Barron, I guess this is going to be an opportunity for you to clarify it, or get the minutes readjusted, because in your earlier testimony you stated that you never, ever voted on any issues pertaining to compensation dealing with yourself.

In the minutes – and this is a chance to clarify it or get the minutes changed – it was proposed and seconded by S. Peters/F. Cahill that given the urgency of the need for a new classification and pay scale, and after due consultation with the Minister of Health and Community Services, that the board approve the implementation of such retroactive to the date of proclamation of the Centre of Health Information Act - carried.

For the record, J. Strong voted against the motion; telephone attendees voted, R. Bryans and T. Dawe. In that, there are no minutes that you declared a conflict, or if you did not vote for it or abstained.

CHAIR: Mr. Joyce, what is the date of those minutes?

MR. JOYCE: The date is January 16, 2008.

MR. BARRON: I can assure you, Sir, that I would not have voted on that and despite the fact that the minutes may not have made note of the fact that I did not, that was a common practice at the board table that I did not vote on compensation issues.

MR. JOYCE: Okay.

I just find that the information that was given here and the information that was coming from you for each time for each job posting, why it was done as justification, then when you brought up about the wage increase, such huge wage increases, and you were adamant that you would never vote on it, yet J. Strong voted against the motion.

Will you ensure that the minutes are clarified? Or is there a mistake there? This goes back to the whole concept of the hiring practices because we are given a reason why all the hiring had to be done, why there are such huge increases; and then now, all of a sudden, you said no, no, I would never get involved with that. A lot of this testimony – it is in the minutes that it is coming from you.

So, would you be able to get that clarified in the minutes, because it clearly states in the minutes that you actually did not abstain from it?

I will go on page 2 of the same minutes – Declaration of Conflict of Interest - no conflicts declared by members present. It is on page 2 of the minutes.

MR. BARRON: I am still trying to find the minutes.

MR. JOYCE: Yes, take your time.

MR. BARRON: January 16?

MR. JOYCE: Yes.

MR. BARRON: Once again it was assumed always that me, as CEO, I could not vote on financial statements or issues of compensation. So, if need be, certainly I could go back to all those board members and –

MR. JOYCE: Can you see why someone like me –

MR. BARRON: Oh, absolutely, and going back –

MR. JOYCE: – and then you ask and everything is a wink and a nod –

MR. BARRON: – and this is five years ago, and certainly I can tell you that when I read those minutes and saw the board approval as part of the process we went through, the AG, I was surprised that there was not a note of me being excluded from the vote as well.

MR. JOYCE: So twice; there was no conflict, number one; and also, because at each –

MR. BARRON: Well, it is one minute, right.

MR. JOYCE: No, first they asked, right at the beginning, declaration of conflict of interest; there are no conflicts. At each meeting the Chairperson asked: Are there any conflicts of interest? It was either declared for what was on the agenda, and there was nothing declared at that time. Also, when the vote was taken, it was clearly in the minutes that you voted for this big compensation package.

MR. BARRON: Well, it is not clear that I voted for it; it is just not clear that I did not vote for it.

MR. JOYCE: Well –

MR. BARRON: Even recently we had a finance and audit committee meeting. When they declare a conflict, everybody knows I cannot

vote on it, so it is just not done. Once again, we will certainly take that under advisement and make sure that in the future –

MR. JOYCE: I will ask the question now; I do not know who can answer it: Why was there J. Strong who voted against the motion, which was in the minutes, and then also people on the phone, R. Bryans would prefer waiting for a few days, but agreed with the motion; T. Dawe voted for the motion. Why would all of that be in the minutes, yet you say: no, I abstain, or I cannot vote. Why would that –

MR. BARRON: I cannot answer that for you; I do not know.

MR. JOYCE: Were you the one who helped put this whole compensation package together?

MR. BARRON: That was done with an external consultant and the help of executive and with advice from our senior members of our board.

MR. JOYCE: What was your increase, the CEO?

MR. BARRON: My increase?

MR. JOYCE: Yes. I could look it up there, but –

MR. BARRON: Yes, I do not have it offhand, but my increase was significant from my result.

MR. JOYCE: Can you –?

MR. BARRON: Well, once again you would have to get the dates and I could get you the numbers.

MR. JOYCE: I could ask the Auditor General.

MR. BARRON: Yes, sure.

MR. JOYCE: I do not know if the Auditor General would have it close.

MR. PADDON: Let me see if I can find it here now.

MR. BARRON: Actually, my increase was (inaudible). I had a contract with government initially as being the CEO. My compensation was changed as a result of the increasing size and complexity of the Centre as opposed to the contract I initially hired. As a result, the Board Chair at that time went out and got professional advice as to what the compensation for a position of that type should be.

MR. JOYCE: Sure.

My other question, I suggest to you that the information you gave here today that you voted, you never, ever voted for any of this here. My suggestion is that you get the minutes clarified.

MR. BARRON: Sure.

MR. JOYCE: The other thing, and this is a question, is in the next meeting. At this meeting, why was it all made retroactive? Why would all the increases be made retroactive? "...retroactive to the date of the proclamation of the..." Centre for Health Information Act.

If you hire somebody today and you get hired on a certain pay scale, then all of a sudden you approve a new pay scale, why would you make it retroactive to everybody if everybody knew what they were hired and the compensation they were getting?

MR. BARRON: The retroactivity would have applied to the fact that when we became a Crown agency that is when the activity related to that particular change occurred. Much like if you are applying for reclassification, for example, in government and it gets retroactive to when you put in for your reclassification, the rationale at the time, and once again it was not a sole decision of the CEO as much as it was a conversation and discussion among board members, and as well as how it is laid out in the minutes, that in fairness to the people who were doing that work, it should be retroactive. So it was a fairness principle, really.

MR. JOYCE: Okay.

Was it made retroactive once that was done?

MR. BARRON: I think so, but I would have to check that.

MR. JOYCE: Okay.

MR. PADDON: Yes.

MR. JOYCE: It was made retroactive?

MR. PADDON: That is my understanding, yes. It was, yes.

MR. JOYCE: Okay. We had this set up then we went ahead and asked the minister for these huge increases. We did not get anything in writing. We went back and gave the increase and we made it retroactive. Then you wonder why it is a bit distracting to a lot of people that this is the procedure.

I want to go back to your other board minutes. I knew I got the information on February 28, and I knew it was from the last meeting. If you go to Business Arising on page 2: B. Fanning met with the minister on February 27. If you go through the minutes there it shows that the minister would not approve it until they had further consultations. Then B. Fanning meet with the minister on February 27, and then on February 28 it was approved.

In our last discussions, and I am sure I can get the minutes of it, you mentioned that Mr. Fanning met with the minister at the time, Ross Wiseman, who said sure go ahead. He came back and said: Yes, sure go ahead. I spoke to the minister, go ahead with it. I was not dreaming it. The minutes show that he did meet with the minister the day before and he brought back to the board – without any written approval from the minister, he came back verbally and said he had the okay from the minister.

I will check the minutes from our last meeting on it, but that is how it happened. Just to clarify that for my own personal – I am going to go to page –

CHAIR: Mr. Joyce, we should go to Mr. Parsons now.

MR. K. PARSONS: Thank you, Mr. Chair.

I am just going to conclude this morning with a couple of observations. Like I said the last time speaking here, it is going to be very interesting to see what happens and where you have come from since the Auditor General's report. I hope you guys understand that there are a lot of questions to be asked. I hope you are going to be on the right track when it comes to all the compensation and salaries in compliance with government policies and things like this.

Again, I am going to conclude by saying it has been very interesting, probably the most interesting one we have done so far as the Public Accounts Committee. I am going to be waiting to see what happens with the Auditor General and where you guys have come from. I know there are a lot of issues here and there are things that we would like to see put in place to make sure that the compliance is there when it comes to different policies and things like that.

I am going to conclude, and thank you guys for coming here this morning.

Thank you very much.

CHAIR: Mr. Mitchelmore.

MR. MITCHELMORE: Thank you, Mr. Chair.

I am concerned, very concerned about the findings of the Auditor General's report and the fact that the CEO would, in *The Telegram* over the weekend, state that the salaries is a distraction basically, this whole Auditor General's findings. It is quite clear that the Auditor General had found the Centre for Health Information was not in compliance with policy, as well as the Department of Health and Community Services. It has been articulated over and over again; yet, the Centre operated on its own accord and it is costing the taxpayers a significant amount of money.

It is very frustrating to take the viewpoint that this is a distraction, because this is very important work that is being done here to make

sure that organizations within government that are funded by government are in compliance. That is certainly the role of the Auditor General and a role of our Public Accounts Committee, is to ensure that funds are spent wisely. They have to be accountable for actions. It is good to see the Centre for Health Information is taking action, but it is only taking action because it seems like it is forced to. I need to see the legal documentation.

What I would like to see is what caused or what was the premise for this need to have a new payee regime? In anything documentation has been put forward, you are saying recruitment. What brought on that we need large pay scales for our top management?

MR. BARRON: The need to bring on large scales was not just for top management, and it was not about large scales. It was about paying the appropriate scales to recruit the people that the Centre required to fulfill its mandate.

MR. MITCHELMORE: But you did not recruit any new individuals for these top management positions.

MR. BARRON: We had very qualified, competent people who grew with the organization that were rewarded for being in that place of growth within the Centre. Once again, that could never happen today, but they happened to be in that place and showed the type of skill sets we required to fulfill and meet the mandate of the Centre.

MR. MITCHELMORE: I assume it would never happen today because of the findings of the Auditor General's report that has basically squashed any ability of looking at such type of practice to continue with your organization, because it is certainly something that was not willingly complied with. Do you agree with that?

MR. BARRON: Well, no, it is your statement.

MR. MITCHELMORE: I guess I need to wait for the additional documentation, but it is very unfortunate that Mr. Fanning is not available to

be able to be questioned by the Public Accounts Committee for clarification purposes on a number of matters that were discussed before the board. It seems like we have new board members and a new board Chair. When it comes to oversight and accountability for our Public Accounts Committee, the original board members during this whole process are not present in the room to get the answers I think we need.

Is that something, Mr. Chair, that is possible, to look at requesting Mr. Fanning to appear before the Public Accounts Committee?

CHAIR: Generally, any organization advances the people who have the most or the best information, or who can make themselves become informed. In order to compel attendance, we would have to go before the House of Assembly and essentially have the House of Assembly make an order in the nature of a subpoena that an individual attends.

When organizations show up for this type of a hearing, they advance the people who either have the best information or the most information because they do not really know what is going to be asked, or people who can become informed from the organization because no one person would know everything.

Mr. Barron, I would think, is certainly the best or the most appropriate individual. Maybe Mr. Fanning knows something more. Mr. Barron has been with this organization for the last five, six, or seven years, so he has been privy according to the documentation. He would seem to be probably the most appropriate person and he is here; that is not to say you always get the answers that you are looking for. On a few occasions he has indicated he would not want to hazard a guess on what he is advancing.

If there is something he can refer to his files and provide the information, then that is usually how that is done. The witnesses that are here, I am satisfied they have the requisite information or the ability to obtain the information so the Committee can be fully or adequately informed.

MR. MITCHELMORE: There have been questions that have been asked by myself and particularly Mr. Joyce around the conversation and the lack of documentation, the letter to the Minister of Health and Community Services. When they had sought approval, Mr. Fanning had a meeting. The only person who could actually speak to the direction given by the Minister of Health and Community Services at that time would be Mr. Fanning, which led to a series of events from the minutes and the documentation of this board meeting that ended up approving, despite the Department of Health and Community Services representative voting against it, which clearly indicates there was not support from the department's side.

I think it would clarify a lot of issues if Mr. Fanning was available. He is the only person who clearly could answer any of these questions when it comes to what actually trickled down in terms of the aftermath. Now we are seeing that salaries are much higher than the government norm, and there has been a lot of legal fees and a lot of salaries, even with the rollback, the retroactive amount.

Initially, when people were hired, they were hired based on that skill set, that ability, and to do their job. Obviously, when they were doing their original job, it is not the same amount of work as Mr. Barron has said with the growth phase. Now I am the vice-president of a certain position, that is not what you were hired to do originally and so you got a significant pay raise for a different type of work and different scope. That is pretty frustrating.

Is there something you could clarify, Mr. Barron, on those comments?

MR. BARRON: The only clarity I can give you is that I was not privy to the discussions between Mr. Fanning and the minister, and that I acted completely upon the direction of the board at the time to do what we did. If at times judgment is into question, well, judgment is into question; but everything that was done was done for the right reason and for the purposes of fulfilling the mandate of the Centre for Health Information,

which was to improve where it could the health system of the Province.

MR. MITCHELMORE: I think overall the only individuals who could provide further clarity beyond Mr. Fanning would be the Minister of Health and Community Services at that time, and if there were other individuals present at the meeting. To go further with this, that is where the Public Accounts Committee would have to go.

It is quite clear that your organization was not in line and had spent the taxpayers' money in a means that is going to end up costing us. There are many cases where there were not job competitions, and the payouts were higher when an employee was terminated that did not apply. There are many findings in the Auditor General's report that we had discussed previously.

We are seeing this too often, I think, when it comes to government agencies and government departments, and that will follow through the rest of the week as we have additional Committee meetings.

CHAIR: Mr. Mitchelmore, on that point, much and most of our work is document driven and even if we had certain witnesses who became before the Public Accounts Committee from five or six years ago or maybe even five or six hours ago, there might be a difference of opinion over who said what. I do not think whatever evidence that we could get from such a person would be reliable for report purposes.

If we have an issue with not getting full and forthright information from any witness – and I do not detect that here – then I think that would be something that the Committee would probably deal with in an in-camera meeting and determine where do we need to go from here.

Sometimes you can ask questions and you do not get the answers. Many times you can ask questions and you do not get the answers. Many times you can ask questions and the answers are not forthcoming for perfectly valid reasons. We might not like those reasons, but it is whatever it

is. I think, for our purposes, we need to move forward this particular hearing with what we have.

I do not sense that we are not getting any information from Mr. Barron that he does not have. If he knows it, he is telling us. If the document is there, he is telling us. The other side of that coin is that we have minutes and minutes are taken to reflect the record. The record, according to the minutes, says that Mr. Barron voted on certain items and did not declare conflict and so on. Somebody else would need to deal with that.

It is very difficult to overturn a five- or six-year-old document unless someone can demonstrate that it clearly was a slip, but I do not think it is helpful for us to try to pursue oral discussions that people may have had surrounding information, if they are not available or not present. Even if they were available and present, then we still would need to be weighing evidence and I think that is beyond the scope of procedurally how this Committee operates or any Public Accounts Committee would operate. It would be more like a court of law, and that really is not our purpose. This is more inquisitorial and more remedial.

Although having said that, the record indicates in 2005 the old organization was before the Auditor General; but the nature of this organization changed in 2007 and, really, it only has a consistent history, from what I can see, of about the last half a dozen years.

It has been problematic in some areas. It may have been people in good faith moving forward on what they think they could have done or could not do, and that is why we are here with the Auditor General. I would like to have you take another couple of minutes because we have used up a fair bit of your questioning segment and then move on to Mr. Brazil and Mr. Joyce and so on. Otherwise, we will be here through the afternoon and maybe come back, and that is simply not practical or efficient. There is nothing wrong with your questions; you are just not given the answers you would like to get. There may not be a mechanism to get them, but

if there is we can certainly take it up as a committee.

MR. MITCHELMORE: Right. Thank you, Mr. Chair.

I would like to go back to the actual growth phase of the organization from 2007 and 2008 when it went from X number of employees to X number of employees. There was a significant growth phase in 2008-2009 as you had discussed. Primarily, that has been the Pharmacy Network project. Is that correct?

MR. BARRON: It has been numerous things. We have also taken on additional projects that may not have had the same scope, but pharmacy certainly would have had an impact on our resources.

MR. MITCHELMORE: Once the projects get implemented, staff that were hired, were they hired on a contract basis or is there a certain amount of maintenance? Will we see a reduction in staff at the Centre for Health Information based on if projects are less or not? What is the outlook of current projects?

MR. BARRON: That is typically what would happen. What we do when we do these larger projects is we try to set the project up for sustainability, of course. It is one thing to do the project, you cannot just walk away and hope it stays there and runs fine and everything else. What we try to do as a strategy is to get people trained throughout the project, who are part of the project team, who will be actually used after the fact to maintain and sustain those systems that are put in.

As we go forward, large projects – depending on the financial capacity of the Province, as well as Canada Health Infoway, because they have been a very significant contributor to our capital investments. If those projects, the nature of those types of projects, if the funding for those dry up there will be less people required by the Centre, but we will maintain those people required to once again maintain and sustain those systems that have been put in.

MR. MITCHELMORE: How many employees right now are part of your sustainability piece to maintaining systems versus work on new projects?

MR. BARRON: It depends what piece of that maintenance you would be discussing, but I would suggest that right now where we are in such a maintenance mode and about to become even more in a maintenance mode when this current project is over, I would suggest it could be anywhere from 70 per cent or 80 per cent would be the part that we need to maintain these current initiatives and systems that we have in place.

MR. MITCHELMORE: Right. So you could see a 20 per cent to a 30 per cent reduction...

MR. BARRON: We do not know, because once again, until you are faced with that –

MR. MITCHELMORE: - depending on other funds.

MR. BARRON: Until you are faced with that, you really do not know. It is not just depending on other funds. It depends on what you are faced with at the time when that comes up through the budgeting process with the provincial government as well.

MR. MITCHELMORE: Have you had recruitment issues for current positions? Are there vacancies?

MR. BARRON: We have several vacancies right now. The recruitment issue, really, is that we do not know what to advertise for a salary for compensation purposes. What we have been trying to do is trying to align when we get the direction from government, and through that process to be able to do that. If we needed somebody mission critical, we would try to find a way to do that.

MR. MITCHELMORE: What type of positions would be vacant?

MR. BARRON: Right now? Well, we have a Vice President of Clinical Information Programs

and Quality that is vacant. I can get that for you. We have three or four positions, but the mission critical one right now would be that Vice President of Clinical Information Programs and Quality.

MR. MITCHELMORE: Are they advertised externally of government?

MR. BARRON: Absolutely, unless it is an internal competition. Actually, that job will be advertised this week. That person only recently vacated the position.

MR. MITCHELMORE: Okay.

MR. BARRON: Every job right now follows the Public Service Commission's process. We do the same thing that government does. Once again, we are beyond that growth stage; we are into more normalcy.

MR. MITCHELMORE: What was that actual growth stage? The Centre would have existed not in its entity, but it existed some time prior as an organization under Eastern Health. What was the actual growth? That is too vague in my view of talking about this growth phase. We had this growth phase where we have employees, we had to increase salaries for top management, but the rest of the average of employees who were hired received a very nominal salary increase in comparison. I would just like for you to explain the growth phase.

MR. BARRON: Well, the growth phase was from day one, essentially, if you want to go way back. The Pharmacy Network project itself was the huge impetus, which would be around 2005 in which it started. Then it exploded a bit in 2007, particularly with the additional activities required to create a Crown agency.

MR. MITCHELMORE: In 2007, with the Pharmacy Network, that was basically where you got your Infoway funding?

MR. BARRON: A significant portion of that project would be Infoway, not all of it. Obviously, the provincial government would be

responsible. It is an investment fund. Once again, it is not a grant.

MR. MITCHELMORE: When did that project get to a point that it was near completion? It is implemented in the majority of pharmacies and whatnot now in Newfoundland and Labrador, correct?

MR. BARRON: No, it is about 40 per cent right now.

MR. MITCHELMORE: Forty per cent.

MR. BARRON: It continues to be tweaked because it is a national leading system. We still have some issues with the national standards that we are trying to implement but certainly the project itself – while the capital funding component of that project is complete, the ongoing sustainment and deployment of the network, the resources required for that are still in place.

MR. MITCHELMORE: What is preventing it from getting to the other 60 per cent?

CHAIR: Mr. Mitchelmore, we should move to Mr. Brazil now. That was a fairly long session because we had that exchange.

Mr. Brazil.

MR. BRAZIL: Thank you, Mr. Chair.

After reviewing and listening to the other questions, I am still comfortable we are on the right track. I am just waiting for the conclusion at the end from the Auditor General to make sure that he is comfortable.

CHAIR: Mr. Parsons, do you have any questions?

MR. K. PARSONS: No.

CHAIR: Mr. Cross.

MR. CROSS: In my last comment, I asked about what was being done today, what was the current practice. At this point, I notice this has

been a very complex issue and the report of the Auditor General 2012 flagged many items. I guess the period of reaction is there now and the review will come in 2014.

The period of time between the report and the review is the time of what reaction has taken place. At this point, I see it as a going forward thing and needs an element of optimism that things are going to work out but if things are not positive or optimistic in 2014 when the Auditor General reviews, I guess we will probably be back in this room again.

I would like to thank the people who came to represent the organization and the Auditor General's department for their candour and their time. I respect the right of others to ask more questions.

CHAIR: Mr. Joyce.

MR. JOYCE: I am just going to ask a few more and I will have a statement at the end.

In the minutes of the meeting February 28, 2008, it says the Centre was contacted by the minister requesting that action be held pending additional discussion. Was that a verbal contact, written contact?

MR. BARRON: I would not be aware of it. I would not have had contact with the minister.

MR. JOYCE: The letter was copied to the board of directors. The Centre was contacted by the minister requesting that action be held. That was discussed at your board meetings. You, as a board member, do not know what type of contact that would be?

MR. BARRON: I am pretty sure it was personal contact because there is a line there that says that Mr. Fanning met with the minister on February 27.

MR. JOYCE: That was after, yes. I know he met with the minister, but it says here that the Centre was contacted by the minister requesting action be held, pending additional discussion.

You are not aware, as a board member, if it was brought to the board in writing or by a verbal request. You are a board member. You were a board member at the time.

MR. BARRON: I am not aware of any actual documentation. I assume but do not know that it was a verbal communication between the minister –

MR. JOYCE: Can we find out? Because if there was a letter written, there might be some information in the letter. If it was verbal, who did he speak to? In the minutes of the meeting, there has to be something – if the minister is saying hold off, pending further discussion, for a board to hold off, there has to be some documentation of what type of contact it was, what was in the letter, why it was held off. There has to be something. You just do not put it in the minutes and say oh, we do not know, as a board member – and I will just use you for an example.

MR. BARRON: As a board member, I am not aware of a letter.

MR. JOYCE: Okay.

Are you aware who he spoke to then?

MR. BARRON: Who Mr. Fanning spoke to?

MR. JOYCE: No. At the minutes of the meeting there, the Centre was contacted. Who at the Centre was contacted?

MR. BARRON: I would assume that would have been the board Chair.

MR. JOYCE: You assume? Okay. So, once again, we do not know.

The Centre was contacted. So, he contacted the board, not the Centre, the Chair of the board?

MR. BARRON: I am sorry. Was that a question?

MR. JOYCE: Yes, it was a question.

MR. BARRON: What was the question?

MR. JOYCE: The question was you assumed he contacted – so, we do not know what the conversation was and you are assuming there was no letter written back.

MR. BARRON: I am not aware of a letter.

MR. JOYCE: Okay.

Can you just check for us later?

MR. BARRON: Yes, and we have in the past, actually, with the Auditor General, too.

MR. JOYCE: There was no letter from the minister?

MR. PADDON: All I can say is that we had asked the Centre if there was any response or a copy of the letter and there was none available, so we would assume that there is none.

MR. JOYCE: Okay. That is another one that the minister calls and says, the next day, that B. Fanning met with the minister on February 27 and said everything should go ahead, and nothing in writing.

In the next column in the same minutes, page 2, L. McDonald requested that consideration be given to approve retroactive pay to April 27, 2007 for the DHCS bargaining unit employees.

I will not read it all. Was that ever followed through?

MR. BARRON: To my knowledge it was, yes.

MR. JOYCE: Okay.

MR. BARRON: We had a certain amount of people who were part of the early goings of the organization who were actually taken from the department or placed by the department into the Centre.

MR. JOYCE: My question to you or to the board: If that was followed through, how do you know you had the best candidate if you just got

people coming over to do a certain job at your Centre? There is a huge increase in pay, and instead of going out and advertising these positions where there was a possibility you could get more qualified people, the board just said: Okay, we will just give all you guys a pay increase without advertising any of the positions or going out where there is a higher pay scale. How can you justify that?

MR. BARRON: These people came from the Department of Health and Community Services back in the early days of the Centre. These people were operating under the auspices of whatever bargaining unit contract they had. Now, the Centre comes under – well, this is probably previous anyway – the Labour Relations Act, not the Public Service Collective Bargaining Act. Those particular employees were with the Centre for some time. Once again, we were working off of health care corporation in terms of getting our administration and all of those things done.

What happened was, when we became a Crown agency, the offer was made to those people: Do you want to continue with the Centre? If so, you would become part of the internal equity required underneath an organization-wide compensation regime. That being the case, that is why they would have been offered that.

Those jobs were not there to be advertised. If those people determined they did not want to remain with the Centre because of the different status that it would give them, they had the option of going back to the department.

MR. JOYCE: So if you brought someone over at a certain pay scale, if you increased the pay scale and instead of advertising that position because you may get more qualified, you said, no, we will just give it to you because you are already there.

MR. BARRON: We used our judgment at the time to determine that those people were deserving of that offer, yes.

MR. JOYCE: So there was nothing concrete except your judgment that these were the best qualified people for these positions?

MR. BARRON: That was not the factor that was taken into consideration. The factor that was taken into consideration was that they were effectively, if not legally, employees of the Centre, and that is why they were made the offer.

MR. JOYCE: It is a good one.

I will go on now to the Auditor General's report, page 184. I just have a few more questions. Page 184, the second paragraph, "A Technical Manager's personnel file contained no request for salary adjustment. However, there was documentation on file from the CEO giving the employee a 3 step increase on the pay scale because 'this is a retention issue and based on their 20 years experience as a provincial leader in health information technology'."

Now, excuse me for asking, but usually if someone wants a job reclassification should they not usually fill out some kind of form, or is it just like the CEO, which I assume was you at the time, just going okay, we are going to give you a three-step increase without applying for it, without asking for it, without doing the proper documentation? Is that correct, what happened here?

MR. BARRON: What happened there was a pressure on the resources of the Centre to keep those qualified people. There was certainly pressure that may not have always been documented. Certainly our job, and certainly the job that I, or the challenge that I presented to the board when they approved these particular moves was to ensure that we did not lose those key, hard-to-recruit senior executives at a time that was crucial to the development of the Centre as a Crown agency – but yes, you are correct. If something like that happened today, there would certainly be a formal request and there would be a formal approval process that would be followed. It would be exactly the same as what you would find in the provincial civil service.

MR. JOYCE: I go to page 185, "Centre employees requesting a reclassification shall first submit a request to the Job Evaluation Committee, which is an internal committee set up by the CEO for the express purpose of evaluating and rating jobs within the Centre. That request shall include a revised Job Fact Sheet..."

You set it up for a reclassification, but for some reason if you see someone in a position you say, okay, I am going to give you a three-step increase without even applying for it. You say it is retention, yet this person never even asked for the increase, never even asked for a pay increase, never even asked to be reclassified.

MR. BARRON: It was not documented that it was a retention issue, but it was certainly a retention issue or it would not have been done.

MR. JOYCE: Obviously we see a few things with the documentation –

MR. BARRON: It would not have been done if it was not necessary for the good of the Centre.

MR. JOYCE: We look at the documentation here, board meetings that you did not exempt yourself from, this is not documented – I ask the Auditor General, and again, I will not harp on him, because I think we have the point very well made: In your findings here, did you see some places that asked for reclassification and others did not, or it was just...?

MR. PADDON: Yes, there would have been instances where the documentation was in place where it went through the process that was set up. The instances we report here in the report are, by and large, instances around documentation or lack of documentation.

MR. JOYCE: Okay.

On the bottom of that page again, "On June 30, 2011, the CEO informed the Chair of the Board that he 'recommend we move three of our executives up the current scale to more accurately reflect their relative experience and responsibilities as per the Hay Classification

system, This is not a reclassification but an upward move on the current Hay Level salary classification.’ These three salary increases were retroactive to May 1, 2011. Centre officials are unable to provide documentation required by Centre policy to support these salary adjustments.”

Were there ever any documentation put on it to support these salary adjustments?

MR. BARRON: Documentation for (inaudible) the Chair of the Board outlining the issues that we have with maintaining and keeping those people. The Hay level system, as opposed to what some people may think it is – the Hay level system is meant to give a range of salaries based on the experience and expertise of individuals and their relative going up the curve.

For example, if you are hired on step 1 of an HL, you are assumed to have very little work experience, whereas the job rate – once again, this is HR stuff. As Mr. Brazil mentioned earlier, this stuff can be complicated at best, but what happened in this particular case is that these were very experienced people and it was determined that due to an issue of recruitment and retention, and of course the increased complexity and the demands of the job, they were offered that increase to align with where their career fell on the HL scale.

MR. JOYCE: I will ask the Auditor General, and this may be small information. I do not know if you have it at your fingertips. Did you ever see the letter that was presented to Mr. Fanning from the CEO explaining the reason why all of the increases for these executives?

MR. PADDON: Are you talking about this particular point here at the bottom of page 184?

MR. JOYCE: Yes.

MR. PADDON: I am just checking with my colleague here now.

MR. JOYCE: Yes, okay.

MR. PADDON: There is likely something there.

MR. JOYCE: Can we get a copy of it?

MR. PADDON: Sure.

MR. JOYCE: We can get that and explain and justify –

MR. PADDON: (Inaudible).

MR. JOYCE: Okay. It was an e-mail to Billy Fanning from you.

MR. BARRON: Yes.

MR. JOYCE: Okay.

CHAIR: Mr. Joyce, we should move on to a government member, if there is one who would like to ask some questions.

MR. JOYCE: Okay.

CHAIR: Mr. Mitchelmore.

MR. MITCHELMORE: Okay. When I ended my last line of questioning we were talking about the growth of the Centre and how a large component of what the Centre did was the Pharmacy Network piece and how it started in 2005, before the Centre became its own Crown agency and then in 2008, a year later, we saw the increase. We were provided quite a lengthy amount of documentation by the Centre for Health Information on three senior executive positions that were referenced in the report about, in management, what their responsibilities were and things like that.

I was just looking at the Chief Financial Officer position, for example, which highlights what the working conditions were, the committee involvements, the budgets. It says an annual operating budget of \$6 million, current capital budgets in excess of \$70 million. This impact, has it changed? Could we see where the budgets are actually – you are not recruiting and getting the outside sources of money and things like that. At a certain point, if you are at your peak,

in any organization once you reach that peak then the workload is going to drop off.

MR. BARRON: Potentially, you are correct. In fact, when we get the re-evaluations done through the government process that is the kinds of things we will be taking into consideration at that time. Those evaluations will not be trying to predict the future or look back to the past. They will base it on the current responsibilities and, of course, all those components of the classification system as they exist today. There could very well be instances where those responsibilities are lower.

MR. MITCHELMORE: That is my concern, that this pay review was rushed to do it at a time where there was peak work so that there could be some means of making it justifiable to have these wage increases. Because it is at the peak of the budget, there are all these projects. To present it that way to get acceptance from the board when knowing maybe in a year or two that the budget would fall, the workload would fall, you would not need as many employees and –

MR. BARRON: At the time that happened, there was no indication that that would be the case. In fact, there are at least two to three very large capital projects that would be considered part of the larger health information eco-structure that we are building for the Province. The only thing that has changed, and it certainly is since the Auditor General's report, is the financial status of the Province. At the time that those things happened, there was no end in sight to being able to fund those large projects that the health system needed.

MR. MITCHELMORE: Right. I imagine the health system still needs those large projects and needs the integrated systems. I am not trying to diminish the work that the Centre for Health Information does.

MR. BARRON: No. I just say that at the time I thought we were going to continue to get those projects, but right now I think our financial ability might be a little bit more restrained.

MR. MITCHELMORE: I think that is where the concern – we see yourself as CEO, you received a raise of \$65,000 over six years without any ministerial approval. One other individual employee saw up to 119 per cent increase. The documentations are not really there to support that justification.

I want to ask you specifically, since I have gone into it time and time again and I will not dwell on that, but I would like to know how much the report cost for this pay scale to the outside consultant.

MR. BARRON: We can certainly provide that. I do not know that information offhand, but we can provide that.

MR. MITCHELMORE: Okay.

MR. BARRON: That would be just an invoice that we would go back and find.

MR. MITCHELMORE: Yes. Was that tendered?

MR. BARRON: I would have to go back and see what the situation was. We would have rules. If something cost less than \$50,000 we can get three quotes, and/or in certain cases there are limited people who have the expertise required to do that kind of work.

MR. MITCHELMORE: My overarching concern, and as I said it before, is the fact that I would like to know how much this decision has cost the taxpayer, not only in legal fees but also in the reclassification process over that time period since 2008.

I do have a couple of more questions from the Auditor General's report. In March, 2010, a terminated employee was given \$120,336 pay for sixty weeks in lieu of notice, when your policy stipulates entitlement to only \$78,218. That is a discrepancy of \$42,000 basically. What is the reason for such a generous overpayment, or was this just mismanagement?

MR. BARRON: No. Certainly the justification for that particular situation was that – first of all,

the Centre's policy, that particular individual, the table we have in our policy would not have applied to that person because that person would not have been hired at a time that that table existed. This is an earlier employment contract.

Essentially, the reason why – taking away from what the Centre's policy would be for any employee today who signed a contract that applies to that table, that particular individual was paid that amount of money because of legal advice we received at the time to ensure that we did not have any further issues with that particular termination.

MR. MITCHELMORE: So this contract would have been before the Centre had been established?

MR. BARRON: Well, before the Crown agency part?

MR. MITCHELMORE: Yes.

MR. BARRON: Yes.

MR. MITCHELMORE: So when the Crown agency came into effect in 2007, were there not new contracts signed by new employees under this entity that would have basically gotten rid of all the older contracts and agreements, that they would have been compliant with new Centre for Health Information policy? If they signed a contract to work for the new Crown agency, their other contract should have been null and void.

MR. BARRON: Anybody new coming on would have had those new contracts put in place, but in order for you to put that to people who were hired prior to that, that would have its own legal implications in terms of a unilateral change in contract. Once again, this was done with our legal advice and advice from our HR consultants.

MR. MITCHELMORE: How many employees, then, would fit this makeup where they could be paid more than what the current scale is?

MR. BARRON: I do not know, but I could certainly find out for you.

MR. MITCHELMORE: It seems that the organization still has a lot of inconsistencies with government policy and it has retained a lot of legal advice.

MR. BARRON: As you know, we will not be inconsistent at all once this process is complete; we will be fully consistent.

MR. MITCHELMORE: There will still be employees like this employee.

MR. BARRON: No.

MR. MITCHELMORE: So this is an anomaly?

MR. BARRON: All that would change because of the new alignment. What will happen at that time, once the direction is given to the Centre as to the approach that needs to be taken, a notice period is given to every individual employee as to when the unilateral changes come into effect.

MR. MITCHELMORE: So what would be the potential liabilities, then, to the Province, to the taxpayer, of people who feel they have recourse based on their current employment contracts?

MR. BARRON: I do not know that number.

MR. MITCHELMORE: Because that has been highlighted in the documentation, that your lawyers, I believe, McInnes Cooper, have stated there could be litigation and things like that depending on how this process is done.

MR. BARRON: Absolutely.

MR. MITCHELMORE: The Department of Health and Community Services obviously has lawyers as well that they retain, and the Human Resource Secretariat. So is there something we can have to reassure us that the cost to the taxpayer in this whole process will be minimal? That is what I would like to see.

MR. BARRON: Until we go through the process, it will be difficult for us to say what it is going to cost or what it is not going to cost. We need to go through that, those missing pieces, before we would be in a position to know that; and then you would have to know or wait for what the individual employees' reaction may be to those particular decisions.

MR. MITCHELMORE: So when the Auditor General does its follow-up based on this report and this company, this organization, a Crown corporation, is undergoing review on a major changeover when it comes to salaries, classifications and whatnot, will that be factored in, in your follow-up, or it is just based on the previous performance? So, these types of things like the legal cost and fees and whatnot that have been absorbed by the taxpayers, is that also recorded in these follow up-reports, Mr. Auditor General?

MR. PADDON: Generally not. Our focus on the follow-up would be on the specific recommendations that we have made. So, the directed questions to the Centre will be, effectively: Have you done X, have done Y, or what have you done to implement this? So, it would not necessarily go into the issues that you are speaking, which are the broader costs of these things. That would be, potentially, a separate project.

MR. MITCHELMORE: Would that require a follow-up audit then from the Auditor General, or is there a process that would remedy to ensure that taxpayer dollars are protected and the cost of legal mitigation is reduced?

MR. BARRON: Yes, that is essentially a separate project in and of itself, I would think.

CHAIR: Mr. Joyce.

MR. JOYCE: Yes, I will just ask one more question. Will we have time to make a statement after, Mr. Chair, or make it while –

CHAIR: Actually, I expect that I am going to have a number of questions when the members have concluded and then –

MR. JOYCE: So we will make it after? Okay.

I will just go on page 188. I know this may be a bit – concerning the contract of the CEO. It says, “In a letter dated January 20, 2009 to the Minister, the Board Chair requested ‘an amendment to the NLCHI CEO current Employment Contract’. The Chair also informed the Minister that ‘The current Employment Contract explicitly allows for alterations to existing terms with the recommendation of the Board Chair and approval of the Minister’.

“The Centre was unable to provide a copy of a response to this letter from the Minister. We were informed by the Centre that they had not received a formal response from the Minister.”

Is that correct?

MR. BARRON: Not to my knowledge. I did not get directly involved with the CEO contract part of that, but certainly I know that there was a letter with the board Chair involved. I have never seen a letter.

MR. JOYCE: Is there something on file where the board Chair wrote the minister and something coming back? There has to be something –

MR. BARRON: The package we sent you would have had those letters. We gave you a very comprehensive package on the CEO compensation issue.

MR. JOYCE: There was actually a letter from the minister approving it?

MR. BARRON: No, there were letters involving Mr. Fanning.

MR. JOYCE: Okay.

I will not go through each one. There are other documentations there where there were not three people sent up for recommendation for hiring; it was always whoever the top-scale person was, against the policy that I assume that you established. Is that policy now out through the

window and following the policy of the Public Service Commission?

MR. BARRON: Our policies currently follow the Public Service Commission policy.

MR. JOYCE: Currently?

MR. BARRON: To my knowledge, there has not been an upscale hire since January in our organization.

MR. JOYCE: Since when?

MR. BARRON: Since January, I believe.

MR. JOYCE: Okay.

MR. BARRON: Let's put it this way: It has been told that from here on in we need to make sure that as we recruit we try to obtain the best candidate that will accept the first step.

MR. JOYCE: I just ask the Auditor General: Did you ever see that letter from the minister approving the increase in salary for the CEO?

MR. PADDON: No. I do not know if there was a response, but we certainly did not see any.

MR. JOYCE: Are you aware –

MR. BARRON: I am not aware of anything except for the letter from the board Chair.

MR. JOYCE: Can you go back and check with the current board Chair to see if there is anything on file?

MR. DILLON: From a governance perspective – I am the current Chair; Mr. Fanning was the past Chair and he did retire from the position – I do not know that I have any jurisdiction or anything that would compel him to provide any information at this point.

MR. JOYCE: I am assuming it would be in your documentation. I mean, when you leave as Chair you do not take all the documentation you have and take it home with you; you leave it at the Centre.

MR. DILLON: I would suggest that the documentation, all that the Centre has, it has provided, and then meeting minutes form a large part of that documentation. I am not aware of any additional documents besides what has been provided.

MR. JOYCE: My question is: How can the CEO, in this case the person here – and it says you need permission from the minister – go ahead and give the increase without written documentation from the minister.

MR. BARRON: That was within my responsibilities. Certainly what we did was act on a letter from the board Chair.

The board Chair dealt directly with the minister on that matter and, of course, where the Centre was now a Crown agency, the board Chair signed a contract directly with the CEO as part of the Crown agency.

MR. JOYCE: Okay.

I guess my question to the Auditor General, and this is getting a bit confusing, in your report it says, "The Chair also informed the Minister that 'The current Employment Contract explicitly allows for alterations to existing terms with the recommendation of the Board Chair and approval of the Minister.'"

Was that the current employment contract that you saw? Page 188.

MR. PADDON: We are quoting here from a letter from the Chair to the minister. The Chair was essentially outlining what he saw as provisions of the particular CEO contract, which would require the approval of the minister to have an amendment.

I will make another observation, if I will, just to this issue of the letters. As part of our process, when we issue a report we will send a copy of our draft report to, in this case, the Centre for validation, comment, and that sort of thing. Because there were issues around the governance, which the Department of Health and Community Services would have had an

interest in, we provided a copy of the report to them to validate. They would have seen the issues around the fact that there were no responses, and we certainly did not hear back from the department in the validation process that there were letters.

MR. JOYCE: Can I safely say that there is no documentation on file from the minister allowing the board to give the increase to the CEO?

MR. PADDON: That is the conclusion we would have drawn, yes.

MR. JOYCE: Okay.

Ray, do you want to have a comment on that? Is that type of governance gone now, or do you just do things with a wink and a nod? I am not putting any reflection on you, not one bit. I know you just came in on this.

MR. DILLON: What I can say is that going forward the board has agreed and has relayed this information on to Mr. Barron and his executive team that the Centre would follow the rules, regulations, structures, and policies of the provincial government when it comes to all things related to compensation and benefits. Going forward, how that looks after, they have gone through the alignment process and the road map. We will then live with whatever comes back from that, but the direction from the current board to the existing executive is that on a go-forward basis we fall in line with the government's policies and procedures.

MR. JOYCE: I could ask you, is the CEO still receiving a 5 per cent bonus?

MR. DILLON: Any and all existing employees fall under their existing compensation programs. Until we hear back on the alignment and the road mapping, we continue to, I guess, carry on as we had up until we get the information back from government.

MR. JOYCE: We are still giving a bonus, a 5 per cent bonus?

MR. DILLON: He would be eligible, as every employee, whatever the terms of their existing contract are; all employees are still being compensated as per normal.

MR. JOYCE: Okay.

Mr. Chair, I have a lot more questions but I will not ask because I think it is shown here that there is a lack of documentation in the board governance. I wish Billy Fanning or the minister at time, Ross Wiseman, was here to see who was doing the winking and nodding because obviously you can go up and wait for a response, and we have no letter from the minister but Billy Fanning goes up and meets with the minister on the twenty-seventh and comes back on the twenty-eighth and says go ahead and give everybody big pay increases.

I know it may be a bit of a distraction for you but I went through this also with the Auditor General as an MHA. I do not find it is a distraction. I find it is helpful to have a look internally at yourselves, and I know as MHAs we all did it ourselves.

After reading this here and realizing that even your own pay scale that you never got, there is no documentation from the minister. It leads me to believe this place was being run not in accordance with the government policy throughout. It is very odd.

I can see why the general public was astonished when they read it. When we look at the finer details of it we can see each time: Oh, we did this for justification; oh, we may lose him. We may, but there is no documentation. It is disconcerting, actually. Hopefully, when the Auditor General goes back in a year's time that things will be much better.

CHAIR: Mr. Mitchelmore, do you have questions?

MR. MITCHELMORE: Yes.

Mr. Barron, did you make a recommendation to the board that pay scales needed to be reclassified or re-evaluated?

MR. BARRON: (Inaudible) make a recommendation.

MR. MITCHELMORE: How did this come about?

MR. BARRON: It came about through the inability of the Centre to recruit. Probably around 2006 we started noticing those types of things. What would happen at the board table is that as part of policy in governance, which is one of the board's subcommittees, issues related to that type of thing would be discussed at that particular table.

If we were having difficulty recruiting at the current pay scales, then certainly there would have been the exact mechanism at the time. You would have to go back and look. I am sure there is probably some documentation there, but there would be no doubt that myself, as well as the executive, would have put forward to the board that we were having difficulties and we needed our own compensation regime.

MR. MITCHELMORE: Who made the recommendation then to the board to go through this process to reclassify and re-evaluate the Centre for Health Information?

MR. BARRON: I would suggest that would have been a combination of discussions between board members and executive to make that occur.

MR. MITCHELMORE: Can we have minutes, I guess, as to who put forward that motion and any committee meeting documentation?

MR. BARRON: You can have any copies of any minutes that we have, absolutely.

MR. MITCHELMORE: I am more interested, specifically, in minutes –

MR. BARRON: We will specifically look for that, yes.

MR. MITCHELMORE: - that show there were recruitment issues, there were those conversations, and there were vacancies to

actually prove that this was a need on that level as to what brought this about.

MR. BARRON: Sure. Yes.

MR. MITCHELMORE: I want to go back to page 179 in the Auditor General's report. It states that, "the Board should wait for a response from the Minister before proceeding, and therefore would not be able to support a motion to proceed." That was the board representative, designated by the department, they said wait.

What was the actual rush to expedite this process? You were there at the board meeting during that time, what was the need? Why wasn't there a wait and see approach to see what the minister would write back? Because it is very unusual for a minister not to provide some form of documentation, unless a decision had been made.

MR. BARRON: I would suggest there was urgency from a hiring perspective to get on with it.

MR. MITCHELMORE: Okay.

It goes on to further say – it is reflected in those minutes, January 16, 2008. The CEO made a comment, what we are doing, basically, "this is similar to the pharmacy market differential which was not supported by Government." That was commentary that we had earlier. "However, if we proceed with implementation and it is taken in the wrong context by Government..." which it clearly is "...there is a fair amount of risk for the CEO."

What is the actual risk for the CEO in this position, this circumstance, based on your commentary?

MR. BARRON: At that particular time, my contract would have been co-signed by both the board Chair as well as a representative of government.

MR. MITCHELMORE: Okay. Basically at that time, if government did not sign your

contract then it could have led to either termination or retaining the lower salary?

MR. BARRON: This is the original contract that was in place at that time. That was the contract prior to us becoming a Crown agency. That would have been signed with a government co-signee in 2006; and, once again, the risk would be that the CEO is in a contract with government as well as the board. I had two masters, according to the contract at that time.

Now, subject to the Crown agency, my master is the board of the Centre for Health Information. That is why I would have been at risk at that time, if they proceeded to do something that may not have been compliant with government's wishes.

MR. MITCHELMORE: I am not really clear, I guess, on the actual risk in the commentary that would have been put in those minutes and why the need was to expedite. I am not sure we are really going to get an answer on that.

MR. BARRON: To my recollection, that was the issue, is that one of my employers was government on my contract, as well as the Chair of the board of the Centre.

MR. MITCHELMORE: Right.

In many cases, a board listens to the advice of the chief executive officer, or any company would, there would be statements made, and that would be evaluated. I guess it would be very interesting to be able to question other board members at that time as to why they felt the need to approve when a CEO is saying well, if you approve this, there is going to be a lot of risk for the top person here who is at the company running it; and the department representative who is saying we should wait a few days, we need to give the minister, basically, more time, is what I am reading into that.

It blows my mind in terms of governance how a board would just go ahead and approve something without taking more time and taking the advice of the department, or even that of the

CEO as to some of the inferences that it has put forward.

I do not know if the Chair or if a board member who is there can explain that, but is this type of operation still continuing? What is the point of having a CEO or a department representative if there is no listening to that?

MR. DILLON: What I would suggest is that, going forward, the existing board has made the instruction that it is within government policies and procedures for compensation and benefits. So, the ability for that to happen would not exist in the environment today, going forward.

MR. MITCHELMORE: It is very questionable how you would see the Department of Health and Community Services representative vote against the CEO and make such commentary that there are significant risks and then see all board members vote for a pay increase that seems like it did not have to be rushed, unless there can be proof and documentation provided that it had to be rushed for that particular reason. Because none of the senior management had left; they are still not gone. There was no inference that any of them would basically be leaving, to my knowledge, and how many vacancies were there.

Those are the types of things – there are a lot of questions surrounding this section in that actual board meeting that would have the general public very concerned as to board operations, board governance, and the relationship with the departments when it comes to how they come to decisions and spend taxpayers' money.

MR. DILLON: Not having been in the meeting, it would be my interpretation that it was a very strong board with private and public sector representation on that board, and they very concerned with the mandate and the work to be done.

Likely, looking at their existing legislation and the fact that it allows them flexibility around setting salaries, that it was a can-do board that wanted to get the job done and likely pulled that trigger and said let us get this moving, based on

that public sector DNA and private sector DNA, if there is a job to be done, and we have to do it.

So, again, I was not in the room; but, based on conversations I have heard anecdotally, it was a case of let us move this forward, we have a big mandate, and lots of pressure to deliver on that mandate. So, that would be my interpretation of why the decision would be made. Very strong members constituted that board at the time, both public and private sector.

MR. MITCHELMORE: Right.

Now, as the board Chair, and there is another member of the board as well, what type of training is received as to governance to board of director members?

CHAIR: Mr. Mitchelmore, we may be straying off topic. If we could get a little closer to the money part; this seems to be going a little far afield.

MR. MITCHELMORE: Well, it is basically talking about how the board came to their decision to increase the pay salaries of every individual at that organization, and if the –

CHAIR: Whether they had training or not, I am not sure what we can do about that, if they had good training, poor training, or no training. How they came to the decision is the reasonable thing – if he knows; he may not know.

MR. MITCHELMORE: Right.

I am just wondering if a member had any type of training when they had made such decisions; if board members receive any type of training when it comes to the policies, the operations. If there are a number of new board members, they may not have received training; they may have voted in a particular way, just –

CHAIR: There is a limit to how far afield we will go, because if you go from training, then you go from education, then you go to age and experience. At some point, it becomes less relevant.

MR. MITCHELMORE: Right.

I am following up from what Mr. Dillon had said when it comes to we have private sector, we have public sector, and we have a really strong core of individuals. So, I had asked: Did they receive any training, in particular?

CHAIR: We do not assess the adequacy of the board; they are appointed. They may make decisions we do not agree with, that the Auditor General does agree with; but, their level of training, that does not get us anywhere.

MR. MITCHELMORE: Right.

Well, we are questioning basically how the board and the minister approved this whole process of pay, and this paragraph clearly outlines that the department was not in favour of increasing such pay.

CHAIR: There is an indication in some of the materials that Deputy Minister Strong voted against something; nevertheless, this ground has been ploughed fairly extensively by, primarily, you and Mr. Joyce. We have gone over this quite a bit right now. If they have the answer, I am certain they would have told us, if they had it in more detail. I do not see that these witnesses are not refusing to answer. They are here in good faith supplying whatever information they have available to them.

I think if we could get back closer to some of the more nuts and bolts issues that flow from the Auditor General's report; otherwise, we will have a very long day and need to come back for more. It becomes less relevant as we go further down the field.

MR. MITCHELMORE: Okay, Mr. Chair.

I want to go back to the risk factor, though. That was the risk factor then in your contract and what you had said with government signing off, Mr. Barron. Right now, has the risk factor changed that the Auditor General has found all of these things that are not in compliance? We are fast-forwarding from that time of 2008 when that decision was made to 2013. Are there

different terms of the contract and employment and how the autonomy of the organization runs? Is there no risk associated with the decision that was actually made?

MR. BARRON: There is always a risk associated with many decisions. In the case of, in my particular circumstance, is that the board understands what has happened in the past. They understood that it was done in good faith at the time, given the circumstances that were available at the time. Certainly, as you can see and certainly as the Auditor General saw, in the majority of cases it was that we were not in compliance with government policy more so than not doing what we were allowed to do underneath our legislation.

In terms of risk, certainly at any time the contract that I have with the board of the Centre for Health Information and, by extension, government, it has all those things that would normally be in a contract, should a need for termination or anything else apply.

MR. MITCHELMORE: The pay structure ended up being retroactive to the inception of the organization. I would like to see if the absolute need – and you have agreed to supply that documentation to the Committee – of hires or vacancies surrounding that time showing that positions were hard to recruit, because the findings of the report show that in many cases there were no job competitions even held. People were basically appointed to positions. They may be qualified to do so, but they certainly may not be the best person qualified to do a particular job.

There is a significant concern for me. I will not go into it further on the discretion of the Chair. I may have further questions, but I will certainly allow a colleague to go forward.

CHAIR: I am going to ask a few questions now based on the new information we received, the letters primarily, and then I will go back to the Committee members because this may raise questions in their minds. It will be, I suppose, primarily Mr. Barron because he seems to have

most of the information and he has been here for quite a while.

Mr. Barron, on November 1, 2007 – I am referring to letters you have supplied with the new package – there is a letter from McInnes Cooper to Jan Dicks, and it is seeking a legal opinion. Do you have available the request letter that went to the lawyer? Generally, when lawyers are asked to provide a legal opinion, a fact set is given to them so the letter of opinion matches up with whatever they were asked.

MR. BARRON: I can certainly find that out to see what was actually communicated to the particular legal firm.

CHAIR: Okay.

There are two or three legal opinions here. Wherever there is an opinion letter, could you search your records and provide us with a copy of the letter that went to the lawyer to ask the questions? Lawyers usually supply the copy back to make sure. If you ask what is two and two, then they only give you the answer of what is two and two. They do not give you something you did not ask for. Some of that is to do with liability issues.

MR. PADDON: Mr. Chair, just to add something. We did ask that same question when we were doing the audit and the answer was that the request was by a telephone consultation.

CHAIR: Okay. If that can be confirmed, if there is a letter – some may be by telephone and some may be by letter. If there is any document that sought a legal opinion, if you could supply the document, and if not then we will have to assume it must have been a verbal request.

In law school they teach a whole course called legal writing and research. Lawyers do not generally give legal opinions unless they are sure of what they are answering because they are scared of being sued by the client.

In any event, this says to conduct job opinions. The second sentence in this letter says, and this is a little bit of a red flag for me. It says: CHI is

wondering whether there is any legal obligation for it to utilize the classification and pay system pursuant to Treasury Board guidelines. That would seem to be what was requested. Then Mr. Mahoney, who did the letter, said: We are of the opinion that there is no legal obligation for CHI to adopt the classification and pay system utilized by the Government of Newfoundland and Labrador Treasury Board.

When you go to the bottom of that page he also says: As an agent of the Crown, the Centre for Health Information may be expected to adopt certain compensation models or standards under the direction of the Government of Newfoundland and Labrador. Such directive or expectation would not, however, amount to a legal restriction on the rights of CHI to independently establish compensation levels for employees.

What I want to ask: Was this response reviewed by CHI with the decision of what the lawyer says you are not legally bound by this, although there may be some expectations? Is this a fork in the road where CHI was left with the option, do what you are required to do legally or do what you think is a good idea? What is going on there?

MR. BARRON: By looking at the time frames, I would have to go back and see where we were when that particular legal opinion was obtained, where we were in the process. Any time those opinions were – or in this particular case here, that information would have been brought back to the board for their consideration to just clarify whatever it is they intended to take action on.

CHAIR: Yes. Do you agree that the lawyer's response raises the possibility of two divergent tracks? One is this is legally what you are required to do or not prohibited from doing, but over on this side is what you might be expected to do.

MR. BARRON: Yes, it obviously does that. I do know at the time that all this was happening, the general consensus of the board was that the government compensation policies would not

allow the Centre to hire the resources it required. So that would be consistent with that thought.

CHAIR: You were not legally bound by that, according to the lawyer.

MR. BARRON: That is right, yes.

CHAIR: Now, the next letter I am looking at is a few months later on February 21, 2001. This is a letter to you from W.B. Fanning.

MR. BARRON: I am sorry, what is the date again?

CHAIR: It is February 21, 2001.

MR. BARRON: 2001?

CHAIR: I am sorry, 2008. I am wrong.

MR. BARRON: Yes.

CHAIR: He says to you: The purpose of this letter is to request the Centre to implement the new salary compensation program for the Centre without delay, pursuant to the board's approval of the last meeting on January 16, 2008. Was there actually a written compensation program implemented by the board on January 16, 2008?

MR. BARRON: I am sorry, say that again.

CHAIR: Was there an actual written compensation program implemented by the board on January 16, 2008?

MR. BARRON: Yes. To the best of my recollection, what would have been presented to the board as part of their material would have been what the pay scales would have looked like for the whole Centre at that time. So they would have had that information that they were actually approving.

CHAIR: Is that in some sort of a table or a grid or something?

MR. BARRON: I would assume that would have been like Centre scales, or based on that

Atlantic Canadian average. Once again, we can go back and get that documentation.

CHAIR: Yes. Do you know if it was provided to the Auditor General?

MR. BARRON: Anything that was asked for was provided.

CHAIR: Can you check and see, and if it is available, provide it?

MR. BARRON: Yes, sure.

CHAIR: Because it looks like it is a program for compensation.

Further on, the second paragraph, which is a long paragraph, the last sentence says: Also, the Centre must continue to be seen as a leader in health informatics nationally and internationally if we are to continue to leverage significant investment dollars from industry and, in particular, Canada Health Infoway. Do have a record of any dollars that were leveraged from industry?

MR. BARRON: We have received funding from external sources many times throughout our life cycle. The bulk of the money has come from Canada Health Infoway. Once again, it is an investment framework. It is not a grant.

In terms of industry, at the time there was activity trying to leverage the initiatives of the Centre to try to help, without getting directly involved, but to try to grow local industry as well with some local companies that were available. In terms of the leverage aspect, the leveraging significant investment dollars mostly would refer to Canada Health Infoway.

CHAIR: This refers to having a certain compensation program in place. My question is: How would the compensation program that would be in place make any difference to your organization's ability to leverage investment?

MR. BARRON: On two fronts. First of all, even if we were successful in getting investments, we would need to have the

appropriate people, the skilled and qualified people, to carry out that mandate.

The other thing is, where you do get involved with Canada Health Infoway, particularly when you are considered one of the national leaders, you participate nationally at tables. Not large groups of tables and not just federal-provincial-territorial; groups of experts sit at tables involving all of these Electronic Health Record projects.

In order for us to maintain our status and to continue with the success we had with obtaining that investment, the last thing we would want was to have people who were are not qualified to be at those tables.

CHAIR: Are you saying that you are sort of playing in this league and you need to have similar calibre players as the other people at the table?

MR. BARRON: Certainly, we needed to have a certain calibre of players if we wanted to maintain our success with obtaining funding from Canada Health Infoway.

CHAIR: In the view of the board, you needed to pay certain levels of compensation that may have been outside of Treasury Board guidelines.

MR. BARRON: Certainly, the board was aware that we were having certain recruitment issues.

CHAIR: Now, the next letter I am looking at it March 5, 2008. That is a letter to you from Mr. Thistle. This may be a good time for me to disclose it. Mr. Thistle is a prominent member of the Liberal Party. He is also on the credentials committee for a certain leadership convention of which I am a candidate, so I think I can probably still safely ask the question.

This letter from Mr. Thistle went to you regarding conservation and he says: Your governing legislation places a restriction on the right to run a deficit – so you cannot run a deficit – but in no way limits the legal authority your Board of Directors has to approve a pay system for your personnel.

Why did you feel it necessary to go back and revisit with Mr. Thistle the issue of compensation when you just had the legal opinion only a few months earlier?

MR. BARRON: At that time, it was a second opinion. Certainly, the board Chair – I remember having a discussion – wanted to make sure.

CHAIR: Okay.

The next item that I am looking at has two date stamps on it: September 2, 2008 and September 3, 2008. This is a letter to Mr. Fanning and it is from the minister; it refers to the AG report 2005. So there had been an earlier Auditor General's report and references to Treasury Board having discussed this compensation issue asking for feedback by September 15, 2008.

MR. BARRON: What is the letter again, please, Mr. Bennett?

CHAIR: The letter has two date stamps on it; one is September 2, 2008 and one is September 3, 2008.

It is a letter by the minister and the re line says: Inconsistent compensation practices.

MR. BARRON: Yes, and I apologize. I did not print copies of that extra material. I tried to save a few trees and it is not always easy to retrieve it – thank you, very good.

CHAIR: So presumably Mr. Fanning would be aware of the minister's concerns. Was this something that was discussed, the minister's concerns about inconsistent compensation practices in September 2008?

MR. BARRON: I believe there was a response by Mr. Fanning to that particular thing.

CHAIR: There is.

MR. BARRON: That would have signalled him to have the need to communicate to government that the Centre would require a different approach.

CHAIR: So within the year immediately preceding that, in fact within from the ten-month period, you had received two legal opinions from two lawyers saying that you are not actually bound by the Treasury Board guidelines and the minister has raised this issue. Can you see there might be a problem if the minister has a concern with this and you have two legal opinions that say basically you are not bound by this, but you can go hire, and the minister raises this issue with you?

MR. BARRON: I certainly would see that as being an issue, yes.

CHAIR: Then Mr. Fanning responds on September 15, and this was copied to yourself and also to Mr. Strong who was the deputy minister, I understand, at that time. The content and the thrust of this letter, would you say that the Centre for Health Information would take this position today, five years later?

MR. BARRON: Once again, this is just a guess; I cannot read the minds of the board. I would suggest to you that the Centre for Health Information right now is committed to following the government compensation policies and procedures as outlined by the Auditor General.

CHAIR: Okay.

The next one that I have is dated January 20, 2009 and is attached to a whole bunch of materials. This is a letter that says "unofficial" near the top.

MR. BARRON: Thank you.

Who is the letter from and to?

CHAIR: The letter is from Mr. Fanning and it has gone to the minister. He is looking for a raise for you.

MR. BARRON: He is looking for a raise for me?

Actually, I have that in a file here. Is it January 20?

CHAIR: That is correct, 2009.

MR. BARRON: Okay, Sir, all right.

CHAIR: It says unofficial; I have never seen it on a letter before. What does that mean?

MR. BARRON: I have no idea. I did not write that. I did not put that there. I have never put it on a letter.

CHAIR: I have seen confidential. I have seen without prejudice. I have seen all kinds –

MR. BARRON: I was going to say I have used “without prejudice” in the past dealing with private companies, but I have never used unofficial.

CHAIR: So there is a letter gone to the minister that says unofficial, looking for a raise for you, and it is hand delivered. You do not know what unofficial means?

MR. BARRON: No.

CHAIR: Okay.

The next one that I am looking at is December 11, 2012. This is a letter from Mr. Peddle to you.

MR. BARRON: From Mr. Gary Peddle?

CHAIR: Yes, that is correct.

This is a response from him. This also seems like another opinion that says that your ability to pay at what scale you deem appropriate – and I am paraphrasing – is not prohibited.

In the second page, in the second last paragraph, the second sentence says: There are no restrictions imposed on NLCHI in the legislative power to establish its own bylaws for the conduct and management of NLCHI; however, it is understood that, where practical, such policies will follow those currently followed by the government.

MR. BARRON: Yes.

CHAIR: At that time, 2012, less than a year ago, who would decide whether the Centre would follow government policy or not?

MR. BARRON: At that time we were in discussion, moving towards that direction, regardless. There was still some indication from government that they did not agree that our legislation allowed us to do what we did, but certainly then, on a go-forward basis, it was at that time that we were starting to clearly understand that the Centre was going to have to follow the government compensation policies.

CHAIR: In your correspondence from Mr. Peddle, would you ordinarily receive these right away by e-mail or would they be e-mailed and mailed in afterwards? What would they be?

MR. BARRON: This one of this nature would have been quick, but it usually would have been maybe an indication of the message but the letter would arrive physically.

CHAIR: You would get it by e-mail, then follow –

MR. BARRON: It depends, yes. As you can see, this one here was faxed, I believe.

CHAIR: Okay.

MR. BARRON: No, I might be just looking at Mr. Peddle’s information. That is probably incorrect. That would have been physically received.

CHAIR: There is another one, December 19, 2012. This is from you to Mr. Paddon.

MR. BARRON: Yes.

CHAIR: Is this generally your response to his findings or is this post his sending a draft report to you?

MR. BARRON: Was this the validation letter?

WITNESS: Yes, I believe this was the validation letter.

CHAIR: Yes, that is what it seems like. It refers to something.

MR. BARRON: Yes, because at the time the board was concerned we were being compared to policies under which – how could we have done them if we were not following them. That would have been that response there. Actually, based on the date, that would have been the final validation letter.

CHAIR: Okay.

The next month, January 17, 2013, there is a memorandum to Jan Dicks from Donna Strong. It is on letterhead of McInnes Copper. It says: You have asked for our opinion respecting legal implications for the NL Centre for Health Information if we were to adopt salary scales as proposed by Treasury branch for the purpose of compensating its current employees.

Why were you asking for an opinion in January, 2013? Were you concerned in case of your legal ramifications in case you changed something, or if you wanted to still do it anyway in the face of the AG's report? What was going on there?

MR. BARRON: We needed to understand what the implications were for people who currently held employment contracts with the Centre. What was the liability and risk for the Centre as a whole? If I could find that letter I could be specific, because I know that was a concern at the time. Once again, we needed to know what would happen once we changed the system to comply with the government compensation system.

CHAIR: You mean if you renewed for someone who is existing or if you hired a new person in that category, or –?

MR. BARRON: I would need to read that letter but we needed both, because for new ones that is no problem. For anybody coming in, it is what it is. For anybody that was already there, we have obligations and responsibilities and risks associated with making sure that we follow common law or whatever those employment law aspects were of those people.

CHAIR: Okay, yes. I am satisfied with that response.

The next one is also from McInnes Cooper, January 16: You have requested our advice – and this is again from Mr. Mahoney to yourself. You have requested our advice regarding the legal risk arising from the plan to align compensation systems between the NL Centre for Health Information and Treasury Board on behalf of the Government of Newfoundland and Labrador.

This is six months later. Why are you still asking? It is the same law firm giving you a similar answer to a similar question six months later.

MR. BARRON: We are still asking because we were getting an indication that that may not be the case from when we were going through the alignment process with government. We just wanted to reinforce the fact that this, indeed, is what we have been told on how we needed to act.

CHAIR: Does it sound like an organization that does not really want to comply and are finding a legal way out to fight back with the government?

MR. BARRON: It can sound whatever way one wants to but at that particular point in time when you see that particular documentation, it was very clear the Centre was going to be following the policies and the compensation regime of government.

CHAIR: The next letter from Mr. Peddle, July 17, 2013, and this is the last one I will be referring to. It is a letter to you. The second sentence says: The purpose of the review is to determine to what extent, if any, NLCHI is governed by or subject to the policies and procedures imposed by government. Can you tell me if this was received by e-mail or fax?

MR. BARRON: I am sorry, what is the date on that?

CHAIR: July 17, 2013.

MR. BARRON: I would have to see the letter, but typically, once again, those things would be – the official document would be the one we receive.

CHAIR: Okay. If you wanted to have a look at it, because this is – it is stapled together but that was done in your material. So it may not have been at –

MR. BARRON: Yes. That was part of the second load of materials we sent?

CHAIR: Yes. The letter is dated July 17, 2013. Can you tell me when it was received?

MR. BARRON: Is there a stamp on that particular letter?

CHAIR: There is no stamp on this one. It has an e-mail address on his. The bottom has numbers but I cannot tell if they were fax numbers.

MR. BARRON: Hopefully, my esteemed colleague will be able to find that letter quicker than I am able to find it. July 17, 2013, I have that here. I would have to check, but we would have received that shortly after the date that is on the letter. Typically, my assistant would stamp these things. I will check to see.

CHAIR: Why this date is particularly important to me in the context of this letter is that you appeared before us on July 18. So, I am not certain – it seems like either you are trying to find a defence to be here, a response to be here, do you even need to come? Did you have this letter before you showed up?

MR. BARRON: At no time was that the intention. This would have been, once again, as we were going through the process of working with government on the roadmap for alignment. More than anything else, we needed to make sure government understood the risks of the unilateral change that we were making to the current employees. Once again, that is just a reiteration of the same thing.

Information does not always get received the same way, as you are aware. At several times throughout all this process we needed to reinforce that – not that we were not trying to do what they wanted us to do, but we needed to make sure they understood the implications of what the eventual direction from them would be.

The Centre had agreed that we would do what is required, but please be aware of the responsibilities and the implications given the status of our employees. That was really what these particular pieces of work were all about. This was never about the Public Accounts Committee.

CHAIR: Okay.

I have no more questions, but maybe one of the government members might have questions. I will go back to the other members here.

Mr. Joyce, do you have any questions?

MR. JOYCE: Yes, a few more questions and I will clue up then.

I will just go to page 177, right at the bottom of the page. The reason I am going to bring some of these up is because for the two days of hearings we had, all we heard was: We need to retain people, we need to keep them, we have the best, and we are going to lose them all.

Here is one example, your project manager was hired, “While interviews had been completed with 13 applicants, the Project Manager was upscale hired at step 16 and the human resources consulting firm was paid \$17,056 as a result of referring the successful candidate. There was no documented effort to determine whether another qualified candidate would accept the position at the same or a lower step and thus avoid the referral fee. This is inconsistent with Government policy.”

What we have seen – and I am going to go through a few of them – is that if ten or fifteen applied, oh we will just take this one; we will put him up on this high pay scale because we need him. Yet, there are probably ten or twelve

below who could qualify, or equally qualify, who could do the job. Instead, every time you take someone, oh, we need them; we got to retain them. How can that be justified when there are a lot more than one applicant who applied for the position, who was qualified for the position, and not considered at the pay scale that was offered?

MR. BARRON: According to the information I have, we had over sixty people apply for that particular position. It was becoming a very lengthy recruitment process and we were having difficulty getting the qualified project manager that was required; they had to be able to hit the ground running. As a result of that, the determination was that the person who was required was a very experienced project manager and that is what it would take to get that person in the door.

MR. JOYCE: So, it is just get the taxpayers' money, give them the –

MR. BARRON: No, it was to get the best value for the taxpayer.

MR. JOYCE: How do you know the other people could not do the job also?

MR. BARRON: You will never know.

MR. JOYCE: What?

MR. BARRON: You will never know.

MR. JOYCE: Isn't it your responsibility to know?

MR. BARRON: These people who did the recruitment went through a process with all of these people, went through their qualifications, interviews and anything else, you will never know; but certainly that is what those people determined –

MR. JOYCE: Did you see the other positions and qualifications, or you just took one and moved on?

MR. BARRON: I am sorry?

MR. JOYCE: Did you see the other people who applied for those positions?

MR. BARRON: I would not see that as CEO. What I would get is a recommendation from the recruitment group.

MR. JOYCE: Just one and you just take without asking other questions?

MR. BARRON: If I saw something in the documentation I was not satisfied with, I would ask additional questions; but they would provide me with a face sheet that explained the situation and what was going on with that particular position. As long as I was comfortable that they did their due diligence –

MR. JOYCE: You never saw the other thirteen applicants, the resumes, what their qualifications were, if they would accept the base salary?

MR. BARRON: No, that would not be my job, Sir.

MR. JOYCE: Okay.

Did you ever think about, when you moved in – there was no document effort to determine whether another qualified candidate would accept the position at the same or the lower step, thus avoid a referral fee. This is inconsistent with government policy.

Did that ever cross your mind to ask them that?

MR. BARRON: I am sorry? Say that again.

MR. JOYCE: There was no documentation or effort – right at the bottom of that page. Did it ever cross your mind where you are dealing with the taxpayers' money to ask those questions?

MR. BARRON: I can assure you that the question was asked when I found out what happened in that particular circumstance. It was certainly made clear that we would not be using human resources firms unless we absolutely had to.

MR. JOYCE: Okay.

Is there any documentation to show what this position was and why it was such an urgent need?

MR. BARRON: We certainly have all that documentation of what that particular position is, why it was important, what that person would be involved in.

MR. JOYCE: The other qualifications, would you have that?

MR. BARRON: Well, we would have whatever we have in the human resource file with that particular recruitment, absolutely.

MR. JOYCE: Okay.

MR. BARRON: Of course, on paper, things look different than when you interview, et cetera.

MR. JOYCE: I do not think it does.

I go to another one on the same page: An effort to hire a step 1 was not documented by any of the upscale hire memos. The CEO was provided with only the name of the top candidate and was not advised of any other qualified candidates. Centre officials advised that in an instance where top candidates attempted to negotiate a salary beyond step 1, no effort was made to determine whether another qualified candidate would accept the position at step 1. This is inconsistent with the Centre policy and government's policy. How can you –

MR. BARRON: I do not entirely agree with the way the writing is there. We always attempted to hire at step 1, but we also had to make sure that we got the person who was most qualified for the job.

MR. JOYCE: Is there documentation? The Auditor General is saying there is no documentation about this.

MR. BARRON: The documentation would be the face sheet that shows up to me to sign off on the successful recruitment. That fact sheet would have –

MR. JOYCE: So once someone gets the recruitment, I want to get the higher pay, you go off and either say yes, we will give you the higher pay or go back, okay guys, here is –

MR. BARRON: No, there is a bit of due diligence done. You typically try to find out what the candidate is making in their current position. You also try to get an indication of what the market would be hiring for a person with similar qualifications and experience as well. It is not just as simple as that. We would (inaudible) –

MR. JOYCE: Okay. Can I ask the Auditor General then if there was due diligence? Is there any documentation on file that you can find where there was due diligence done if someone came in and asked for higher pay, going back and checking the other candidates to see who was qualified? Did you find any documentation to show that this due diligence was done?

MR. PADDON: I think that is the point that we are making here, is that we did not find the documentation related to that.

MR. JOYCE: This is what I am saying. You are saying that due diligence was done, but there is no documentation to show that any due diligence was done. It was just take –

MR. BARRON: The due diligence was on the successful candidate. I believe what the Auditor General is referring to is that he would not have seen documentation to show that we sometimes tried to go back to those candidates who may be willing to accept step 1. Certainly, the job of our recruitment people was to get the best candidate and, typically, that is when it was determined whether or not that person warranted upscale hiring as opposed to hiring on the lower end of the scale.

MR. JOYCE: I am missing something. I will not harp on it, but I am missing something.

Can you explain what you are saying there? This is my understanding. If you go hire someone and say here is your pay scale, the minute you hire this person they say, oh, by the

way, I want an increase in pay – where it is taxpayers’ money – you can so no, here is the pay scale you were hired at. If you do not agree to that, you can go back and look at the other thirteen candidates and say, okay, is either one of these qualified to do this position.

MR. PADDON: Typically, the way it would work is once you go through the recruitment process, out of the candidates who are the people you interview, you would have a number of candidates who are recommendable. Now, there is a ranking, so some would be higher than the others, but generally you would end up with a number of people who are recommendable.

So you would start with the first person on the list and you would offer that job at step 1. Typically, what comes back in this instance, for instance, they would say: No, I am not prepared to take that job at step 1; I need step 6, 7, or whatever it is. Government policy would suggest that if there is somebody else recommendable, you would go to the next candidate to see if they are prepared to take it at step 1.

I guess what we are missing or did not see is the documentation around whether there was any attempt to look at any of the other candidates on the recommended list and would they be prepared to take the job at step 1.

MR. JOYCE: Okay.

It is another situation. I will just wait for the CEO to return. I only have one more question, Mr. Chair, and he will be back now in a second.

The point here with the Auditor General is the hiring.

CHAIR: Mr. Joyce, if you like, we can pass these minutes while we wait and we could come back. That way we will not forget to approve the minutes.

MR. JOYCE: Sure.

MR. BRAZIL: I will move, Mr. Chair, to accept the minutes of the September 12, 2013 Public Accounts meeting.

CHAIR: All those in favour, ‘aye’.

SOME HON. MEMBERS: Aye.

CHAIR: Opposed?

The minutes are passed.

On motion, minutes adopted as circulated.

CHAIR: Mr. Joyce, we can go on to Mr. Mitchelmore and come back to you if you want us to, whatever you prefer.

MR. JOYCE: No, it is just one more question and I am finished then.

CHAIR: The clock is not running on you.

MR. JOYCE: The clock is not running, no.

CHAIR: I want to give you a long count.

MR. JOYCE: There are a lot more questions you could ask.

CHAIR: Go ahead, Mr. Joyce.

MR. JOYCE: Yes, I will go on to Page 178. I have two more questions and I will clue up.

Appointment beyond step 25, the second paragraph, “In 2 of the 16 upscale hire instances we reviewed, the CEO had approved upscale hires beyond step 25. A Systems Analyst was hired at step 31, while a Technical Applications Analyst was hired at step 33. These upscale hires are in line with Centre policy, but are inconsistent with Government policy.”

Are all of those in line now with different policies, government policies?

MR. BARRON: There will be no upscale hiring unless it follows the current policy for government upscale hiring?

MR. JOYCE: When did that stop?

MR. BARRON: The upscale hiring, because of the concerns of the Auditor General, we took it upon ourselves to stop that in the early part of this calendar year.

MR. JOYCE: Even with your legal opinions that say you have the authority to go off and do whatever you want, even though each time it came up you needed approval from the minister, yet you claim that you always had the legal authority to go off and do as you see fit, hiring and increased pay. When did the board itself approve a motion that from here on in we will fall within government policy guidelines?

MR. BARRON: The board did not have a motion to do that as much as the board had a consensus, and the board agreed by consensus that we would align our policies with governments.

MR. JOYCE: Okay. My question again: When was that done?

MR. BARRON: That was done – essentially, that was in conversations during the report back in December or November. There was a general recognition that we had to align with government policy.

MR. JOYCE: Okay. It is okay for me to say that it was not done until the Auditor General stepped in and said: look, here are some major concerns.

MR. BARRON: That accelerated the clarity, because there were issues that we discussed prior to the Auditor General. There was a bit of inconsistency between what the Centre was doing and what other government agencies were required to do. Before the Centre's board decided to go forward with the full alignment, they wanted to be clear as to what that meant.

For the most part, there is no question the Auditor General's visit accelerated the move for alignment but the Centre was already on the way to doing certain activities that would have placed us.

MR. JOYCE: Like what?

MR. BARRON: Like those conversations we were having with the department prior to the Auditor General coming in about getting market adjustments as opposed to us using market differentials. Those types of discussions were happening in the fall of 2012.

MR. JOYCE: My last question is on page 184. It is on the Hay scale.

“On June 30, 2011, the CEO informed the Chair of the Board that he ‘recommend we move three of our executives up the current scale to more accurately reflect their relative experience and responsibility as per the Hay Classification System, This is not a reclassification but an upward move on the current Hay Level salary classification.’ These three salary increases were retroactive to May 1, 2011. Centre officials were unable to provide documentation required by Centre policy to support these salary adjustments.”

Was there ever any documentation on why it was done?

MR. BARRON: The documentation would have been what went to Mr. Fanning, which we discussed earlier. As well, those particular executives at the time – once again, we were not reclassifying them. We were giving them salaries that reflected their current experience, knowledge, and expertise on the Hay Level scale.

MR. JOYCE: Where is the documentation for that?

MR. BARRON: The documentation for?

MR. JOYCE: For the increases in the Hay scale.

MR. BARRON: The documentation would have been an e-mail from me to Mr. Fanning justifying the increases, based on recruitment and retention.

MR. JOYCE: Is it on file somewhere?

MR. BARRON: The Auditor General quotes it.

MR. JOYCE: “Centre officials were unable to provide documentation required by Centre policy to support these salary adjustments.”

MR. BARRON: No, but the Auditor General quoted the e-mail at the top of that paragraph.

MR. JOYCE: Yes. He recommended we move three, but where is the documentation required to justify that?

MR. BARRON: In that particular case, there was not the normal documentation but there was documentation to show that the board approved it, or that the board Chair approved it.

MR. JOYCE: There is nothing there to support it. Just say: Here, give three of the boys or three people increases but there is no formal documentation to explain why.

MR. BARRON: Within the broader context of that e-mail there would have been more justification, yes.

MR. JOYCE: Okay.

I will ask the Auditor General: Did you feel when you stated, “Centre officials were unable to provide documentation required by Centre policy to support these salary adjustments.”

MR. PADDON: Yes, we would have expected to see something more than just the e-mail to support the changes in salaries. There should have been something on file to suggest that duties had changed or responsibilities had changed, or whatever it was.

MR. JOYCE: It was not in the e-mail itself?

MR. PADDON: Not that we saw, no.

MR. JOYCE: Okay. Again, we see the discrepancy there that he seen the e-mail but it is not in the e-mail.

MR. BARRON: Again, I would assume Mr. Paddon was referring to a specific set of

documentation as opposed to information in the e-mail.

MR. JOYCE: Yes, we are referring to the documentation.

MR. BARRON: Yes.

MR. JOYCE: Yes. There was no documentation?

MR. BARRON: In that particular case, the documentation once again is from the e-mail. There are several instances where the Auditor General pointed out that certain things happened that were not documented as per the Centre’s policies and procedures. I can assure you that when those were pointed out to us, the first thing we think of is: Well, that cannot happen anymore. That is why we have changed the way we approach these things. For the most part, we document most of those things as per our policies.

MR. JOYCE: My last question, it is on top of page 185, “...13 personnel files identified an instance in which an employee was successful in a job competition that resulted in a lateral move on the pay scale. However, the employee negotiated an increase of 3 steps on the pay scale for this lateral move. Centre policy does not address a step increase for a lateral move resulting from a job competition.”

How can you explain that, or can you give me the justification for that?

MR. BARRON: Well, I can certainly tell you that those particular types of positions would be related to the Personal Health Information Act, mission critical to the Centre and information protection. That is really what would justify that.

While there was not a policy to address the step increase for a lateral move, certainly with the new government policies, whatever that policy says then that is what we will do in the future. As a matter of fact, in the future what will happen is we would put those jobs out for people to apply for and we would go through the same

process that is currently followed through the public sector and the public service.

MR. JOYCE: For some reason they were in this position, they were doing their job, they got a lateral transfer, and because they got a lateral transfer –

MR. BARRON: A lateral transfer doing different things.

MR. JOYCE: Okay, but it is against government policy.

MR. BARRON: Well, it was not a government policy that we were concerned about here. What happened here is that we did not have a policy for –

MR. JOYCE: It is obvious the government policy was not a concern.

MR. BARRON: No, we did not address it through our own policies.

MR. JOYCE: Yes. I am assuming it is documented, is it?

MR. BARRON: I would have to go back and see what exactly happened.

MR. JOYCE: What I mean by documented is what their duties were, and how they changed.

MR. BARRON: I certainly would hope so, yes.

MR. JOYCE: Can you supply that?

MR. BARRON: I will certainly get our people to see what is there for you.

MR. JOYCE: That is it for me.

CHAIR: Mr. Mitchelmore.

MR. MITCHELMORE: I guess just a couple of questions. Page 197 talked about direction from Treasury Board on consistency of compensation policies. The response initially was that the Centre would not comply, that it had sought its own legal opinion; but, on the

direction of the minister now, it is going to comply with the road map. You had said that the board had reached consensus, but is there written documentation to show that there was an actual meeting where this new road map would be the approach and that salaries would be put in line with the public sector?

MR. BARRON: I can certainly provide you with the minutes of the last number of board meetings where this was front and centre, as you can appreciate –

MR. MITCHELMORE: Right.

MR. BARRON: – with those board meetings. Everybody on the Centre's board was provided with drafts of the road map, as we were developing it, in conjunction with government. So there was a fair amount of interaction with the board on this particular issue. This issue, essentially, became the board issue for the last little while.

MR. MITCHELMORE: I can imagine it would, given the findings of the Auditor General's report, and some lack of oversight, I think, from the minister in previous happenings to allow such things to actually transpire that is going to end up costing the taxpayer.

I will wait for the additional documentation that I requested around legal fees and around the reclassification cost and, as it moves forward, look forward to that documentation.

I do not have any further questions for the Centre of Health Information at this time. I could continue, but I would feel that I would be just repeating myself on the issues that other members have already brought forward.

CHAIR: So, we will conclude our hearing. Thank you for coming.

MR. JOYCE: Mr. Chair, I just have a few closing comments.

CHAIR: Yes.

MR. JOYCE: This is just something that I would be remiss if I did not put it on the record. When you appear in front of the Public Accounts – I say to the CEO, you should get those minutes clarified that you did not vote for any monetary motions on the table that you stated here, numerous times, I stayed clear; but obviously, on two occasions, you did not. So, I would get that clarified somehow with the minutes and justify it somehow with it.

The second thing that I would say – and this is on a go-forward-basis – is that any decision, when it is of this magnitude, you should get written permission, a written okay, or clarification from the minister. We see that Minister Ross Wiseman – and here we are as a Committee saying the one person, CEO Mr. Fanning, who met with the minister, who came back and said everything is fine. Yet, we do not have Mr. Fanning here and we do not have Minister Wiseman here to say if everything was fine.

I am not saying it did not happen. I am not saying that the minister did not give Mr. Fanning permission. I am not saying that, but it is hard for us as a group to find out why all of this was done, because every time we move forward there is something that we were told is not what was happening. It is very inconsistent and it is very troublesome.

I thank the Auditor General. Personally, I think he did a good job on it. Like I said before, the MHAs went through this before with the previous Auditor General and we understand sometimes the role that it has to take. I do not think in any way there was a distraction. I think it was great for the people of Newfoundland and Labrador; I thank you for that. If you have to distract by protecting taxpayers' money, I say keep on distracting wherever you have to distract.

I thank the Committee members for putting up with the questions because sometimes they were tedious, but there were times that there were inconsistencies and we had to try to get a better grasp.

The positive side is we are moving forward and everything will fall under government policy, which is what this is all about, the Auditor General and the Public Accounts. Hopefully, in a year's time we will get a report back saying that things are in line with government policy.

CHAIR: Thank you for coming. You have been most patient.

The Committee adjourned.