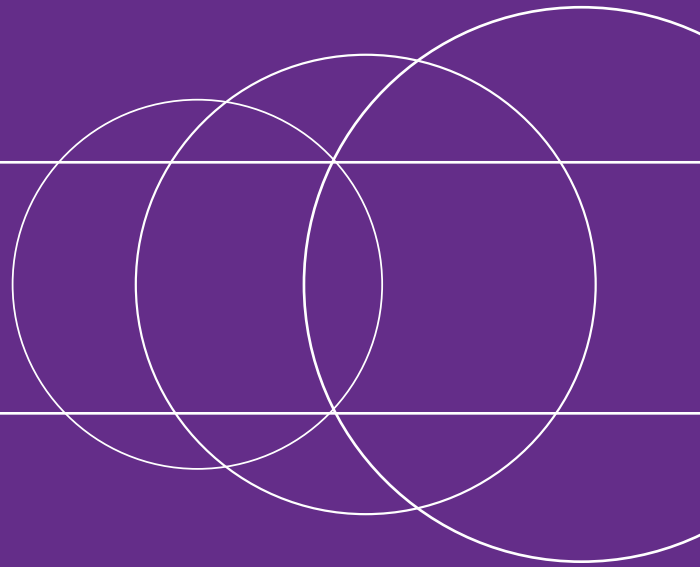


AUDIT REVIEW

Individual Learning Accounts in Scotland



MARCH 2003

PREPARED BY AUDIT SCOTLAND

Individual Learning Accounts in Scotland

A report to the Scottish Parliament by the Auditor General for Scotland

Auditor General for Scotland

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Executive summary

Introduction

1. Individual Learning Accounts (ILAs) were a UK-wide scheme aimed at increasing adult participation in education and training by offering an opportunity to obtain discounts on the costs of a wide range of eligible learning. The ILA scheme's main strategic objectives were to contribute to a better equipped workforce and to enable people to have a personal stake in lifelong learning, with greater control over their personal development.
2. The ILA schemes which operated in each of the participating countries of the UK were broadly similar but differed in their detailed administrative arrangements and eligibility criteria. The schemes required people to obtain an ILA and to identify the learning they wished to undertake. The UK target for the ILA scheme was to have one million accounts opened by 31 March 2002, of which 100,000 accounts were to be opened in Scotland. There was a tight timetable for the introduction of the scheme due, in part, to the need to meet the UK government's commitment to introduce ILAs as part of the 1997 Labour Party manifesto. The Department of Education and Skills (DfES) had the lead role for developing the UK-framework for the ILA scheme.
3. The ILA scheme opened in Scotland in July 2000, and the 100,000 target was exceeded by June 2001. In total, some 266,000 accounts were opened in Scotland and 128,000 individuals used their accounts to enrol for 178,000 separate learning episodes. The cost of discounts claimed in respect of learning provided amounted to £18.8 million. Exhibit 1 shows the bodies involved in the development and administration of the ILA scheme in Scotland.
4. During the summer of 2001, the public bodies involved in the administration of the ILA scheme throughout the UK began to receive complaints concerning the activities of some learning providers. These included allegations about non-compliant and potentially fraudulent expenditure, and ultimately led to the closure of the ILA scheme across the UK in December 2001. As a result of the concerns raised, I have produced this report on the administration of the ILA scheme in Scotland. The report addresses the extent of, reasons for, and consequences of the non-compliant and potentially fraudulent activity, and what lessons ELLD has learned for a successor scheme.

Exhibit 1: Roles and responsibilities in scheme administration in Scotland

- DfES had lead responsibility for the development of the UK-wide framework for ILAs and for procuring a customer service provider.
- The Scottish Executive Enterprise and Lifelong Learning Department (ELLD) had overall responsibility for ILA policy in Scotland, for monitoring and managing its contract with the customer service provider and for providing funding to Scottish Enterprise (SEn) and Highlands & Islands Enterprise (HIE).
- SEn initially administered the scheme from July 2000. From 31 October 2000, the appointed customer service provider, Capita Business Services Ltd, administered the scheme from its national ILA Centre under the terms of a contract with the Scottish Ministers. Capita processed applications to open ILAs, maintained a database of ILAs and registered learning providers, and processed claims for payment received from learning providers for training provided.
- SEn and HIE were responsible for making payments to Capita to enable learning providers' claims to be settled, and for monitoring scheme expenditure.
- The Scottish University for Industry (SUfi) is a company limited by guarantee whose mission is to build skills, employability and competitiveness by improving an individual's access to effective learning. In respect of the ILA scheme, it was responsible for registering learning providers and for scheme promotion. Although not a formal accreditation exercise, the requirement for learning providers to register with SUfi enabled it to carry out basic checks on the eligibility of providers, and whether the training they offered qualified for discounts under the scheme.
- Learning providers, such as further education training colleges and private sector trainers, provided training to people holding ILAs. After receiving the individual's contribution to the cost of training, learning providers claimed the balance of the total cost of training provided from Capita.

Source: Audit Scotland

Why did the non-compliant and potentially fraudulent activity occur?

- To assist understanding of the reasons why the ILA scheme in Scotland was open to non-compliant and potentially fraudulent activity, Exhibit 2 provides a summary of key events occurring between September 1999 and December 2001.

Exhibit 2: Key events in the ILA scheme

September 1999 to October 1999	DfES establishes a programme board and four supporting project boards to take forward the development of the UK-wide framework for the ILA scheme. It also invites expressions of interest for a scheme customer service provider.
November 1999	The Scottish Ministers confirm that the Scottish Executive would continue to participate in the UK-framework for ILAs with DfES having lead responsibility.
January 2000	Due to the tight timescales set for the introduction of the ILA scheme in England, consultants advise that the participating administrations will need to secure the procurement of the customer service provider through separate contracts.
March 2000	ELLD commences negotiations with Capita as customer service provider.
June 2000 to October 2000	Interim ILA scheme in operation using SEn Corporate Training System. Capita commences administration of Scottish ILA scheme on 31 October 2000.
September 2000 to May 2001	ELLD writes in September 2000 setting out the envisaged responsibilities of SEn and HIE under the scheme with effect from 31 October 2000. ELLD provides guidance to SEn and HIE on their roles and responsibilities for scheme monitoring in February 2001. Further advice is given to HIE in May 2001.
June 2001	SUfl writes to all registered learning providers requiring them to sign a code of practice if they wished to continue to participate in the ILA scheme.
August 2001	ELLD writes to learning providers highlighting a number of unacceptable practices of which it has become aware.
August to September 2001	HIE begins site visits to selected learning providers as part of its monitoring activities in August 2001. SEn commences its monitoring of high priority learning providers one month later.
October 2001	DfES announces its intention to cease the ILA scheme in England with effect from December 2001. ELLD suspends new registrations of learning providers in Scotland.
November 2001	DfES announces the immediate closure of the ILA scheme in England. ILA payments are suspended in Scotland. SEn commissions consultants to review and assess the controls over the Scottish ILA scheme.
December 2001	Consultants conclude that the overall systems of controls do not provide effective protection against critical business risks, and that the ILA scheme is susceptible to fraud and non-compliance with scheme rules. SEn and HIE commission an independent exercise to validate outstanding claims waiting settlement. The ILA scheme in Scotland is formally closed on 20 December 2001.

Source: Audit Scotland

ELLD could have been more involved in the design and implementation of the ILA scheme

6. In October 1999, DfES established a programme board and four supporting project boards to take forward the development of the UK-wide framework for the ILA scheme. ELLD and the other participating departments in Northern Ireland and Wales were not represented on the programme board or the project boards. Instead, DfES communicated important information to ELLD and the other departments through the forum of periodic ‘Home Countries’ meetings. In a number of instances, for example DfES’s negotiations over the terms of the contract with Capita, the other departments considered that DfES did not always keep them fully briefed on the implementation of aspects of the national framework. Capita was also of the view that, on a number of occasions, it had to inform ELLD of decisions made by DfES which had a direct impact on the Scottish scheme.

7. The arrangements for the national framework envisaged that DfES would take the lead on the overall procurement of the customer service provider and that the contract it negotiated would provide a ‘core service’. The other departments could either tailor specific aspects of the ‘core service’ contract within an extended contract for their own purposes, or secure a separate contract with an alternative service provider. In January 2000, DfES’s consultants, KPMG, indicated to ELLD that, because of the tight timescales DfES had set for the introduction of the ILA scheme in England, the provision of the service in the other countries would not be secured through an extension of the ‘core service’ contract with DfES. ELLD decided to negotiate with Capita from the contract base established by DfES. The contract between the Scottish Ministers and Capita was signed on 8 November 2000, one week after Capita began the commencement of service provision for Scottish ILAs.

8. The established contract between DfES and Capita influenced the development of the Scottish ILA scheme and resulted in reduced aspects of control over learning providers. The contract between DfES and Capita allowed, as an interim measure, learning providers to register direct with Capita’s database and to self-certify that learning was eligible for funding. Capita was not required to undertake spot checks on the eligibility of the learning provided. Once English based learning providers registered with Capita they could then make claims in respect of training provided to Scottish based students which, under the scheme administrative arrangements, would be met by either SEN or HIE. This negated the controls in Scotland over distance learning providers operating from England. It was not until the

summer of 2001, as a result of alleged abuses of the ILA scheme in England, that ELLD discovered the weaknesses of the system.

9. ELLD could have been more involved in the development of the national framework for ILAs. As a UK national scheme, it would have been reasonable to expect that ELLD would have been represented on the programme board. Had it been represented, it may have learned earlier of the nature of the interim arrangements which DfES had implemented, whereby learning providers based in England could self-certify that their learning was eligible for funding. It has become increasingly important since devolution that, where Scotland is participating in national UK-wide programmes, the Scottish Executive ensures that it is adequately represented on programme boards responsible for taking the policy forward. It should ensure that clear concordats are agreed, defining respective roles and responsibilities and that there is full and effective communication between participating departments.

ELLD did not fully appreciate the risk of fraudulent activity

10. In December 1999, ELLD asked KPMG to complete a risk and issues register for Scotland to form part of their evaluation framework for the procurement of the customer service provider. The risk review did not identify any risks considered significant and the register was not revisited as the procurement progressed. The consideration of large-scale fraud did not figure in any of ELLD's review of risk in the implementation of the scheme. ELLD considered there might be some fraud by ILA account holders, but regarded the likely extent of this, and the consequential financial loss, to be low in terms of the overall scheme.
11. The Scottish Executive's internal auditors considered there was more risk of fraud by learning providers. They recommended that the proposed contract with Capita should be amended, to require Capita to undertake a variety of checks to ensure the scheme's rules were complied with, and for Capita to have some responsibility for ensuring the existence of reasonable procedures for the prevention, detection and reporting of fraudulent claims. ELLD did not act on internal audit's recommendations because it expected the control issues raised to be included in the roles and responsibilities of SEN. It also did not raise with Capita the risk of fraudulent activity by learning providers until problems emerged in England.

12. While ELLD commissioned KPMG to undertake a risk review of the ILA scheme, it failed to act fully on the recommendations of its internal auditors. Identifying the risk of fraudulent activity is often difficult when new and innovative programmes are being developed and implemented. But it is essential that risk is kept under constant review and that prompt and appropriate advice is sought as schemes develop. In particular, the ILA scheme demonstrates the importance of formal risk analysis, risk monitoring and the development of appropriate counter-fraud strategies.

There was an absence of robust systems of control over the scheme

13. SUfi carried out basic checks on the eligibility of learning providers seeking to register with the ILA scheme, but it did not formally accredit them. Learning providers were only required to make available to the Scottish Executive details of individuals supported and learning provided from June 2001. On the basis of legal advice, learning providers who registered with SUfi prior to June 2001, and who refused to provide such information, were allowed to continue to make claims for learning provided unless there was evidence of improper activity.
14. SEN and HIE expressed to ELLD their concerns about the capabilities of Capita's system and the overall control environment during the run up to, and after, the ILA Centre going live. ELLD's response cited actions it understood DfES had taken, including an evaluation of Capita's technical and business process systems, and a review of Capita's internal management and accounting systems. ELLD also received assurances from DfES that an audit of Capita's systems controls would be undertaken. DfES began an overview audit in April 2001, but this work was put on hold when resources were redeployed to investigate rising complaints about learning providers' non-compliance with scheme rules. DfES did not report the findings of this work and there is no record of DfES, or its consultants, undertaking any review of the robustness of Capita's security arrangements.
15. In August 2001, as a result of complaints received, ELLD identified a number of unacceptable practices concerning the activities of a small number of learning providers. These included the absence of enrolment forms authorising learning providers to claim payment for learning commenced, and individuals not paying any personal contribution to the cost of learning. These findings, and in the absence of a system review by DfES, led SEN to commission consultants to review and assess the controls being applied to the Scottish ILA scheme. KPMG's review concluded, in December 2001, that the overall systems of control did not provide effective protection

against critical business risks. In particular, KPMG concluded that the scheme was susceptible to misappropriation of funds through fraud and non-compliance with scheme rules.

16. In the absence of individual contracts, the accreditation of learning providers presented an opportunity to prevent unscrupulous providers gaining access to the programme. However, the lack of formal accreditation meant that this opportunity was lost.
17. The ILA scheme was a new, innovative programme involving several different bodies each with their own responsibilities, which required robust systems of control. Despite early concerns about systems security, no formal evaluation of systems controls was carried out until late 2001, when there was already evidence of widespread and systematic abuse of the scheme. Such evaluations should have been undertaken prior to Capita assuming its responsibilities, with subsequent reviews being undertaken in accordance with a risk-based audit plan.

There was an absence of clear guidance for the operation and administration of the scheme from October 2000

18. Between July and September 2000, SEN administered the scheme in accordance with a detailed guidance manual. ELLD did not ensure the development of similar guidance when Capita assumed its responsibilities for scheme administration. ELLD gave its first intimation of the detailed rules and requirements of the scheme in August 2001, when it wrote to learning providers drawing attention to the type of unacceptable practices which ultimately led to the closure of the scheme. ELLD accepts that, prior to September 2001, ascertaining the rules of the scheme was difficult.
19. Clear and detailed scheme rules and requirements would not necessarily have prevented deliberate fraud from being perpetrated by unscrupulous learning providers. However, ELLD could have assisted learning providers to identify the 'dos and don'ts' of the scheme had it developed appropriate guidance when Capita assumed its responsibilities for scheme administration. This may have prevented accidental non-compliance with scheme regulations, and would have provided a firm basis for subsequent action to recover claims paid in error.

Responsibilities for scheme monitoring were unclear and not fully agreed

20. In September 2000, ELLD set out what it considered would be the enterprise bodies' responsibilities under the scheme from 31 October 2000 onwards. These responsibilities were subject to confirmation

because, at that time, the contract with Capita had yet to be signed. ELLD confirmed the roles and responsibilities of SEn and HIE in February 2001. This guidance anticipated that SEn and HIE would wish to arrange sample checking with learning providers and learners, so as to ensure that eligibility rules were met, that learners received the learning for which the provider was paid, and that providers were properly paid for the learning provided.

21. In February and May 2001, HIE requested further clarification from ELLD as to its monitoring role in respect of the ILA scheme. ELLD confirmed that HIE would not review Capita's systems at its ILA Centre. ELLD envisaged that SEn would undertake visits to the ILA Centre to carry out systems checks, and there was no need for HIE to replicate this work. SEn, however, was unaware that ELLD had advised HIE in these terms and considered this aspect of its responsibilities was not included in the February 2001 guidance. SEn and HIE made a familiarisation visit to the ILA Centre in June 2001 but did not consider a repeat visit necessary. Apart from KPMG's review of December 2001, SEn and HIE did not conduct or commission any other systems checks at the ILA Centre.
22. As accountable officers, the chief executives of SEn and HIE were responsible for ensuring the propriety and regularity of payments to Capita in respect of claims from learning providers. It was, therefore, essential that the responsibilities of both bodies for scheme monitoring were established at an early stage to enable accountable officers to fulfil their responsibilities. Responsibilities for SEn and HIE were not finalised until Capita had been administering the scheme for more than three months. ELLD's subsequent clarification of responsibilities should have been agreed with both SEn and HIE.

The introduction of effective monitoring and audit arrangements could have been considered sooner

23. In September 2001, SEn began sample checking of high-priority learning providers targeted at 27 providers representing over 50% of the total payments of £7 million made to learning providers up to this point. In their retrospective review of the processes in place for monitoring the ILA programme, SEn's internal auditors concluded that it had committed inadequate resources to monitoring, that no monitoring had been performed between October 2000 and September 2001, and that there had been inadequate levels of monitoring in the period after September 2001. SEn accepts there was a delay in implementing monitoring. It considers, however, that the risks were low in the early period of the scheme because of the relatively few ILAs opened, the low levels of scheme expenditure and

in light of ELLD's assurances in response to previous concerns SEN had raised over the overall control environment. SEN also considers that uncertainty regarding the body's precise role up to the issue of ELLD's guidance in February 2001, militated against the introduction of monitoring and control procedures.

24. HIE's monitoring of learning providers commenced in August 2001 and focussed on providers with relatively high levels of spend. HIE assessed the risks to the scheme prior to this date as low, as the providers were mainly reputable, locally based providers who were known to it. The results of HIE's monitoring indicate that it was only after September 2001 that learning providers identified as high risk started to provide significant learning to people living in the Highlands and Islands. HIE's external auditor considered that the relatively late arrival in the HIE area of potentially fraudulent practitioners prevented earlier monitoring of high risk learning providers and that subsequently, the monitoring structure installed by HIE and its prompt investigation of suspect providers, helped mitigate the level of potentially irregular claims.
25. Despite raising concerns about the overall control environment as early as September 2000, SEN and HIE did not introduce monitoring visits of high-risk learning providers until over 10 months later. Both SEN and HIE assessed the risk of improper activity in the period up to September 2001 as low, and were correct to concentrate their monitoring efforts on those learning providers they assessed as being high-risk. In the circumstances, however, the introduction of robust monitoring and audit arrangements could have been considered at earlier stages. Depending on their individual circumstances, this could have provided a real deterrent and a means of detecting improper activity by learning providers, and could have helped mitigate some of the other deficiencies associated with the scheme's administration. HIE could not monitor providers suspected of improper activity prior to them delivering in the HIE area in September 2001, and monitoring began promptly thereafter. Similarly, SEN's ability to monitor potentially fraudulent claims was also limited, as only a small number of suspect learning providers were active in SEN's area of operations prior to September 2001.

How much money is involved?

26. DfES announced the immediate closure of the ILA scheme in England on 23 November 2001, following allegations of a third party offering to sell unused account numbers to a learning provider, and learning providers trawling the Capita database for unused account numbers. On the same day, following receipt of KPMG's initial findings on its

review of systems controls over the ILA scheme, ELLD concurred with SEN's decision to suspend payments to learning providers as a precautionary measure to protect public funds. SEN's decision to suspend payments was confirmed on 17 December, on receipt of KPMG's final report. HIE also considered it prudent to withhold the payment of claims. This, together with reports from DfES and latest expenditure projections from SEN, led Scottish Ministers to close the scheme in Scotland. ELLD announced the immediate closure of the scheme in Scotland on 20 December 2001.

27. Following the decision to suspend payments to learning providers, SEN and HIE commissioned KPMG to undertake an independent validation exercise on a 10% sample of learning episodes on claims for payment received between September and November 2001. KPMG found a significant level of non-compliance with the requirements of the ILA scheme, including lack of proper documentation used by individuals to register for learning, probable signature mis-match between the person originally opening the ILA and the person registering for learning, claims received in respect of people stating they did not receive training, and students who did receive training stating they had not made any personal contribution to the costs of their learning.
28. On the basis of KPMG's findings and further validation work of their own, SEN and HIE have currently identified £214,000 of non-compliant claims where there is no evidence to confirm that training has been undertaken. In order to ensure that they are not complacent about the potential scale of non-compliance, SEN and HIE have applied the error rates from sample testing to the total claims of learning providers where the original irregularities were identified. On this basis, SEN and HIE estimate that, at worst, up to £4.5 million of claims received from these learning providers may be irregular. SEN and HIE paid £15.0 million to learning providers under the scheme. A further £3.8 million of claims were still outstanding as at November 2002. Some 92% by value of claims received, and 98% of the extrapolated error, relates to SEN's area of activities.

What is the Scottish Executive doing to recover overpayments and prosecute learning providers suspected of improper activity?

29. In January 2002, ELLD, SEN and HIE determined a basis for the release of funds to learning providers where claims could be validated. ELLD updated its policy guidelines in August 2002 to include, as a basis for seeking recovery of payments made, indicators of potentially irregular payments and non-compliance with the scheme, and a method for calculating the level of erroneous payments

made. The guidelines seek to strike a reasonable balance between paying outstanding claims to those learning providers which represent a low risk of improper activity, and focusing further investigative work and recovery action on high-risk providers.

30. This has enabled SEn and HIE to make payments to learning providers whose claims were frozen when the scheme was closed. As at the end of November 2002, SEn had claims outstanding of £3.7 million in respect of 58 learning providers. At the same date, HIE had claims outstanding of £84,000 in respect of 18 learning providers, 16 of which also have claims outstanding at SEn. Based on the validation work carried out, ELLD and the enterprise bodies have identified 28 learning providers where it believes there is the highest risk of fraudulent activity having taken place. These providers received payments totalling £2.9 million in respect of the ILA scheme in Scotland, and have further claims valued at £2.8 million outstanding. Search warrants have now been executed in relation to 10 learning providers and a large quantity of documentation and computer records has been recovered. The analysis of the data is, however, likely to be a lengthy task.

What has the Scottish Executive learned to prevent improper activity in a successor scheme?

31. In February 2003, Ministers announced a new strategy for lifelong learning which confirmed that a successor ILA scheme would be introduced during 2003/04. ELLD is developing proposals for the successor scheme that continues the basic concept of ILAs but with more rigorous checks on the activities of learning providers and improved systems controls. It considers, however, that time should be taken to ensure any such scheme is thoroughly tested before its implementation. It has identified a number of key lessons from the original scheme which it intends to take fully into account:
 - More stringent quality assurance of learning providers
 - More rigorous process modelling and systems design (including proactive risk management), to address specific Scottish needs and policy aims
 - More rigorous operational and systems controls and improved arrangements for audit and budget management
 - Improved information and guidance for learners and learning providers.

Overall conclusions

32. The ILA scheme was an innovative programme which proved popular with genuine learners and learning providers but it suffered from many administrative errors and failings. In Scotland, the scheme was complex, involving five separate organisations which led to overall policy responsibility resting with the accountable officer of ELLD but accountability for scheme expenditure resting with the accountable officers of SEN and HIE.
33. ELLD continues to develop proposals for a replacement to the ILA scheme and has identified key lessons from the original scheme. It is, however, appropriate that it takes time to consider fully the implications of its proposals, and how to safeguard any replacement scheme from the fraud and improper activity associated with the original ILA scheme. In particular, ELLD needs to consider how best to design and develop robust control systems and security arrangements for the replacement scheme. Given the complexity of the original ILA scheme, ELLD also needs to consider carefully the governance and accountability issues arising if several organisations are to be involved in the administration of the successor scheme.
34. ELLD should also consider carefully the wider lessons relating to the introduction of grant schemes. Alongside the need for clear scheme objectives there is a need to provide for the adequate monitoring of scheme activity, performance and cost, and for relevant risk assessments where schemes may be subject to fraud.
35. Where schemes form part of a UK-wide initiative, it is particularly important that the Scottish Executive ensures a full, relevant and prompt interchange of information with its partner departments.

Part1: Introduction

- 1.1 This part of the report sets out:
- the development of individual learning accounts (ILAs)
 - ILA scheme objectives
 - how the ILA scheme worked in Scotland
 - the financial incentives available under the scheme
 - take-up of the ILA scheme.

The development of individual learning accounts (ILAs)

- 1.2 The 1990s saw the beginnings of a major change in the UK workplace and labour market. The workforce was ageing, more people were self-employed or were involved in contract and portfolio working, and there was a growing importance of indigenous business, global businesses, virtual businesses and very small businesses as a source of employment and economic well-being. There was also an expectation that the proportion of women in the workforce would grow, and that the proportion of skilled jobs would increase as technology replaced lower skilled employment. During this period, interest began to be shown in the concept of learning accounts as a means of contributing to increasing the skills of the workforce and boosting business competitiveness.
- 1.3 The UK government gave a commitment to introduce ILAs as a means of promoting lifelong learning and increasing adult participation in education and training as part of the 1997 Labour Party manifesto. Between 1997 and 1999 the then Department for Education and Employment (now the Department for Education and Skills) and the then Scottish Office Education and Industry Department (which became, in part, the Scottish Executive Enterprise and Lifelong Learning Department as a result of devolution) undertook research and conducted a number of pilot projects to test public interest in the concept of ILAs and how they could best be developed. The Scottish Executive Enterprise and Lifelong Learning Department (ELLD) also carried out a consultation exercise in 1999 involving over 800 organisations or groups, including businesses, national training organisations, the further and higher education sectors, local authorities and careers services to seek their views on ILAs.

1.4 The original commitment to introduce ILAs was given prior to devolution. Following the creation of the Scottish Parliament, in November 1999, the Scottish Ministers agreed with the Secretary of State for Education that the Department for Education and Skills (DfES) should have lead responsibility for the development of a UK-wide framework for ILAs, although the Scottish Executive would continue to participate. The national framework was adopted largely for reasons of cross-border portability and resulted in significant similarities between the ILA schemes operating in each of the participating countries of the UK. The national framework allowed, however, for differences to exist between the detailed administrative arrangements and eligibility criteria which applied in each country.

ILA scheme objectives

1.5 The ILA scheme was seen as a key tool to achieving the Scottish Executive's aim of creating a culture of lifelong learning and to increase adult participation in education and training. The overall aim of the demand-led ILA scheme was to help overcome financial barriers to learning faced by individuals, and to widen participation in learning, by offering people a facility to help meet the costs of their learning throughout their lifetime. The ILA scheme's strategic objectives were to:

- contribute to a better equipped workforce
- enable people to have a personal stake in lifelong learning, with greater control over their personal development
- increase the levels of private investment and participation in learning activities
- raise individual expectations of the benefits which learning can create.

1.6 Marketing of the scheme was targeted, in particular, at those people currently in employment, or returning to work, and intending to undertake part-time learning. There were, however, no precise objectives about what the scheme should achieve or for the overriding outcome of getting more people into learning.

How the ILA scheme operated in Scotland

1.7 The Scottish ILA scheme was open to all adults aged 18 and over and enabled individuals to obtain discounts on the cost of a wide range of training courses and other learning episodes subject to a maximum value. Registered learning providers were required to obtain a personal contribution from the individual and then claim the balance of the cost of the learning episode from the relevant government authority once the training had commenced.

- 1.8 The ILA scheme opened in Scotland in July 2000 and responsibility for its administration initially rested with Scottish Enterprise (SEn). From 31 October 2000, Capita Business Services Ltd administered the scheme under the terms of a contract with the Scottish Ministers. Capita received claims for payment from learning providers and, in turn, invoiced SEn and Highlands & Islands Enterprise (HIE) in order to enable payments to be made. ELLD retained overall responsibility for: ILA policy; monitoring and managing the contract with Capita; and, providing funding to the two enterprise bodies.

Financial incentives available

- 1.9 The national framework for the ILA scheme concentrated on encouraging people into learning and made the incentives payable on individuals' registration and commencement of learning rather than on achieving a qualification. The incentives available under the national framework were generally similar throughout the UK although, as a result of the different qualifications systems in each of the countries where it was available, there were some differences in the definition of eligible learning. The learning episodes eligible for discounts under the ILA scheme in Scotland are shown in Exhibit 3.
- 1.10 In Scotland, ILA incentives available in the first year of an individual opening an account were:
- a £150 contribution towards the cost of eligible learning episodes subject to the payment of a minimum £25 personal contribution. The £150 contribution was limited to the first 100,000 individuals commencing an eligible course of study¹ and was required to be utilised within two years of making their personal contribution; or
 - an 80% discount on certain approved courses, with a maximum value of £200 discount available.
- 1.11 In subsequent years, learners could obtain a 20% discount on learning episodes, with a maximum value of £100 discount available in any one account holder's year, or the 80% discount on certain approved courses up to a maximum value of £200 discount.

¹ In September 2001, Ministers decided to remove the cap on the first 100,000 people receiving the £150 contribution on commencement of an eligible course of study pending the introduction of further ILA policy changes then being considered. The cap was removed by Scottish Statutory Instrument 2001 No. 329 'The Education and Training (Scotland) Amendment Regulations 2001' October 2001.

Exhibit 3: Learning valid under the different discount schemes in Scotland

£150 incentive or 20% discount

Learning eligible for payment of the £150 incentive (to the first 100,000 account holders to commence an eligible course of study) and the 20% discount was the same. Because ILAs aimed to encourage vocational and non-vocational learning across as wide a spectrum as possible, the majority of learning available was eligible for incentives, but there were some specific exclusions:

- secondary education
- full-time higher education courses
- learning which is a statutory requirement for the individual's particular employment, eg all health and safety training
- lessons towards attaining an ordinary car or motorcycle driving licence (the ILA incentive could be used, however, to gain a driving licence additional to an ordinary class driving licence eg, for HGV or fork-lift truck driving)
- courses given as a reward or inducement by an employer
- private flying lessons (including fixed wing, rotary and paragliding)
- diving lessons (including scuba, deep sea and high board)
- outward bound-type courses
- leisure or sporting activities (unless for a Level 2 qualification or above, eg courses on how to become a football coach or instructor).

80% discount

The following courses in basic computing, numeracy and communication were eligible for the 80% discount:

- European Computer Driving Licence
- SVQ Level 1 "Using Information Technology"
- "Computers for the Terrified"
- RSA Computer Literacy and Information Technology Stage 1
- SQA Standard Grade English, Maths and Computing Studies
- SQA National Units and courses in English and Communication, Mathematics, and Computing all up to Intermediate Level 1
- SQA National Core Skill Units up to Level 1 in Communication, Numeracy and Information Technology
- Any other qualifications in the above subjects at the same level which are awarded by recognised awarding bodies.

In addition to help meet the cost of a training course or learning episode, ILA incentives were also available to help pay for other costs associated with the course such as registration, examination or assessment fees, or for qualification. Books and other materials, for example CD-ROMs, did not qualify for support unless included within the course fee.

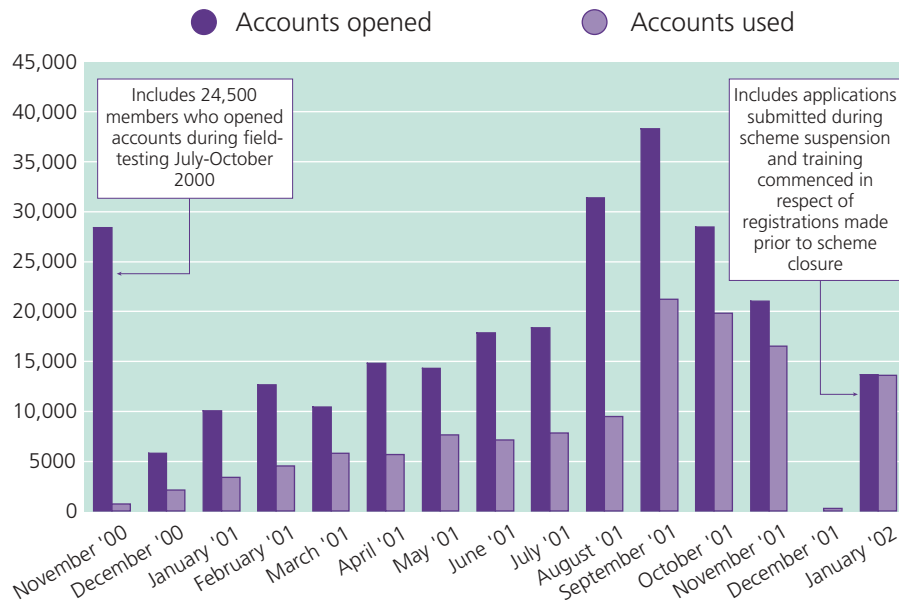
Source: The Education and Training (Scotland) Regulations 2000 (SSI 2000 No. 292 and No. 342) and the determination by the Scottish Ministers made thereunder

Take-up of the ILA scheme

- 1.12 The only quantifiable target for the ILA scheme was to have one million accounts opened in the UK by 31 March 2002. Scotland's share of the target, which was incorporated as a specific commitment in the Scottish Executive's *'Programme for Government'*², was to have 100,000 accounts opened by 2002. In May 2000, in response to questions from the Enterprise and Lifelong Learning Committee of the Scottish Parliament on the lack of targeting of specific groups or types of learning, the Deputy Minister for Enterprise and Lifelong Learning advised that the key objective of the scheme was to engender a cultural change in attitudes to learning. In due course, once the scheme was well established, Ministers might wish to target the scheme more towards certain sectors of society.
- 1.13 The ILA scheme in Scotland proved to be successful in attracting people to the concept of having an account which could be used to offset the personal costs of learning. The 100,000 target for account holders was exceeded by June 2001 (Exhibit 4 on page 20). In total, some 266,000 accounts were opened in Scotland. 93% of account holders lived in SEn's area of operations.
- 1.14 During the lifetime of the ILA scheme, 128,000 individuals used their accounts, enrolling for 178,000 separate learning episodes between them. Exhibit 4 shows that each month more people opened ILAs than used them to gain learning but, similar to the number of accounts opened, the number of accounts used increased significantly from September 2001. There are, however, concerns that not all of these are bona fide learners (see Part 5).
- 1.15 The ILA scheme enabled many participants to undertake learning which they may otherwise have been unable to afford. In June 2002, a survey was conducted by York Consulting on behalf of ELLD to help inform the development of a successor to the ILA scheme. It revealed around 40% of respondents said they 'probably' or 'definitely' would not have been able to pay for their course without the ILA incentive. People in social class 'DE', those with no qualifications and the unemployed, were more likely to say they would not have been able to pay for their course without the ILA incentive. Further details on take-up of the ILA scheme in Scotland are provided in Appendix 1.

² *'Making it work together: A programme for government'*, Scottish Executive, September 1999.

Exhibit 4: The number of ILA accounts opened and used in Scotland



Source: ILA Centre management information

Problems encountered with the ILA scheme

- 1.16 During the summer of 2001, government bodies involved in the administration of the ILA scheme through out the UK began to receive complaints concerning the activities of some learning providers. These concerns, which included allegations giving rise to potentially non-compliant expenditure, together with higher than expected levels of expenditure, ultimately led DfES to announce, in October 2001, the suspension of the ILA scheme in England.
- 1.17 On 23 November 2001, DfES's announced its decision to close the ILA scheme in England two weeks earlier than planned after serious allegations, involving potential fraud and theft, were made concerning the activities of some learning providers. On the same day, SEN decided to suspend payments to learning providers following receipt of initial findings from a consultants' review of systems controls over the ILA scheme, and so informed ELLD and HIE. ELLD concurred with SEN's decision as a precautionary measure to protect public funds and pending further investigation of existing claims for payment. The Scottish Ministers closed the ILA scheme in Scotland on 20 December 2001. The authorities in Northern Ireland and Wales also closed the ILA schemes in their respective countries around the same time.
- 1.18 In view of the concerns raised over the ILA scheme in Scotland, I have decided to prepare a report under section 23 of the Public Finance and Accountability (Scotland) Act 2000. Part 2 of this report sets out in more

detail the roles and responsibilities of those involved in the administration of the ILA scheme in Scotland. Part 3 of the report considers the design and implementation of the scheme, while Part 4 examines the management of the scheme, including events leading up to its closure in Scotland. Part 5 examines the steps taken to identify potentially non-compliant and irregular expenditure and the action taken since the ILA scheme closed. Part 6 of the report reviews how ELLD intends to use the lessons learned from the ILA scheme to help inform the development of a successor scheme. A chronology of events is included in Appendix 2. Where relevant, the report also makes use of the Comptroller and Auditor General's recent report on ILAs³ to refer to the activities of DfES insofar as they are relevant to the ILA scheme in Scotland (Exhibit 5).

Exhibit 5: The Comptroller and Auditor General's report on the ILA scheme in England

Issues examined:

- How far individual learning accounts met the policy objectives
- How well DfES managed risks in design and implementation of the scheme
- How well DfES handled the closure and wind-down of the scheme

Overall conclusions:

- ILAs represented innovative policy-making, which succeeded in attracting considerable new interest in learning. The scheme had to be withdrawn not because of its innovative nature but because of problems arising from a variety of factors including:
 - Pressure to implement the scheme quickly and inadequate planning
 - Risks in the design and implementation of the scheme which were not actively managed
 - The relationship with Capita
 - DfES should have monitored more closely the information supplied by Capita and the escalating demand for accounts
- DfES took prompt action to close the scheme when it ascertained the scale of potential fraud. Almost all providers through whom learning was started prior to closure of the scheme have now been paid. DfES is checking claims from over 560 providers (as at 1 August 2002) and is investigating fully a relatively low percentage of providers with which it has concerns – some 133 providers who have claimed £67 million. It is likely to be up to two years before this work is completed and the full scale of fraud is known.

Source: 'Individual Learning Accounts' Report by the Comptroller and Auditor General HC 1235 2001/02 published 25 October 2002

³ 'Individual Learning Accounts', Report by the Comptroller and Auditor General HC 1235 2001/02, published 25 October 2002.

Part 2: Roles and responsibilities in scheme administration

- 2.1 This part of the report sets out the roles and responsibilities of those involved in the administration of the ILA scheme in Scotland.

Background

- 2.2 The ILA scheme in Scotland worked by requiring individuals to obtain an ILA number and to identify the learning episode he/she wished to undertake. Once individuals paid their own contribution towards the cost of the learning episode to a registered learning provider and commenced training, the learning provider could claim the balance of the cost of the learning episode.
- 2.3 Between July and October 2000, as part of field-testing of the ILA scheme, SEN issued ILA numbers, made payments direct to learning providers and generally administered the scheme in accordance with a detailed guidance manual. Under similar arrangements which applied to SEN's national training programmes, SEN also formally contracted with learning providers, required learning providers to either have achieved or be working towards Scottish Quality Management Systems accreditation, and undertook other checks to confirm credit-worthiness and that learning providers were bona fide.
- 2.4 From 31 October 2000, Capita Business Services Ltd was appointed customer service provider with responsibility for issuing ILAs from its national administrative ILA Centre. Applications to open an account could be made either direct to the ILA Centre or by using a website application process. The application form was subsequently returned to the individual for signing. Individuals were permitted to use a learning provider's PC and internet access to apply for an account, but the completed form was still required to be sent to the individual's address for signature and return.
- 2.5 Once individuals commenced their training, learning providers submitted claims for payment to the ILA Centre. Capita paid the learning provider from funds provided by SEN and HIE, and debited the individual's learning account with the value of the discount received. Further details of the roles and responsibilities of those involved in the administration of the ILA scheme in Scotland from the end of October 2000 onwards are given below and summarised in Exhibit 6 on page 24.

Scottish Executive Enterprise and Lifelong Learning Department (ELLD)

2.6 ELLD was responsible for developing ILA policy in Scotland, for both developing the scheme rules and ensuring the achievement of the overall policy intentions of the initiative. It procured the customer service provider (see Part 3) on behalf of the Scottish Ministers and had overall responsibility for monitoring Capita's performance in accordance with the terms of the contract. ELLD also set out the responsibilities of SEn and HIE in relation to the initiative and determined, with the approval of Ministers, the level of financial provision to be made to SEn and HIE to meet the costs of the ILA scheme.

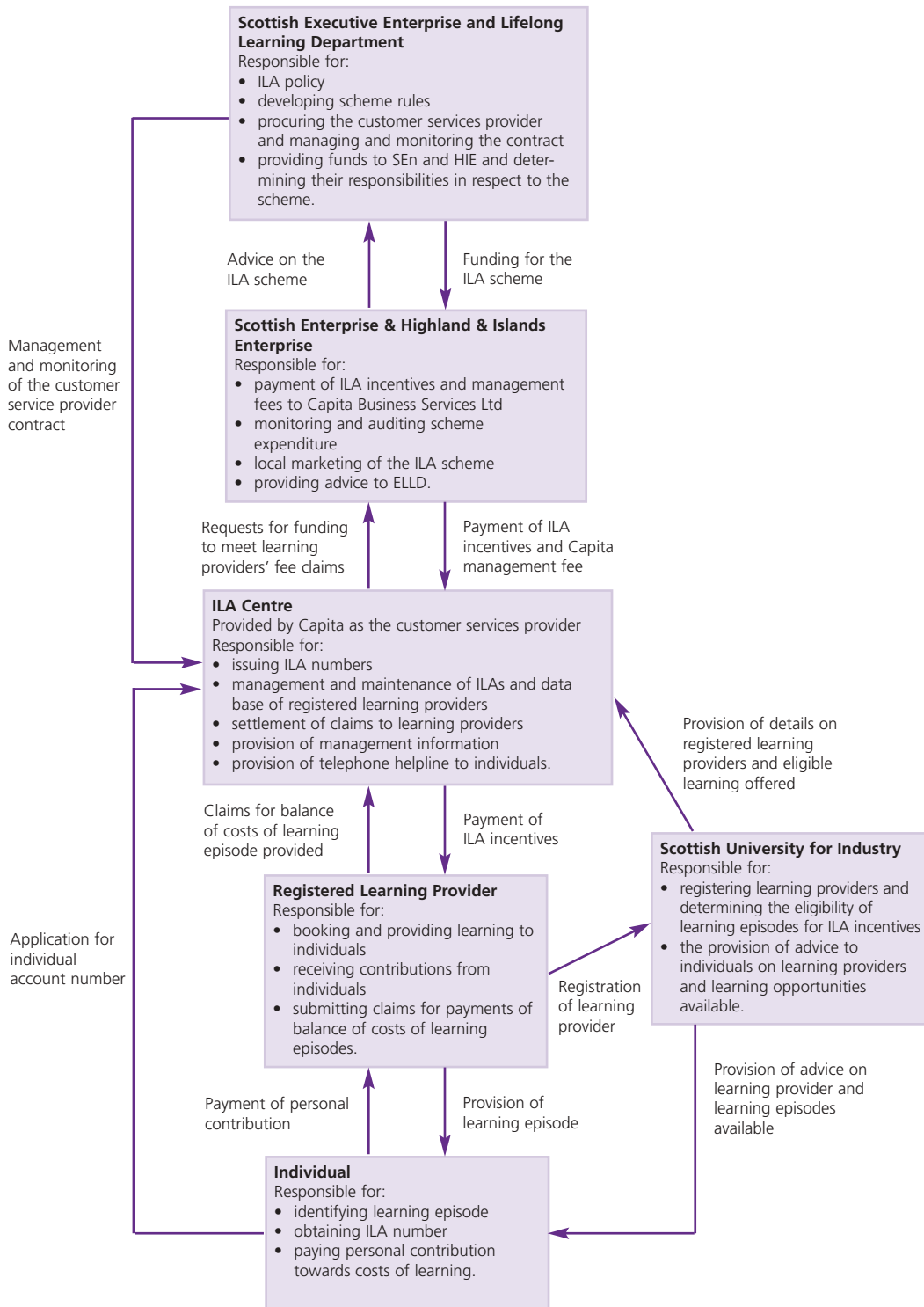
Scottish Enterprise (SEn) and Highlands & Islands Enterprise (HIE)

2.7 SEn and HIE are non-departmental public bodies with responsibility for promoting the development of Scotland's economy and maintaining and enhancing skills relevant to employment. ELLD considered that the advantages of using SEn and HIE to assist in the administration in the ILA scheme included their experience in improving the skills of the workforce and the development of the 'knowledge' industry, and their links with employers and the learning industry.

2.8 In September 2000, ELLD produced what it considered would be the enterprise bodies' responsibilities under the scheme from October 2000 onwards. These responsibilities were subject to confirmation because, at that time, the contract with Capita had yet to be signed. ELLD envisaged that both SEn and HIE would be responsible for: local marketing of the scheme and for liaising with the Scottish University for Industry (SUfi) on Scotland-wide marketing campaigns; the payment of ILA incentives and management fees to Capita; budget monitoring arrangements; and, advising ELLD on the ILA initiative overall. In addition, ELLD proposed that SEn would act as its managing agent in respect of monitoring Capita's compliance with its contract.

2.9 ELLD provided confirmation of the roles and responsibilities of SEn and HIE in February 2001. This confirmed the earlier paper in respect of marketing, payment and budget monitoring arrangements, and for the provision of advice, but indicated that ELLD would monitor and manage the contract with Capita. The guidance also made clear that SEn and HIE would be required to arrange auditing to meet their accountable officers' responsibilities for the propriety and regularity of expenditure under the scheme. In particular, ELLD considered that

Exhibit 6: Roles and responsibilities in the administration of the ILA scheme in Scotland



Note: These arrangements commenced with effect from late October 2000. Between June 2000 and this date, field-testing of the ILA scheme was undertaken with SEN carrying out the role subsequently assumed by Capita.

Source: Audit Scotland

SEn and HIE should undertake sample checking with learning providers and learners to ensure that: rules on individual eligibility were met; learners received the learning for which the provider was paid; and, providers were properly paid for the learning provided.

Capita as customer services provider

2.10 Capita administered specific elements of the ILA scheme, in accordance with the specification set out in its contract with the Scottish Ministers. Capita established an ILA Centre in Darlington which provided for:

- the processing of account holder applications and issuing of membership cards detailing the individual's unique account number
- the set-up and maintenance of ILAs, including confirming that eligibility criteria were met
- the maintenance of a database of registered learning providers (although not for the registration process itself)
- the provisions of initial induction and support to approved learning providers and ongoing administrative, booking and payment support
- approved learning provider access to computer systems, enabling them to register account holder applications for learning and to confirm commencement of training
- processing of claims for payments by learning providers once learning had commenced
- the settlement of claims to learning providers, following receipt of approval and funding from SEn and HIE
- the provision of management information as specified by ELLD.

2.11 Capita also provided a call centre facility in Coventry to provide help and information to individuals wishing to know more about the ILA scheme and the incentives on offer. Under the contract, Capita was not, however, responsible for pursuing fraud enquiries directly, though it did pass on any suspicion or evidence of abuse or fraud to ELLD.

Other major parties involved

Scottish University for Industry

- 2.12 SUfi is a company limited by guarantee established by the Scottish Executive in 2000. SUfi Trust Company controls SUfi and consists of a chair and six non-executive members who were initially appointed by the Scottish Executive for a four-year term. SUfi's mission is "to build skills, employability and competitiveness, throughout Scotland, by improving access to effective learning, delivered how, where and when it best suits the need of the individual"⁴.
- 2.13 The role of SUfi in the administration of ILAs was two-fold. First, SUfi was responsible for registering learning providers and for identifying the types of learning episodes offered which were eligible for the discounts payable under the scheme. SUfi provided details of new registrations of learning providers to Capita on a regular basis so that they could be incorporated into Capita's own database. The requirement to register with SUfi did not represent a formal accreditation or licensing of the learning provider, but was intended to enable basic checks to be made on the eligibility of providers and whether the learning they offered qualified for either the 20% or 80% discount.
- 2.14 Second, SUfi was responsible for promoting the ILA scheme through a telephone helpline, its *learndirect scotland* website and a network of quality assured learning centres. SUfi also maintains a National Learning Opportunities Database which provides information on learning providers and the learning opportunities offered.

Learning providers

- 2.15 Learning providers included further education colleges, higher education institutions, private sector trainers and the voluntary sector. SUfi registered 1,020 learning providers during the lifetime of the ILA scheme. Once the individual account holders identified the learning they wished to undertake, they registered with the learning provider quoting their unique account number obtained from the account holder's membership card provided by Capita. A system of passwords and access codes allowed learning providers to make bookings on behalf of the account holder, although providers were not expected to have direct access to learners' accounts or personal details.

⁴ SUfi Corporate Plan 2002-04.

2.16 In June 2001, SUfi wrote to all learning providers participating in the ILA scheme requesting them to sign a code of practice outlining the standards and procedures that all providers were required to adhere to if they wished to continue to participate in the ILA scheme. The code of practice included the requirement for learning providers to:

- meet, or be working towards, appropriate quality standards for learning provision and to provide adequate documentary proof of this on request
- to maintain financial and other supporting records of individuals/learning supported by the ILA scheme and to make those records available upon request to the Scottish Executive or its representatives
- to repay to the Scottish Executive, upon demand, any funds paid in circumstances which did not comply with the regulations of the ILA programme.

2.17 Eight hundred and sixty-five out of 932 learning providers who had registered before June 2001 subsequently signed up to the code of practice. Of the 67 providers who did not sign the code of practice only 11 had actually completed the registration process with Capita. SUfi expected that those who did not sign the code of practice would be removed from Capita's database of registered providers and therefore unable to make further claims under the scheme. SUfi's legal advice, however, concluded that signing the code of practice was not a prerequisite for registering prior to June 2001. It was not possible, therefore, to remove from Capita's database those learning providers who refused to sign the code of practice unless there was evidence of improper activity. All new learning providers who registered after June 2001 were required to sign the code of practice.

Part 3: The design and implementation of the ILA scheme

- 3.1 This part of the report considers the design and implementation of the ILA scheme, in particular:
- the implementation of the national framework
 - the procurement of the customer service provider
 - risk management arrangements
 - system security and the control environment.

Implementation of the national framework

- 3.2 The Scottish Ministers' agreement to participate in a UK-wide framework for ILAs also confirmed an earlier decision taken by UK Ministers in October 1998 that administration of the scheme should be provided through a Public Private Partnership (PPP) using a customer service provider. The Scottish Ministers agreed that DfES should have lead responsibility for implementing the national framework and for procuring the customer service provider through competition.
- 3.3 DfES established a programme board in October 1999 to monitor and oversee the national framework and to drive its implementation. Four project boards supported the programme board to: manage the development of ILA policy; oversee the launch and marketing of the scheme; develop the relationship with Capita; and, to further develop the links between ILAs and the University for Industry. Membership of the programme board and project boards consisted of DfES policy staff and representatives from internal audit. DfES also appointed KPMG to provide expert advice to the programme board on policy development, contract development and programme management. DfES relied heavily on KPMG for demand forecasting, preparation of a statement of requirement, tender documentation and review of the bids, as well as for technical and negotiation support. From March 2000, a senior member of DfES's staff chaired the project board, and the department's Ministers were kept informed of progress.
- 3.4 DfES internal audit provided advice to the project board on systems of control. In March 2000, in common with usual practice for major projects, DfES internal audit requested a project health check by independent consultants. Oakleigh Consulting's report highlighted significant concerns about the role of the project board and its management of scheme implementation (Exhibit 7 on page 30). As a

result of the health check, DfES actioned and improved a number of issues such as project planning documentation and presentation of a risk register. DfES did not provide a copy of Oakleigh Consulting's report to ELLD, but informed ELLD and the other departments of the changes to its programme management arrangements it was implementing.

- 3.5 ELLD, the Department of Employment and Learning, which had responsibility for scheme implementation in Northern Ireland, and the Welsh Assembly government, which was responsible for ILA development in Wales, were not represented on the DfES programme board or any of its project boards. Instead, DfES handled the participation of ELLD and the other departments through the forum of periodic 'Home Countries' meetings (re-named Devolved Administration meetings from October 2000). These meetings were the main mechanism by which DfES communicated important information to the other departments, and enabled ELLD to comment on the commercial, financial, technical and partnering elements of the ILA scheme design insofar as these matters were referred to them. It is clear, however, from e-mails and other records, that the other departments considered that DfES did not always keep them fully briefed on the implementation of aspects of the national framework. For example, ELLD considered DfES did not sufficiently consult and take account of the needs of the other three countries in its negotiations over the terms of its contract with Capita (paragraph 3.11). Capita was also of the view that, on a number of occasions, it had to inform ELLD of decisions made by DfES which had a direct impact on the Scottish scheme.
- 3.6 ELLD placed reliance on the DfES project board, as the lead party in scheme development, to drive the implementation of the national framework. Whilst ELLD did not establish a formal parallel programme board for the implementation of ILAs in Scotland, in February 2000, ELLD formed an ILA Steering Group to consider the detailed establishment of ILAs in Scotland and the administrative arrangements which would apply. Membership of the steering group included departmental staff and representatives from SEN, HIE and SUFI. The steering group met on a regular basis between February 2000 and May 2001 to handle issues such as the negotiation of the procurement of the customer services provider and contingency planning in the event that a contract could not be agreed.

Exhibit 7: Summary of relevant National Audit Office findings on the DfES programme board

DfES followed good practice in establishing a programme board, in October 1999, to finalise the national framework for the ILA scheme and to drive its implementation. The programme board consisted of policy staff, representatives from internal audit and KPMG as consultants. From March 2000, a senior member of DfES's staff chaired the programme board, and Ministers were kept informed of progress.

DfES contracted with KPMG to provide expert advice on policy development, contract development and programme management. In October 1999, KPMG set out a model of how ILAs could be administered. DfES relied heavily on KPMG for demand forecasting, preparation of a statement of requirement, tender documentation and review of the bids as well as for technical and negotiation support.

Internal audit were represented on the programme board and provided advice on systems of control. In common with usual practice for major projects, internal audit requested, in March 2000, independent consultants to conduct a project health check. Oakleigh Consulting's report highlighted:

- difficulty in estimating demand and timings, demand models out of date, and the significant risk of early peaking/overloading
- value for money risks, including minimal risk transfer to bidder and lack of clarity of the role of the customer service provider
- lack of senior management involvement in the project board; primary focus of the board on managing KPMG; no management by exception and no change control procedures; DfES short of people with relevant skills
- inadequate definition of KPMG's role (whether partners or advisors); limited understanding of risks; emphasis on KPMG to deliver
- inadequacies in project planning, including lack of a critical path, and difficulty in tracking achievement/progress against plan
- no quality assurance products or formal sign-off procedures
- incompleteness of DfES's risk register which was too short with no owners, contingencies or trend analysis and almost all risks now identified as high priority.

As a result of this health check, a number of issues were actioned and improved, including project planning documentation and presentation of the risk register.

Source: 'Individual Learning Accounts' report by the Comptroller and Auditor General HC 1235 2001/02 published 25 October 2002. Report paragraphs 2.11 - 2.13

Procurement of the customer service provider

DfES's procurement of Capita

- 3.7 In September 1999, DfES published its intention to procure the customer services provider using the negotiated procedure and invited expressions of interest in the Official Journal of the European Community (OJEC). The OJEC notice recorded that the place of service delivery would be in England and that the “proposed contract may be extended to include the provision of similar services to Northern Ireland and/or Scotland and/or Wales, which will be set out as options in the contract document”. It was expected that DfES would take the lead on the overall procurement of the customer service provider and that the contract it negotiated would provide a ‘core service’. The other departments remained responsible for their own arrangements. They could, therefore, either identify variations and tailor specific aspects of the ‘core service’ contract within an extended contract for their own purposes, or secure a separate contract with an alternative service provider.
- 3.8 The National Audit Office found⁵ that, following an industry briefing day in October 1999, nine consortia submitted pre-qualification questionnaires to DfES. In December 1999, following KPMG’s detailed assessment of each of the “expressions of interest”, DfES invited six bidders to submit tenders. Four of the bidders later withdrew, and the two remaining ones, Capita and Logica formed a consortium which submitted a bid in February 2000. (Logica subsequently withdrew from the Capita proposal and Capita engaged Maestek to design software). Several of those who withdrew were interested in developing the service, but the main concern was the limited time available between the planned award of the contract (April 2000) and the date by which the full service would be required (1 September 2000). Some also considered that other organisations were better able, commercially, to offer the service required by DfES.
- 3.9 DfES recognised there was a risk in proceeding with only one bidder and considered a number of options, including trying to bring back withdrawn bidders and using other bodies to provide the service at least on a temporary basis. DfES, however, concluded that securing a contract with Capita/Logica would represent the best value for money and developed contingency measures should the bidder withdraw, fail to demonstrate value for money or there was a delay in implementation. KPMG also prepared a public sector comparator

⁵ ‘Individual Learning Accounts’ Report by the Comptroller and Auditor General HC 1235 2001/02 report paragraphs 2.18 - 2.22.

showing the likely processes, resources and cash flow that would be required to operate the ILA Centre. It demonstrated that the estimated value of the contract signed with Capita was cheaper than the public sector comparator.

- 3.10 Because of the tight timescales DfES had set for the introduction of the ILA scheme in England, in January 2000, KPMG indicated to ELLD that the provision of the service in the other countries would not be secured through an extension of the ‘core service’ contract with DfES. Instead, the other departments were expected to negotiate separate, but related, contracts, based on the core elements of the DfES contract with Capita or to make other arrangements to procure a customer service provider.
- 3.11 DfES commenced negotiations with Capita in February 2000, a week after the receipt of its bid, and negotiations progressed quickly. DfES issued a letter of intent to Capita in April 2000 and a full contract was signed in June 2000. DfES did not share the progress of all of its detailed negotiations with ELLD or the other departments in Northern Ireland or Wales. The contract involved DfES making payments to Capita based on three unit price bands depending on the number of learning accounts opened. It was underpinned by a UK-wide minimum guaranteed volume to enable Capita to recover its infrastructure costs should the demand for ILAs be less than forecast. DfES did not formally discuss with the other departments how best to share the minimum guaranteed volume until its contract with Capita was signed, but expected it would be done on a pro rata basis using the actual number of accounts opened in each participating country.

ELLD’s procurement of Capita

- 3.12 DfES’s decision to progress negotiations and to sign its own contract with Capita left the other participating countries to decide whether to negotiate with Capita from an established contract base, or to seek an alternative service provider⁶. ELLD issued its separate Scottish Statement of Requirements (SSoR) to Capita in early March 2000, some three weeks after DfES opened the Capita bid and commenced negotiations. ELLD opened negotiations with Capita later that month but, similar to DfES, also developed contingency arrangements in the

⁶ The Department for Employment and Learning in Northern Ireland signed a contract with Capita as customer service provider in November 2000. The Welsh Assembly government decided the administration of ILAs in Wales should remain with Training and Enterprise Councils and, subsequently, the newly formed National Council for Education and Training for Wales, in preference to the Capita system.

event that a contract could not be concluded⁷. The target date for contract completion was originally September 2000, but negotiations with Capita were protracted. The contract between the Scottish Ministers and Capita was signed on 8 November 2000, one week after Capita began the effective commencement of service provision for Scottish ILAs.

- 3.13 The established contractual base between DfES and Capita resulted in a diminution in aspects of control which the SSoR was expected to address. In particular, ELLD considered that the requirement for learning providers to register with SUfi before being allowed to participate in the ILA scheme enabled basic checks to be undertaken on the eligibility of providers and the learning episodes they offered. Similarly, DfES originally envisaged that learning providers in England would be required to register with the University for Industry's *learndirect* learning opportunities database. Its contract specification for the customer service provider also included the requirement for the appointed contractor to carry out checks on the eligibility of both the learner and of learning for support under the scheme.
- 3.14 Capita considered that the link with *learndirect* and the extent to which providers were accredited was critical to the systems it devised. Capita advised the National Audit Office that it believed, at least in the early stages, that all learning providers would be accredited or registered with the Further Education Funding Council, Training and Enterprise Councils or awarding bodies, and would pre-register their courses with the *learndirect* learning opportunities database. Capita devised its systems accordingly. Capita was aware, however, that when the scheme was launched in England, the links with the *learndirect* learning opportunities database (which were intended to facilitate the interface between the two schemes rather than form any method of accreditation) were not in place.
- 3.15 DfES hoped to integrate the technical systems used by *learndirect* and the ILA scheme, so that callers could be transferred easily between call centres. However, because of incompatibility between records held,

⁷ ELLD's contingency plan involved the use of SEN's Corporate Training System (CTS), already being used for the management of national training programmes for which SEN was responsible. In April 2000, the Scottish Ministers agreed that the contingency plan should be implemented as a means to rollout the wider field-testing of ILAs during the summer, pending the expected full-scale implementation of ILAs through the system that was being procured. SEN therefore administered the ILA scheme between July and October 2000. ELLD considers that the use of SEN's CTS subsequently strengthened its negotiating position with Capita by providing a viable alternative should negotiations have broken down.

the *learndirect* learning opportunities database was not used and DfES did not require learning providers to be registered with it. The contract between DfES and Capita recognised that the *learndirect* database was still being developed and made interim provisions enabling learning providers to register direct with Capita's database and to self-certify that the learning was eligible for funding. The National Audit Office found that the interim measures were never updated, leaving the system vulnerable to ineligible claims. Capita was not required to undertake spot checks on eligibility. Once English-based learning providers registered with Capita, they could then make claims in respect of training provided to Scottish-based students which, under the scheme administrative arrangements, would be met by either SEN or HIE. The gatekeeper controls sought from the requirement to register with SUFI were therefore effectively negated for any distance learning provider operating from England.

- 3.16 In ELLD's view, it was not fully briefed by DfES on the interim provisions adopted. ELLD assumed that the expected checks were taking place in accordance with the original proposed arrangements. Accordingly, it was content at that time that learning providers accepted for English purposes should be acceptable for participation in the Scottish scheme. In ELLD's view, it was not until DfES and Capita began informing it of alleged abuses of the ILA scheme in England during the summer of 2001, that ELLD discovered the weaknesses of the English system. As a result, ELLD withdrew the reciprocal entitlement whereby distance learning providers registered in England could offer eligible learning to individuals in Scotland, and insisted that, from 1 October 2001, English-based providers would have to formally register with SUFI.

The financial evaluation of Capita's proposals

- 3.17 As part of its consideration of the terms of the contract with Capita, ELLD followed good practice in PPP/PFI procurements in deciding to test the value for money offered by Capita's proposed solution in a Scottish context against a Public Sector Comparator. The development of ELLD's Public Sector Comparator took into account the report of KPMG as consultants commissioned by SEN to compare the estimated costs of its Corporate Training System (CTS) used to administer ILAs between July and October 2000, with those of the Capita solution using the unit prices agreed in its contract with DfES.
- 3.18 KPMG used two volume scenarios which it considered realistic, one based on the opening of 400,000 ILAs in Scotland over five years, and one based on independent survey work which suggested that some 300,000 accounts would be opened in Scotland over the same period.

The consultants' report in July 2000 indicated that for the 400,000 accounts scenario, the cost in net present value terms of adopting the CTS approach represented 92% of Capita's bid over the five-year life of the contract. For the 300,000 accounts scenario, the net present value cost of using CTS was 59% of that of Capita's bid.

- 3.19 ELLD subsequently requested that KPMG repeat its analysis using a more conservative volume assumption of 210,000 accounts opened over five years, a reduced share of the UK minimum guaranteed volume it was currently negotiating with DfES, and unit price bands currently being negotiated with Capita. The results from this work indicated that the net present value of the CTS option was £2.5 million over five years compared to £2.54 million for the Capita solution.
- 3.20 Largely based on KPMG's findings using its original volume assumptions, SEN considered the CTS system was a more cost-effective delivery vehicle than that on offer from Capita. In ELLD's view, however, the KPMG's findings had been used to inform ongoing discussions with DfES regarding the Scottish share of the minimum guaranteed volume of work that Capita could be expected to receive from the contract. Using the Scottish final agreed minimum guaranteed volume which equated to 5% of the UK total, ELLD found that the CTS costs would not match the Capita offering over the full five-year life of the contract. Furthermore, the SEN costs of meeting any additional demand over and above that currently estimated was also expected to be higher. As a result, Ministers concluded the Capita solution represented better value for money.

Risk management arrangements

- 3.21 The identification of risk and its allocation to the party best placed to manage it is a well recognised and accepted strength of the successful adoption of the PPP route to service procurement. The National Audit Office found⁸ that, in June 2000, DfES created a risk register to help catalogue, assess and manage the key risks in areas such as policy (eg, not helping the right people) and project management (eg, insufficient resources to staff the project). It was not compiled on a systematic basis and there was no attempt to identify weaknesses by examining step by step how the scheme would work in practice. The risk register was reviewed monthly but not all issues were actively pursued to ensure that risks were minimised. Capita told the National

⁸ 'Individual Learning Accounts' Report by the Comptroller and Auditor General HC 1235 2001/02 report paragraphs 2.14 - 2.15.

Audit Office that it did not carry out a formalised risk assessment but built on work undertaken by KPMG and Oakleigh Consulting.

- 3.22 DfES considers that it provided copies of its risk register to the other departments from October 2000 onwards. However, the DfES risk register only concerned ILAs in England and only referred to the home countries insofar as their actions might have consequences for the successful delivery of the programme in England. ELLD was not involved in the development and maintenance of the DfES risk register, none of its risks are recorded on it, and did not contribute to its maintenance or consider its contents jointly with DfES. ELLD placed reliance on DfES's risk management processes but, in DfES's view, did not inform DfES of this.
- 3.23 Whilst ELLD relied largely on the risk management processes put in place by DfES and their advisers, as the lead parties in scheme development and procurement of the customer service provider, it did, in December 1999, ask KPMG to complete a risk and issues register for Scotland to form part of its evaluation framework for the procurement of the customer service provider. The KPMG risk review did not identify any risks in its register which it considered significant. ELLD did not request that KPMG maintain the register after December 1999, nor was it revisited as the procurement progressed. The consideration of large-scale fraud did not figure in any of ELLD's review of risk in the implementation of the scheme. ELLD considered there might be some fraud by ILA account holders, but regarded the extent of this, and the consequential financial loss, to be low in terms of the overall scheme.

Systems security and the control environment

- 3.24 The contract between ELLD and Capita set out the agreed requirements of the customer service provider. The contract concentrated on the service aspects of the arrangements and, like the DfES contract, did not address in any detail the security of the systems to be supplied by Capita.
- 3.25 As accountable officers, the chief executives of SEn and HIE were responsible for ensuring the propriety and regularity of payments to Capita in respect of claims from learning providers. SEn and HIE were therefore concerned to ensure that systems security and the overall control environment at the ILA Centre were sufficiently robust to enable the accountable officers to satisfy their responsibilities. SEn's own risk register (which was not shared with ELLD) identified a risk that use of a third party solution for ILAs could lead to it being unable to ensure that expenditure was incurred with due regard to propriety and regularity.

3.26 SEn and HIE expressed concerns about Capita's system capabilities and the overall control environment during the run-up to, and after, the ILA Centre going live. In September 2000, SEn raised with ELLD, at both official and accountable officer level, a number of concerns about the audit and accountability aspects of the contract with Capita. These concerns related to:

- the general control environment within the Capita system and the extent to which this had been considered
- checks necessary to prevent or detect 'ghost' students, duplicate applications, ineligible applications and applications for unapproved courses
- responsibility for and recourse in the event of improper payments being made.

3.27 ELLD's response provided assurances to SEn and HIE on a range of their concerns and cited actions it understood DfES had taken, including an evaluation of Capita's proposed technical and business process systems by KPMG and a review of Capita's internal management and accounting systems carried out by DfES's internal auditors. ELLD also advised that, prior to entering into the contract with Capita, it received advice from its own procurement and audit experts. SEn and HIE took comfort from the assurances provided by ELLD.

3.28 The Scottish Executive's internal audit advice was based on a review of the proposed contract with Capita and other papers supplied by ELLD, including those of its procurement experts. Internal audit concluded that, while the threat of fraudulent activity by individual learners was unlikely to be a major concern, the real risk was from providers' exaggerated or fraudulent claims. Internal audit recommended that ELLD should consider including in the contract a requirement for Capita to perform a variety of checks. These included spot checks to ensure registered individuals were actually receiving training and for it to have some responsibility for ensuring the existence of reasonable procedures for the prevention, detection and reporting of fraudulent claims. Internal audit also recommended that Audit Scotland be shown a copy of the proposals for comment. ELLD did not seek to alter the proposed contract because, in its view, the control issues raised by internal audit were to be included in the roles and responsibilities of SEn. It also did not raise with Capita the risk of fraudulent activity by learning providers until problems started to emerge in England (Part 4). Audit Scotland was not approached to provide comment.

- 3.29 Following a period of discussions from December 2000 to May 2001, ELLD presented for signature by both enterprise bodies, a document setting out the payment arrangement to operate between SEN and HIE and Capita. While Capita and ELLD signified their agreement to the arrangements for their respective roles and interest, SEN and HIE did not do so because of a number of issues, the most significant of which was the absence of assurances regarding the soundness of Capita's systems for producing payment files.
- 3.30 ELLD received assurances from DfES that an audit of Capita's systems controls would be undertaken in April 2001, and pressed DfES for feedback on this. DfES originally planned a high-level overview audit based on interviews with relevant Capita employees, to be followed up by a more detailed review at a later date, including a substantive testing programme to verify the effectiveness of internal systems and controls. The overview audit fieldwork was carried out between April and June 2001, but DfES decided to put this work on hold to enable resources to be redeployed on investigating rising complaints about learning providers' non-compliance with scheme rules. As a result, DfES did not draft a report on the findings of its overview audit to share with ELLD. The National Audit Office reported that there is no record of DfES undertaking any review of the robustness of Capita's security arrangements or commissioning either KPMG or anyone else to do so.
- 3.31 In response to renewed concerns over the integrity of the ILA system in Scotland (paragraphs 4.17 - 4.18), and in the absence of any feedback on the DfES system review, ELLD agreed that SEN should commission consultants to review and assess the controls over the Scottish ILA scheme. KPMG's review, with which Capita fully co-operated, included the set-up and maintenance of ILAs and learning providers, arrangements for course booking and the payment of claims. KPMG concluded, in December 2001, that the ILA scheme's overall systems of control, and not just those operated by Capita, did not provide effective protection against critical business risks. In particular, the report concluded that the scheme was susceptible to misappropriation of funds through fraud and non-compliance with the scheme rules.
- 3.32 The consultants' report identified the need for a number of additional controls to be implemented as soon as possible to reduce the risk of fraud and non-compliance with scheme rules. Additional controls were required to take into account multiple applications from the same address; accounts opened for individuals with the same details; amendments to ILA accounts; and the issue of blank application

forms to learning providers. Appendix 3 provides further details on KPMG's 20 key recommendations, a number of which Capita had already proposed and implemented.

- 3.33 By the time KPMG's report was finalised, Ministers had decided to close the ILA scheme in Scotland. The report findings were, therefore, discussed in January 2002 between ELLD, both enterprise bodies and Capita with a view to identifying lessons learned which could be used to inform the development of a successor ILA scheme. The KPMG draft report was also used to inform the development of SEN's action plan to address the concerns arising within its area of responsibility, including its monitoring of scheme payments (Part 4) and the subsequent validation of claims made by learning providers (Part 5).
- 3.34 In February 2002, as part of a wider review of the ILA programme, DfES commissioned Cap Gemini Ernst & Young to undertake a review of Capita's system security. The review found that:
- DfES's contract with Capita made no clear mandates or stipulations regarding the assessment of security requirements or ongoing security management. There were no ILA-specific security policies or procedures in place.
 - Existing government guidelines regarding security risk analysis were not followed.
 - Security management was incorporated into existing security management functions within Capita, rather than separately within the ILA management structure. With hindsight, this could be considered unsuitable.
 - No structured mechanisms and procedures were established to identify trends and patterns of access and usage of the system that might have indicated possible instances of misuse.
 - No procedures were established to ensure adherence to the requirements of the security policy.
 - No procedures or plans were established for ongoing testing of the system to ensure that the security provision was adequate.

Part 4: The management of the ILA scheme

4.1 This part of the report considers:

- The monitoring of ILA scheme payments.
- Events leading to the suspension and ultimate closure of the ILA scheme.

Monitoring of ILA scheme payments

4.2 Capita's ILA Centre provided regular information to ELLD and both enterprise bodies on the numbers of accounts opened and expenditure incurred. It also provided, to ELLD, data on performance against its agreed service targets (eg, processing times for applications, telephone answering, etc) and on complaints received.

4.3 ELLD's guidance of February 2001 expected that SEn and HIE would wish to arrange auditing to meet the requirements of the chief executives of SEn and HIE as the accountable officers with responsibility for ensuring the propriety and regularity of payments to learning providers (paragraph 2.9). ELLD expected that, as part of their monitoring of scheme payments, SEn and HIE would wish to arrange or undertake sample checking with learning providers and learners so as to verify as far as was reasonably possible that:

- the rules on individual eligibility were met
- learners received the tuition for which the learner was being paid
- learning providers were properly paid for the learning they provided
- all reasonable steps were being taken to minimise the risk of fraud.

4.4 In ELLD's view, its letter of February 2001 provided definitive clarification of the role and responsibilities of both enterprise bodies in respect of audit and monitoring. It also considers that the management information provided by Capita which contained details of each individual claim, giving learner names and ILA numbers, should have been sufficiently detailed to provide a starting point for audit purposes, although additional information for the sample to be tested would have to be obtained from Capita.

- 4.5 HIE requested further clarification as to its monitoring role in respect of the ILA scheme from ELLD in February and May 2001. In particular, HIE sought to confirm its assumption that reviews of systems in place around eligibility, payment and prevention of fraud and other preventative controls would be carried out by ELLD as part of its Capita monitoring responsibilities and a related review of the internal control systems in place at Capita. ELLD confirmed HIE's understanding of its role as set out in ELLD's letter of February 2001, save that as regarding HIE's assumptions on the review of systems by ELLD, SEN would visit Capita's premises to undertake systems checks as part of its responsibilities. As a result, there was no need for HIE to replicate this work. SEN, however, was unaware that ELLD wrote to HIE in these terms and considers that this aspect of its responsibilities was not covered in ELLD's guidance of February 2001.
- 4.6 ELLD has now advised that when its response to HIE was prepared, it envisaged that SEN and HIE would undertake visits to the ILA Centre, but to familiarise themselves with its personnel and processes rather than to review formally its systems. ELLD's understanding was that DfES was to carry out such a systems review, and that ELLD would receive feedback (paragraph 3.30). SEN and HIE made a general familiarisation visit to the ILA Centre in June 2001 and did not consider an early repeat visit necessary. Apart from KPMG's review of December 2001, ELLD, SEN or HIE did not conduct or commission any other systems checks at the ILA Centre.

Monitoring by SEN

- 4.7 SEN's expenditure under the ILA programme during 2000/01 amounted to £1.9 million. During examination of SEN's 2000/01 accounts in June 2001, the external auditors expressed concern that no work on verifying the validity of ILA payments had yet been implemented. The auditors' final report on the audit in November 2001 expressed concern that any irregularities in this area would not necessarily be identified timeously and that the absence of robust, local control procedures may prevent SEN's accountable officer from discharging his responsibilities in relation to these payments. SEN accepted the auditors' recommendations for the urgent introduction of a system to monitor payments to Capita. It advised that a monitoring programme had been established and that work had commenced to address the issues raised.
- 4.8 In June 2001, SEN produced a draft monitoring strategy and began full planning of its monitoring programme the next month. The monitoring plan confirmed that learning providers in receipt of in excess of £60,000 from the start of the scheme were priorities for

checking. Learning providers in receipt of less than £20,000 and those which were already well-known to SEN through its national training programmes, such as further education colleges and higher education institutions, were deemed to be low risk and therefore a lower priority for checking. SEN consulted with HIE in the preparation of its monitoring programme and subsequently also undertook a number of joint monitoring visits to learning providers.

- 4.9 SEN's sample checking of high priority learning providers commenced in September 2001. The review covered all payments made from the inception of the full scheme in October 2000 to date and involved sample testing of providers' records to ensure they were operating within the terms of the ILA guidance. Testing was targeted at 27 high-value providers representing over 50% of the total payments of £7 million made to learning providers up to this point. The results of this review led SEN to suspend payments to a small number of high-risk providers pending further investigations.
- 4.10 As part of their agreed programme of work, in December 2001 SEN's internal auditors undertook an independent retrospective review of the processes in place for monitoring the ILA programme. The internal auditors concluded there were a number of weaknesses in monitoring which required immediate action, including:
- the absence of clear and definitive guidance issued to training providers from ELLD in the period from October 2000, when the ILA Centre opened for business, and August 2001
 - delay in SEN commencing monitoring with no monitoring being performed in the period between October 2000 and September 2001
 - inadequate resources allocated to the monitoring of the ILA programme
 - inadequate levels of monitoring in the period since September 2001, with fewer than 2% of learning providers being subject to monitoring visits to date.
- 4.11 SEN's monitoring team worked alongside the internal auditors as the audit progressed to take action on specific points as they arose. The monitoring team also took account of KPMG's report on systems security (paragraphs 3.31-3.33) to: devise an action plan, including increased monitoring; the utilisation of extra resources for monitoring, including the secondment of a more senior member of

staff; and to establish more consistent monitoring procedures. SEn also met with its external auditors in January 2002 to inform the auditors of its proposed programme of actions to extend its monitoring activity. The external auditors acknowledged that the steps proposed represented an appropriate response at that time.

- 4.12 SEn accepts there was a delay in implementing monitoring before September 2001, but considers that the risks were low in the early period of the scheme because of the relatively few ILAs opened and low levels of scheme expenditure. SEn's assessment of risks also took into account ELLD's assurances in response to concerns raised in September 2000 (paragraphs 3.26-3.27), including a proposed review of Capita's systems⁹. It also considers that uncertainty regarding the body's precise role, up to the issue of ELLD's guidance in February 2001, militated against the introduction of monitoring and control procedures.
- 4.13 Furthermore, prior to March 2001 when ELLD wrote to Capita requesting that management information be broken down by local enterprise company area, SEn considers that the nature and quality of the management information provided was inadequate for it to exercise a full role in the monitoring of ILA payments. ELLD's understanding, however, was that the information requested by SEn in relation to local enterprise companies was required as part of SEn's monitoring of local enterprise companies' performance in generating new learners, and was not specifically indicated as being sought in relation to audit and monitoring. SEn and ELLD consider that, despite repeated and strenuous efforts by ELLD, Capita did not make the requested management information available until December 2001. In Capita's view, this was due to the incompatibility of databases used to store the relevant information and then, latterly, delays caused by the decision to close the ILA system down at the request of DfES.

⁹ SEn considers that the risks increased as the number of accounts utilised and value of claims rose during August and September 2001 (Exhibit 4 on page 20), as complaints and concerns about the scheme were received (paragraphs 4.17-4.18) and in the absence of any feedback on the review of Capita's systems.

Monitoring by HIE

- 4.14 HIE's expenditure under the ILA programme during 2000/01 amounted to £169,000. During examination of HIE's 2000/01 accounts, the external auditors noted that, as a result of the comparatively low level of expenditure incurred, HIE had no monitoring mechanisms in place to satisfy itself that payments to learning providers were in respect of valid activities and services delivered. The auditors' final report on the audit confirmed that HIE had recognised this problem and had undertaken an audit of a pilot system designed to ensure that adequate procedures would operate in 2001/02. HIE also recruited an additional member of staff to its internal audit team to work specifically on ILA monitoring.
- 4.15 HIE prepared a strategy document for monitoring ILAs in July 2001. Monitoring of learning providers commenced in detail in July, targeted at providers with relatively high levels of spend. Site visits to selected providers did not suggest irregular practices or potential fraudulent activity at this time as the learning providers were mainly reputable, locally based providers who had worked with HIE previously on other national training programmes. At this stage, expenditure under the scheme amounted to some £440,000. HIE assessed these learning providers and the claims they made as low risk. HIE regularly reviewed analysis of provider activity but, in accordance with its risk-based approach to monitoring, did not consider it necessary to undertake monitoring visits to known learning providers prior to August 2001.
- 4.16 In September 2001, HIE updated its monitoring strategy to focus on suspect learners, based on information received from ELLD and DfES. Based on its risk-based approach to monitoring, HIE conducted visits to some 24 learning providers between October and December 2001 to ensure that systems were adequate and that evidence was retained to back up claims paid. The payments claimed by this group represent 55% of the ILA spend within HIE. The results of HIE's monitoring indicate that it was only after September 2001 that learner providers identified as high risk, started to provide any significant learning to people living in the Highlands and Islands.

Events leading to scheme closure

Growing concerns and complaints received

- 4.17 During the summer of 2001, ELLD and SUfl received approximately 50 telephone calls and other complaints from individuals, colleges, MSPs and other petitioners concerning the activities of a small number of learning providers. The complaints mainly concerned

misleading and aggressive marketing, eg fliers not mentioning the requirement for an individual contribution, door-to-door sales activities; misinterpretation of existing scheme rules; and possible fraud, eg claims being made against an individual's account where no training material was provided. Capita and DfES also provided details of learning providers operating in England against whom complaints had been made. ELLD copied all complaints received as appropriate to SEN and/or HIE and SUFI for them to consider further action in the context of their audit and monitoring roles.

- 4.18 In August 2001, ELLD wrote to learning providers outlining unacceptable practices which had been identified during its investigations of complaints (see Exhibit 8 on page 46). Although the basic requirements of the scheme were set out in the Education and Training (Scotland) Regulations 2000 and in subsequent Ministerial determinations, this letter was the first direct communication to learning providers drawing attention to the detailed rules and requirements of the scheme and to the type of practices which ultimately led to the closure of the scheme. The letter also announced that, where justified, payments would be withheld from a provider suspected of adopting one or more of these practices, and, that it may also be suspended from the register of eligible providers pending the results of investigations.

Response to growing concerns

- 4.19 During the summer of 2001, because of a greater than anticipated interest in ILAs, DfES became increasingly aware of likely overspends on the ILA scheme in England. The large overspend, coupled with concern at the increasing number of complaints which indicated there was mis-selling of low value, low quality learning, led DfES, on 24 October 2001, to announce the withdrawal of the scheme in England with effect from 7 December 2001. The Department for Employment and Learning announced a similar intention to withdraw the ILA scheme in Northern Ireland at the same time.
- 4.20 DfES's decision to withdraw the scheme in England gave rise to concerns in ELLD that this would result in many of the learning providers suspected of improper activity concentrating their efforts in Scotland. In England, providers registered with the ILA Centre were themselves responsible for determining whether the courses and other learning episodes they offered were eligible for ILA incentives. Prior to October 2001, any learning provider registered for the purposes of the English ILA scheme was acceptable in Scotland, provided the learning on offer adhered to the Scottish definition of eligible learning. As a result of alleged abuses of the ILA scheme in England,

ELLD had already identified that this previous practice represented a risk and, from 1 October 2001, required all learning providers and the learning provided to be registered with SUfL. ELLD now suspended all new registrations of learning providers with effect from 24 October 2001 until further notice.

Exhibit 8: Unacceptable practices identified by ELLD

Learning commencing prior to an individual becoming an ILA account holder

Individuals were required to be account holders before they enrolled for learning and to use their ILA to access their £150 or discount.

The absence of enrolment forms authorising learning providers to claim the ILA incentive on behalf of the individual

ILA holders were required to sign an enrolment form for each piece of learning for which they wished to claim the incentive or discount. Without this signed form the learning provider was not authorised to claim the incentive or discount from the ILA Centre.

Individuals not paying any personal contribution to the learning for which they are claiming an ILA incentive

The personal contribution was seen as an important part of ILA policy as it signalled people's willingness to invest in their own learning. Learning providers were not permitted to advertise 'free training'. The monetary contribution from the individual was not to be in the form of benefits in kind or a credit from the provider. Contributions had to be deducted from the cost of learning before the provider claimed the balance of his/her costs.

The use of aggressive marketing, often through intermediaries, to encourage people to open an account and sign up for training

A number of complaints were received from people claiming to have been approached on the streets or at their doorstep, often by individuals wearing badges purporting that they represented a government department. They were encouraged to sign an ILA application form without a proper understanding of the principles of the account or that it was up to the individual to choose what learning best met his/her needs. These people were then pressured for their ILA number to enable the provider to claim the ILA incentive on their behalf. On many occasions people did not realise they had signed to undertake training and had committed their ILA incentive for that purpose.

Source: ELLD letter to learning providers 14 August 2001

4.21 At the request of Ministers, ELLD also undertook a 48-hour review of the ILA scheme in Scotland. The report to Ministers concluded that:

- while there was evidence of at least one fraudulent payment in Scotland, the implementation of the ILA scheme had not been subjected to the same degree of mis-selling and fraud that DfES had encountered in England
- there were concerns about the value for money and quality of written material and tutor support in the case of European Computer Driving Licence courses provided by some distance-learning providers. SUfi was asked to specifically target efforts to validate the bona fides of these providers
- estimated expenditure under the ILA scheme in Scotland for 2001/02 was unlikely to result in the overspend position experienced in England.

4.22 Ministers decided that the scheme should be allowed to continue, but with the introduction of tighter controls. This included closer monitoring of any suspect providers and the use of extra resources for further investigations. Additional consideration was also to be given to future plans for ILAs to consider how best to reduce the possibility of fraud in any revised scheme. The key tighter controls introduced and proposed are shown in Exhibit 9.

Exhibit 9: Key tighter controls introduced and proposed by ELLD

Approval of learning providers

In addition to action already taken in connection with learning providers (see paragraph 4.18), ELLD proposed that:

- All learning providers would have to provide an extended range of information about themselves and the courses they offered. Learning providers not providing this information would be de-registered
- Improved guidance would be issued to learning providers on the “do’s and don’ts of ILAs”.

Investigations and anti-fraud action

- ELLD introduced a system for tagging of supplies of blank ILA application forms issued to providers so that the source of supply for any abuses of the system could be identified.
- ELLD drew to the attention of SEn, HIE and SUfl details of all suspect learning providers.
- SEn and HIE were provided with access to additional management information to assist in the identification of unusual patterns of learning uptake by provider and to sample for audit purposes.
- SEn and HIE completed their monitoring plans and ELLD had indicated some amended priorities for their investigations.
- Capita suspended the website application process for ILAs pending the introduction of additional checks.

ILA members

- Capita was to send an annual statement of account to all ILA members who had completed their first year of active membership. This would provide individuals with the opportunity to raise concerns if their account had been inappropriately used by learning providers.
- ELLD and SUfl were to develop improved guidance for individuals to help clarify how to choose learning and a learning provider.

Quality of learning and value for money

- Because distance learning providers were seen as those where the risk of improper activity was potentially highest, SUfl was to contact all providers offering the European Computer Driving Licence course to confirm that they were properly registered with the British Computer Society and that they had obtained their courseware from a BCS-approved source.
- SUfl was to confirm that learning providers who had stated they had obtained certain quality standards were properly accredited. SUfl was also to check on the progress made by providers who had claimed they were working towards a quality standard.
- SUfl was to ensure that, in future, all learning providers in future provided details of the costs of training offered for inclusion in the National Learning Opportunities Database so that individuals could make more informed judgements on value for money.

Source: ELLD

Decision to close the scheme

4.23 On 19 November 2001, ELLD provided a further report to Ministers on the ILA scheme. The report noted that:

- a number of actions had been taken or were planned to improve controls over the scheme (Exhibit 9)
- complaints continued to be received and two major abuses of the scheme had recently been attempted by learning providers flooding applications for new learners through the website application process and by using English rather than Scottish application forms
- initial results from SEN and HIE on their respective reviews of learning providers indicated that there was likely to be more examples of mis-selling and non-compliance with the rules than evidence of provable fraud
- there had been an increased level of ILA uptake in Scotland since the DfES scheme was withdrawn.

4.24 Four days later, in line with police advice, DfES announced the immediate closure of the scheme, two weeks earlier than planned. This followed claims from a learning provider that a third party had offered to sell the company a large number of unused ILA account numbers and alleging that Capita's database had been improperly accessed. Capita worked with DfES to determine how its database had been compromised, concluding there was no evidence, as alleged, of involvement by any of its employees. However, it appeared that learning providers were trawling the database for unused accounts. A small number of providers had accessed the system repeatedly during the last days of the scheme, inappropriately using their legitimate access to it. There was also evidence that the rate of claims for payment during the period was higher than ever before.

4.25 On the same day, SEN decided to suspend payments to learning providers following receipt of KPMG's initial findings on its review of systems controls over the ILA scheme, and so informed ELLD and HIE. ELLD concurred with SEN's decision as a precautionary measure to protect public funds and pending the further validation of all existing claims. The Department for Employment and Learning also brought forward its plans to close the ILA scheme in Northern Ireland.

- 4.26 On 17 December, following receipt of KPMG's final report on the systems controls over the ILA scheme, the chief executive of SEn informed the head of ELLD that he would not be prepared to authorise further payments until the contract with Capita addressed, inter alia, the need for payments to be only calculated in accordance with the rules, and only made in respect of eligible parties. The chief executive of HIE also informed the head of ELLD that HIE considered it prudent to withhold payment of any claims, pending adequate assurance of their validity.
- 4.27 Taking into account the conclusions of KPMG's report, the enterprise bodies' position on payments, intelligence from DfES, together with expenditure projections from SEn which, based on trends at that time, were forecasting outturn of £24 million¹⁰ for 2001/02 against a scheme budget for the year of £14 million, the Scottish Ministers decided to close the scheme. ELLD announced, on 20 December 2001, the immediate closure of the ILA scheme in Scotland. The ILA programme in Wales was suspended a day later, following concerns that rogue learning providers were now turning their attention to Wales.

¹⁰ SEn's forecast expenditure of £24 million was based on the average weekly payments at that time and assumed continuation of the scheme; the forecast was revised to £17 million on closure of the scheme. Exhibit 11 (page 55) indicates that the total level of claims received from learning providers (paid and outstanding) during 2001/02 by both SEn and HIE was £16.7 million. A further £2.6 million management fees were paid to Capita.

Part 5: Action since the ILA scheme was closed

- 5.1 This part of the report considers:
- the identification of the scale of non-compliant and potentially fraudulent expenditure
 - the payment of outstanding claims and action being taken against learning providers
 - the impact of scheme closure.

Identification of non-compliant and potentially fraudulent activity

- 5.2 Following the decision to suspend payments to learning providers on 23 November 2001, ELLD began discussions with SEn and HIE regarding the validation of payments which had been made and claims which were outstanding. In December 2001, SEn and HIE commissioned KPMG to undertake an independent validation of claims made approximately between September and November 2001, whether paid or awaiting payment. ELLD also wrote to all learning providers on four occasions between November 2001 and January 2002 informing them of the commencement and progress of validation checks and when payments might recommence.
- 5.3 The consultants' validation fieldwork, which was carried out between January and March 2002, involved examination of a sample of approximately 10% of total learning episodes claimed by learning providers between September and November 2001 (Exhibit 10). Sample selection was geared towards learning providers and learning episodes deemed to have the highest risk of non-compliance with scheme rules, but also included the selection of a number of training episodes on a random basis. The sample took into account: the historical pattern of claims by provider; the results of monitoring already undertaken by SEn and HIE; and a list of providers, over which there were some concerns, issued by DfES.

Exhibit 10: Consultants' sample of claims subject to validation exercise

	Total number of learning episodes claimed between September and November 2001	Learning episodes sampled	% of total learning episodes sampled	Number of learning providers covered in sample
SEn	48,141	4,616	9.6	533
HIE	3,061	394	12.8	137
Total	51,202	5,010	9.8	611*

* Allowing for overlap where a provider operated in both regions.

Source: Consultants' report on validation exercise April 2002

- 5.4 The objective of the validation exercise was to ensure that for the sample learning episodes, providers held an enrolment statement signed by the student which was in accordance with the claim information held on the ILA Centre's database (scheme rules required learning providers to have this signed form before they made a claim to the ILA Centre for payment of the incentive). The consultants also undertook a visual comparison of the student signature on the enrolment statement with the signature on the initial ILA application form held by Capita (where this was available). In addition, consultants engaged a call centre organisation to undertake a telephone survey of individual learners to confirm, inter alia, that they had received the training claimed and to corroborate that the learner had agreed to pay the minimum £25 contribution.
- 5.5 During validation fieldwork, KPMG discussed its emerging findings with SEn and HIE. This informed decisions on the need for additional testing by KPMG and both enterprise bodies, the assessment of potential levels of irregular or non-compliant expenditure, the release of outstanding claims for payment and referrals for consideration of legal action against learning providers.
- 5.6 KPMG reported the results of its validation work to SEn and HIE in April 2002. The report found there was a significant level of non-compliance with the requirements of the ILA scheme:
- In 19% of learning episodes sampled there was no enrolment documentation available to the consultants. In a further 27% of the sample the standard enrolment statement had not been completed.
 - Signature comparisons could only be undertaken in respect of 61% of the sample due to the absence or illegibility of a signature or

because an enrolment form had not been completed. Of the 3,064 learning episodes where a signature comparison could be made, the consultants concluded that in 226 cases (7% of 3,064) there were indications that the signature on the enrolment form was probably not the same as the signature on the ILA application form

- In 53% of the cases sampled, no telephone number was available or students were not contactable or were unwilling to participate in the telephone survey. Of the 2,379 who did participate, 32% said they did not receive the training for which learning providers had claimed. A further 293 of the 1,583 students who said they did receive training stated they did not make any contribution towards the costs of that learning episode.

5.7 On the basis of their findings, KPMG concluded that 3% of learning providers sampled showed significant levels of apparent non-compliance with scheme rules, possibly indicative of fraud. Further details on the results of the validation exercise are included in Appendix 4.

5.8 Since payments to learning providers were suspended in November 2001, SEn and HIE have also carried out additional work to validate claims outstanding and to quantify the potential level of irregular expenditure not in accordance with scheme rules. While validation work has concentrated on high-risk learning providers where there is evidence to suspect non-compliance, some 75% of learning providers operating in Scotland have been subjected to validation checks on at least a sample of learning episodes claimed.

The level of non-compliant and potentially irregular claims payable by Scottish Enterprise

5.9 Using the 10% of learning episodes included in the KPMG validation sample, SEn has conducted additional monitoring visits to the high-risk learning providers concerned, to seek additional information and evidence of the validity of claims. As a result of this work, SEn has currently identified £200,000 of non-compliant claims where there is no evidence to confirm that training has been undertaken (Exhibit 11 on page 55).

- 5.10 In order to ensure that it is not complacent about the potential scale of non-compliance with the requirements of the ILA scheme, SEn has applied the error rates from sample testing to the total claims from learning providers where the irregularities were identified in accordance with ELLD's guidance. On this basis, SEn estimates that potentially up to £4.2 million of claims from these learning providers might be irregular out of expenditure paid and claimed under the ILA programme of £15.5 million in 2001/02.¹¹
- 5.11 The extrapolated level of irregular claims includes claims which are potentially fraudulent or indicative of systematic abuse of the scheme. This is based on a number of factors such as: no evidence of training undertaken; the learner for whom the claim was made could not be located; and, where there was evidence of a mis-match between signatures on the account application form and the learner episode registration form (totalling potential erroneous claims of £3.7 million or 88% of the total extrapolated value of £4.2 million). The balance relates to cases where SEn was unable to find evidence of training undertaken but, in the absence of other contributory factors, considers there was no evidence of systematic abuse of the scheme. The extrapolation of the identified errors relates to all claims received from the learning providers concerned but is not attributed specifically to paid and outstanding amounts. SEn considers this is not relevant to the overall assessment of potential erroneous claims. In addition, SEn has estimated that £150,000 of payments to learner providers out of £1.9 million scheme expenditure in 2000/01 may be irregular.

¹¹ As indicated at paragraph 5.3, sample selection was heavily weighted towards learning providers and learners assessed as having the highest risk of irregular claims. This approach aimed to identify suspect claims quickly so that appropriate action could be taken to protect public funds and to release valid payments to learning providers. SEn, therefore, considers that the extrapolation of error rates derived from this exercise to indicate the value of erroneous claims represents a worst case scenario. It estimates that the value of erroneous claims is more likely to range between £2 million and £4 million.

Exhibit 11: Total level of non-compliant and potentially fraudulent claims

	Scottish Enterprise £ million	Highlands & Islands Enterprise £ million	Total £ million
Scheme claims*			
Claims paid in 2000/01	1.890	0.169	2.059
Claims paid in 2001/02	10.160	0.994	11.154
Claims waiting payment as at 31.3.02	5.300	0.250	5.550
Total	17.350	1.413	18.763
Identified level of suspected irregular claims based on sample testing	0.200	0.014	0.214
Extrapolated level of suspected irregular claims based on sample testing	4.371	0.086	4.457
Extrapolated level of suspected irregular claims as % of scheme claims	25%	6%	24%

* Excluding SEn and HIE payments to Capita in respect of management fees (see paragraph 5.22).

Source: Scottish Enterprise and Highlands & Islands Enterprise

The level of non-compliant and potentially irregular claims payable by Highlands & Islands Enterprise

- 5.12 HIE also sampled additional claims to those included in the KPMG validation exercise. Overall, HIE carried out validation checks on 149 learner providers (out of 456 operating in the HIE area), representing 88% of provider activity. HIE carried out validation checks on 43% of learning episodes claimed by 18 learner providers identified as being of the highest risk.
- 5.13 On the basis of its work, HIE has identified £14,000 of suspected irregular and non-compliant claims made by learner providers (Exhibit 11). Based on its application of the identified error rates to the claims from individual learning providers where the irregularities have been identified, HIE estimates that potentially up to £86,000 of claims from learning providers may be irregular out of £1.2 million claims paid and outstanding in 2001/02. Of the £86,000 extrapolated figure: £33,000 relates to payments where there is no evidence to confirm training was provided; £23,000 relates to payments which were outstanding as at 31 March 2002; and, £30,000 relates to occasions where HIE considers learning has been received but the payments fail to comply with the scheme rules in some respects. HIE

estimates that none of its expenditure incurred under the ILA scheme in 2000/01 was irregular.

Views of external auditors

5.14 At the time SEN's 2001/02 accounts were being prepared, it estimated that potentially up to £3.3 million of claims from learning providers might be irregular. As a result, the external auditor issued a regularity qualified audit opinion on the 2001/02 accounts because they included expenditure not in compliance with the appropriate authorities. The external auditor did not qualify HIE's 2001/02 accounts, but brought attention to the issue through his management report on the ILA scheme. In both the audit certificate on SEN's accounts and in the management report to HIE, the auditor notes that, in his view, the problems encountered with the administration of the ILA scheme resulted from a combination of deficiencies, many of which were outside the enterprise bodies' control. The HIE external auditor also commented that, in his opinion, the relatively late arrival in the HIE area of potentially fraudulent practitioners operating elsewhere throughout the UK, together with the monitoring structure installed by HIE and its prompt reaction in investigating and visiting suspect providers, helped mitigate the level of potentially irregular claims.

The payment of outstanding claims

5.15 The decision to withhold payments to providers and the closure of the scheme in December 2001 prompted a significant amount of Parliamentary and other interest in the difficulties faced by ILA holders and learning providers. In January 2002, ELLD, SEN and HIE developed policies for the purpose of determining:

- the basis of release of funds to learning providers where claims could be validated
- the categorisation of cases and procedures to be followed where cases of fraud and non-compliance are identified.

5.16 The joint policies take a risk-based approach to the payment of claims from learning providers and to the identification of those learning providers whose claims should continue to be withheld pending further investigation. SEN and HIE were required to make all reasonable attempts to recover administratively any overpayments. ELLD accepted, however, that until August 2001 when it wrote to learning providers with details of scheme incentive rules and providing definitions of eligible learning, ascertaining the rules of the scheme was difficult. As a result, SEN and HIE were not required to

take administrative recovery action in respect of claims received prior to 1 September 2001 unless there was clear evidence of systematic non-compliance with the scheme.

5.17 ELLD updated the policy guidelines in August 2002 to include, as a basis for seeking administrative recovery action, an identification of indicators of potentially irregular payments and non-compliance with the scheme, and a method for calculating the level of erroneous payments made (Appendix 5). The updated policy guidelines took account of the outcomes of SEN's and HIE's validation work to date together with:

- ELLD's survey of 60,000 account holders which asked them to respond if distance learning claimed by private sector learning providers to have been provided was not received.
- Information obtained from York Consulting's policy evaluation of the ILA scheme of June 2002 which identified that a number of learning providers had made claims against the accounts of those individuals who stated no training had been provided.
- Information obtained through complaints and other queries directly received by ELLD in respect of learning provider activity.

5.18 The policy guidelines accept that it is unlikely that the true level of irregular payments will ever be identified. ELLD does not consider it would necessarily be in the public interest to fund a 100% audit of all claims. The policy guidelines, therefore, seek to strike a reasonable balance between paying outstanding claims to those learning providers which represent a low risk of improper activity, and focusing further investigative work and administrative recovery on high-risk providers.

5.19 As at 31 March 2002, the total value of outstanding claims in respect of the ILA scheme in Scotland was £5.6 million. Since then, application of the policies has resulted in SEN releasing payments of £1.6 million to reduce its value of outstanding claims to £3.7 million in respect of 58 learning providers by the end of November 2002. In the same period, HIE made payments of £165,000 to reduce its value of outstanding claims to £84,000 in respect of 18 learning providers, 16 of which also have claims outstanding at SEN. ELLD is continuing to review the policy approach to payments or administrative recovery in respect of a small number of the highest risk learning providers.

Action against providers

- 5.20 Based on the validation work carried out, ELLD and the enterprise bodies have identified 28 learning providers where it believes there is the highest risk of fraudulent activity having taken place. These providers received payments totalling £2.9 million in respect of the ILA scheme in Scotland and have further claims valued at £2.8 million outstanding. Almost 98% of the suspect payments made and claims outstanding relate to learning activities allegedly provided in SEN's area of activities.
- 5.21 In light of its audit and validation role, SEN has had primary responsibility for investigating learning providers suspected of fraudulent activities. It has therefore been the primary liaison point with the Crown Office and the police. Policy decisions on action to be taken against learning providers, including administrative recovery, possible civil action and/or criminal prosecution, have been taken jointly by ELLD and SEN, in consultation with HIE and with appropriate legal advice. A number of learning providers remain under investigation either by the Scottish authorities or, in respect of certain learning providers based in England, have been referred to DfES's Special Investigations Unit. The Crown Office has now advised that search warrants have been executed in relation to ten learning providers, and a large quantity of documentation and computer records recovered. That data is presently being analysed by the relevant police authorities. The Crown Office considers this will be a lengthy task and, at this stage, it is not possible to say when it will be completed.

Impact of closure of the ILA scheme

The contract with Capita

- 5.22 As a result of the closure of the ILA scheme in Scotland, SEN and HIE suspended payments to Capita except for those in connection with ongoing validation work and the identification of high-risk learning providers. In total, SEN and HIE have made payments to Capita amounting to £2.6 million in respect of management fees for services provided. Because the number of ILAs opened exceeded expectations, total payments to Capita were also higher than expected at the time the scheme was closed. In December 2002, ELLD reached an in-principle settlement with Capita regarding the termination of the ILA contract.

Impact on learning providers and learners

- 5.23 ELLD had no contractual relationship with learning providers and it has been unable to determine the extent of any job losses and bankruptcies resulting from closure of the scheme. ELLD has no plans to compensate providers – the ILA scheme brought new business to learning providers who made commercial decisions for themselves regarding the length of time the scheme would operate.
- 5.24 At the time the scheme closed, ELLD undertook to pay the ILA incentive in respect of any individual who had already enrolled for a course before the closure date but who had not yet started learning, provided that their learning started by 31 January 2002. However, an unknown number of learners will have registered for training for which they would have been eligible for a discount under the ILA scheme, but who now may be unable to afford to undertake their learning episode.

Part 6: Development of a replacement scheme

- 6.1 This part of the report sets out ELLD's progress in developing a replacement to the ILA scheme and how it intends that lessons learned from the original ILA scheme will be incorporated.
- 6.2 York Consulting's evaluation of the ILA scheme in Scotland, in June 2002, confirmed that many learners, learning providers and stakeholder organisations recognise the strengths of the ILA concept and the benefits of some aspects of the original ILA scheme. In ELLD's view, there is thus a stock of goodwill towards a replacement scheme which continues with the basic concept of individual learning, but which also incorporates more rigorous checks on the activities of learning providers and improved systems controls. At the same time, ELLD recognises that it will need to work hard to regain the confidence of some learning providers and to convince stakeholders that a successor scheme minimises the risk of fraud and will not be withdrawn at short notice. The clear message is that time should be taken to ensure any such scheme is thoroughly tested before its implementation and that it will work effectively.
- 6.3 ELLD is progressing work to develop proposals for a successor ILA scheme and considers that it is important that any replacement scheme is an integral part of the Scottish Executive's overall strategy for lifelong learning. In February 2003, Ministers announced a new strategy for lifelong learning which confirmed that a successor ILA scheme would be introduced during 2003/04.
- 6.4 ELLD is keen to ensure that a new scheme will take full account of York Consulting's evaluation of the original ILA programme, of feedback from ongoing consultation with stakeholders, including the further and higher education sectors, the Scottish Trade Unions Congress and the Federation of Small Businesses, and of the wider lessons learned. ELLD envisages that operational planning of the new scheme will be developed within the Scottish Executive's 'Gateway

¹² A 'Gateway Review' is, in a simple terms, a review of a procurement project carried out at a key decision point by a team of experienced people, independent of the project team. The process is intended to lead to more effective delivery of benefits together with more predictable costs and outcomes, and involves the consideration of the project at six critical points (known as Gateways) in its development.

Review¹² process to ensure that good practice is observed in programme design and implementation. ELLD has also identified a number of key lessons, which it intends to take fully into account in developing proposals for a replacement ILA scheme. These include the need for:

- **More stringent quality assurance of learning providers:** ELLD considers that, in the replacement scheme, learning providers must meet agreed accreditation and quality standards, which will be authenticated prior to registration. Administrative arrangements also need to be incorporated to enable the quality of learning provision to be reviewed and to allow the close monitoring and follow-up of complaints received from learners.
- **More rigorous process modelling and systems design (including proactive risk management), to address specific Scottish needs and policy aims:** ELLD intends to design and develop systems and operational procedures which draw on relevant specialist expertise, and in consultation with delivery partners, and geared specifically for the requirements of a Scottish scheme. ELLD will fully test with partners and key practitioners the systems and procedures to be adopted prior to launch.
- **More rigorous operational and systems controls and improved arrangements for audit and budget management, set within a robust (but sufficiently flexible) legislative framework:** ELLD intends that legislation for the new scheme will establish clear powers, obligations and sanctions. ELLD envisages that the replacement scheme will be delivered by fewer core partners who will have clear and unambiguous roles and responsibilities to avoid duplication. There will also be a clear contractual relationship established with learning providers, and audit and financial monitoring arrangements will be strengthened.
- **Improved information and guidance for learners and learning providers:** ELLD intends that learning provider guidance will state clearly the operational rules and requirements of the scheme and the penalties for non-compliance, which the provider will have to accept formally prior to registration. Learner guidance will explain clearly the rules and conditions of the scheme for individuals and learning providers, and will also stress the need for individual learners to safeguard account details and to select learning with care. It envisages that intermediary bodies will play an important, complementary role in raising awareness of, and supporting access to, ILAs and ILA-eligible learning opportunities.

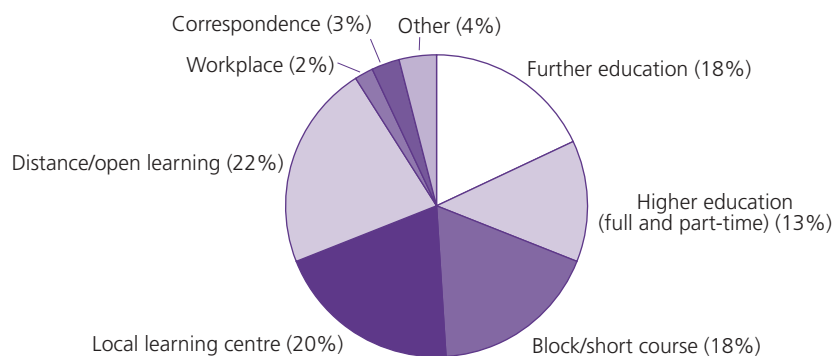
Appendix 1: Take-up of the ILA scheme in Scotland

1. Capita collected statistics on the use made of the ILA scheme derived from individuals' applications to open an account and from the registration of learning episodes. In 2001, the UK authorities also commissioned York Consulting to undertake a survey of account holders to evaluate the characteristics of ILA users and the level of customer satisfaction with the scheme. In addition, ELLD commissioned the same consultants to survey account holders and learning providers, in 2002, to help inform the development of a successor ILA scheme in Scotland. Part 1 of the report provides details on the number of ILAs opened and used. This Appendix provides further information on learning providers, the level and types of learning undertaken, the characteristics of users and user satisfaction.

Number of learning providers

2. The ILA scheme was successful in bringing new providers to the market, thus extending the choice of learning and learning environment for individuals and enhancing options for access to education (Exhibit A). In total, SUfI registered 1,020 learning providers during the life of the ILA scheme, of which 847 were 'live' when the scheme closed. 641 (76%) of these 847 learning providers were private sector providers. York Consulting reported, in June 2002, that 14% of the 202 learning providers surveyed had been providing training for less than two years.

Exhibit A: Settings in which learning was provided



Source: 'Evaluation of Individual Learning Accounts', York Consulting, June 2002

Level and type of learning booked

3. The ILA scheme in Scotland appears to have been successful in funding entry-level courses specified in the definition of eligible learning. Of the 110,000 learning episodes for which data is available from the ILA Centre database, 65% were classed as introductory courses.

4. Insofar as data is available, information technology courses represented a significant majority of all training provided. Some three-quarters of learning under the 80% incentive and about two-fifths of all learning under the 20% incentive was for information and communications technology. The European Computer Driving Licence course proved particularly popular, making up almost half of all learning episodes registered for which data is available.

Characteristics of account holders

5. The ILA scheme in Scotland was open to all and did not specifically target any particular sector of society other than through marketing activity. In April 2001, the Scottish Ministers requested that they and the Scottish Parliament's Enterprise and Lifelong Learning Committee be provided with quarterly statistics about the characteristics of account holders, pertaining to employment status, level of prior qualifications and age (Exhibit B).

Exhibit B: Characteristics of account holders in Scotland

Employment status

Ministers requested to be provided with information on the number of account holders who were unemployed, returning to work, self-employed and employed in small and medium-sized enterprises (SMEs).

Capita recorded on its ILA Centre database information on employment status as recorded on membership application forms. Of the 240,000 individuals (90% of total applicants for account numbers) who completed this part of the application form, 65% were in employment, 8% were self-employed and 13% were unemployed. A further 8% of account holders were retired. These figures are broadly consistent with the results of York Consulting's surveys of account holders.

The ILA Centre database indicates that 118,000 applicants recorded whether they were, or were not returning to work. Of these, 21% were returning to work.

The ILA Centre did not record statistics on the numbers of account holders employed in SMEs. The June 2001 consultants' survey, however, indicated that 24% of account holders were employed in small companies.

The consultants' surveys also found that 40% were management/professional workers, 21% were classed as administrative workers, 10% were in a skilled trade and 9% were involved in retail and customer services.

Level of prior qualifications

Data from the ILA Centre database indicate that 152,000 account holders (57% of the total number of account holders) recorded their level of prior qualifications on their membership application forms. Of these, 30% were educated to SVQ Level 3, and 31% were educated to SVQ Level 4 (degree level) and above. The consultants' surveys of account holders confirmed the high proportion of well-educated individuals who opened accounts. The June 2002 survey found that 24% of account holders were educated to SVQ Level 3, and 40% were educated to SVQ Level 4 and above.

115,000 account holders (43% of the total number of account holders) did not indicate their level of prior qualifications on their membership application forms. ELLD considers that these people are less likely to be as well-qualified as those who indicated their level of prior qualifications.

Age of account holders

Ministers requested to be provided with information on the number of account holders aged 18-30 years. As the ILA scheme eligibility criteria required account holders to be at least 18 years of age, this section of the membership application form had to be completed before Capita would issue an account number. Of the 266,000 account holders in Scotland, 75,000 (28%) were aged 18-30 years, around half were aged 31 to 50, and the remainder were aged 51 and over.

Source: ILA Centre management information and York Consulting's survey reports 'Early views of ILA users and non-redeemers: Scotland' July 2001 and 'Evaluation of Individual Learning Accounts' June 2002

Levels of personal investment in training

6. One of the key elements of the scheme was the concept of personal investment in learning. Both consultants' surveys in July 2001 and June 2002 found that around 60% of account holders had paid less than £50 towards the cost of learning episodes. While this can partly be explained by the £150 incentive scheme which enabled learners to restrict their personal contribution to a minimum of £25, it does not explain why between 6% (July 2001 survey results) and 10% (June 2002 survey results) of account holders claimed not to have made any personal contribution. This supports findings from investigations into potentially irregular and fraudulent activity by learning providers (Part 5).

User satisfaction

7. York Consulting's surveys of account holders indicated a high level of satisfaction with the learning received under the ILA scheme. Some 40% of learners undertook training to enhance skills and for personal development. A further quarter undertook training to obtain qualifications and to get a new or better job. The June 2002 survey indicated that 85% of individuals felt the training provided met or exceeded expectations and that 80% of learners considered their courses had improved their knowledge and skills.
8. The consultants also surveyed learners about the 'dead-weight' present in the ILA scheme. Around two-fifths of respondents said they 'probably' or 'definitely' would not have been able to pay for their course without the ILA incentive. People in social class 'AB' and those making a personal contribution in excess of £150 were more likely to have chosen to do the course, even without ILA support. Conversely, three-fifths of people in social class 'DE' indicated they would not have been able to pay for their course without the ILA incentive. Those with no qualifications and the unemployed were also more likely to say they would not have been able to pay for their course without the ILA incentive.

Appendix 2: Chronology of events

November 1999

Ministers decide the Scottish Executive should participate in a UK-wide procurement of a customer service provider for ILAs to be led by DfES.

4 September 1999

DfES publishes a notice in OJEC notifying the intention to procure a customer service provider and inviting expressions of interest. The notice states that the proposed contract may be extended to Northern Ireland and/or Scotland and/or Wales.

January 2000

Four of six bidders withdraw from the competition to secure a customer service provider. The remaining two bidders agree to form a consortium and submit a single bid.

January 2000

Consultants advise that, because of the tight timescales set for the introduction of ILAs in England, procurement of a customer service provider would need to be secured through separate contracts.

February 2000

DfES commences negotiations with Capita over a contract to provide ILA scheme administration in England.

10 March 2000

ELLD issues its Scottish Statement of Requirements to Capita to perform the role of customer service provider for the ILA scheme in Scotland.

27 March 2000

ELLD commences negotiations with Capita.

March 2000

ELLD publishes “Introducing Learning Accounts in Scotland”, setting out the policy aims of ILAs and how they are to be implemented.

June 2000 to October 2000

Interim ILA scheme in operation using SEN’s Corporate Training System.

28 September 2000

ELLD writes to SEN and HIE setting out their envisaged responsibilities under the scheme with effect from 31 October 2000.

31 October 2000

Capita commences administration of Scottish ILA scheme.

8 November 2000

Contract between Scottish Ministers and Capita signed.

November 2000 to February 2001

SEN and HIE seek clarification from ELLD on their roles and responsibilities in the management of ILAs.

16 February 2001

ELLD provides guidance to SEN and HIE setting out their responsibilities in relation to ILAs, including sample checking of learning providers and learners to confirm the validity of payments made.

March-June 2001

ELLD seeks sight of SEN and HIE audit and monitoring plans.

11 May 2001

In response to HIE's request for clarification, ELLD provides further advice to HIE on its role in monitoring ILAs. The advice includes that SEN was responsible for undertaking visits to Capita to carry out systems checks.

14 August 2001

ELLD writes to learning providers highlighting a number of unacceptable practices of which it has become aware.

August 2001

HIE begins site visits to selected learning providers as part of monitoring activities.

September 2001

SEN's monitoring team begins monitoring of high-priority learning providers.

24 October 2001

DfES announces its decision to cease the ILA scheme in England with effect from 7 December 2001. ELLD suspends all new registrations of learning providers in Scotland.

26 October 2001

ELLD reports to Ministers that there is evidence of at least one fraudulent payment under the scheme in Scotland, and that there are concerns about value for money and quality of learning materials and support provided by some distance-learner providers. Ministers decide that the ILA scheme should continue but with added safeguards.

31 October 2001

The Education and Training (Scotland) Amendment Regulations 2001 comes into effect, removing the cap on 100,000 account holders receiving a £150 grant towards the cost of learning.

9 November 2001

ELLD and SEN agree that SEN should commission consultants to review and assess the controls over the Scottish ILA scheme.

23 November 2001

DfES announces the immediate closure of ILA scheme in England following an approach to a learning provider by a 3rd party offering to sell ILA account numbers. SEN also decides to suspend all payments to learning providers. ELLD concurs and a Scottish Executive news release states that "all ILA payments were suspended today following action by DfES".

29 November 2001

HIE writes to ELLD expressing concerns about the level of controls over the ILA scheme.

13 December 2001

Consultants conclude that the controls over the Scottish ILA scheme do not provide effective protection against critical business risks. The report also concludes there is a general uncertainty over eligibility rules and monitoring arrangements, and a need to clarify and formalise responsibilities for fraud management, policy and procedures.

17 December 2001

SEN chief executive advises head of ELLD that SEN and HIE have commissioned consultants to undertake a comprehensive validation exercise of outstanding claims waiting settlement.

19 December 2001

HIE chief executive advises head of ELLD that it would be prudent to withhold payment of claims, pending KPMG providing adequate assurance on the validity of claims.

20 December 2001

ILA scheme formally closed in Scotland.

December 2001 to September 2002

SEn and HIE undertake further validation and monitoring work to complement consultant's validation work.

January to March 2002

Consultants' validation exercise under way involving a sample of 5,000 learning episodes and over 600 learning providers.

29 January 2002

ELLD, SEn and HIE agree policies for the purposes of determining the basis for the release of funds to learning providers where claims could be validated; and procedures to be followed where cases of fraud and non-compliance are identified.

February 2002

SEn internal audit report points to weaknesses in SEn's monitoring of the ILA programme. The report also concludes there was a lack of clear guidance from ELLD to providers on the requirements of the scheme.

March 2002

ELLD undertakes an independent canvas of 60,000 individuals to confirm unused value of incentives available in ILAs.

8 April 2002

Consultants conclude from the findings of its validation exercise that there is a significant level of apparent non-compliance with the requirements of the scheme and indications of potential fraudulent activity.

August 2002

ELLD issues revised policy guidelines to SEn and HIE on the release of funds and administrative recovery action to be taken in cases of potentially irregular or irregular payments and non-compliance with scheme rules.

August 2002

Police investigations initiated in relation to a number of learning providers.

September 2002

SEn accounts qualified in relation to ILA expenditure.

November 2002

ELLD (via Capita) initiates part-payment and administrative recovery action in respect of learning providers identified through SEn and HIE validation and audit work as having 'received overpayments'.

Appendix 3: Consultants' review of controls over the Scottish ILA scheme

1. ELLD and SEn agreed, in November 2001, that SEn should commission KPMG to review and assess the controls in place over the following processes as they related to the administration of ILAs for Scotland only:
 - set-up and maintenance of ILAs
 - set-up and maintenance of learning providers
 - course booking and subsequent claim of payments by learning providers
 - payment of claims.

2. KPMG's report, whilst focusing on the systems and procedures which Capita had in place, also covered the macro controls managed by other agencies, including ELLD, SEn and HIE. KPMG concluded that, in its opinion, the overall control environment did not provide effective protection against critical business risk. In particular, the scheme was susceptible to misappropriation of funds through fraud and non-compliance with the rules of the scheme. The 20 key recommendations, which included a need to implement a number of additional controls as soon as possible to reduce the risk of fraud and non-compliance with scheme rules, are provided below. Capita's comments on the recommendations, as provided to Audit Scotland, are shown in italics.

Issues

Lack of fraud management ownership

Responsibilities for fraud management within the ILA process appear unclear. There are no formal procedures for escalation or investigation of frauds identified by Capita. The service level agreement with Capita refers to some fraud checking, but it is not clear whether this should be done by Capita.

Registration of learning providers

The vetting of learning providers by SUFI is restricted to interpretation of whether a submitted course proposal qualifies for the 20% or 80% discount incentive. Failure to properly vet learning providers increases the risk of unscrupulous or poor quality providers being registered.

The need for an independent compliance and review function

Although SEN reviewed historic payments in the second half of 2001, which included visits to learning providers, there is no team assigned overall responsibility for identifying and responding to fraudulent activity in Scotland.

Where collusion exists between learning providers and registered learners, normal detection techniques are unlikely to detect fraudulent claims.

While Capita carries out manual checks, the consultants identified a number of ILA accounts with the same details. The manual process of authorising potential duplicates for individuals is ad hoc and open to error/manipulation.

A significant number of instances were identified where at least three ILA account holders were registered at the same address. Unscrupulous learning providers may have registered a number of individuals to one address or used inducements to sign up people who did not intend to use their accounts.

After seeing the KPMG report, Capita implemented a review of functionality and reporting in relation to further identifying potential duplicates. Of the 33 duplicates identified by KPMG, only one was found to have been double-funded, ie funding had been taken from both live accounts. The remaining 32 had different addresses or dates or births. Capita, in the context of England, proposed the establishment of a compliance and quality unit in July and August 2001. It began discussions with ELLD to implement a compliance and review function, but the ILA scheme was closed before this could be carried out.

Recommendations

1. Fraud management strategy, policy and procedures and responsibilities should be clarified and formalised. The strategy should address the responsibilities of all entities involved in the delivery of the ILA scheme.

2. The vetting process should be reviewed to ensure effective controls are in place; course provision should be restricted to providers with an appropriate accreditation; policies and rules as they relate to selling practices, course accreditation and administrative arrangements should be made clear to learning providers at the time of their application for registration.

3. An immediate review should be undertaken of claims already made by learning providers, sufficient to determine to a reasonable extent that learning providers are complying with critical aspects of the scheme rules and that claims are genuine.

4. An independent compliance and review function should be established to perform routine independent checking of account registrations and course enrolments, and to apply formal detection and investigation techniques. The role of any existing compliance and review responsibilities within each of the bodies currently involved in the administration of the scheme should be taken into account in defining the remit of this function.

5. The compliance and review function should regularly review and follow up:

- on a sample basis, course enrolment documentation to verify that it matches ILA registration details and signature
- additions and updates to sensitive data, including learning provider bank account details, and ILA balance refreshes
- anomalies such as multiple ILAs at the same address, duplicate ILA details, etc.

6. Learning provider site visits should be carried out to obtain evidence that courses are being provided in accordance with course registration details.

Improved system controls to counter improper activity

Capita may introduce an annually renewable PIN number for ILA members to provide to the learning provider when they attend a course. *(Capita's suggestion)*

ILA numbers are issued sequentially. Learning providers have web access to ILA details to confirm that individuals have unused incentives in their accounts. Providers could guess additional ILA numbers and use system access to identify and make use of unused portions of funding.

The consultants identified a significant number of multiple ILA registrations at non-residential addresses, eg business addresses, possibly indicative of widespread misunderstanding in completing registration forms and/or non-compliance.

The consultants' review found that a number of records on the ILA database did not have sufficient details to trace back to source documentation, ie the registration form reference number was missing. This could inhibit validity checking. Deliberate failure to record this reference could be used to conceal fraud.

While the payment file is generated automatically, there is no formal check to ensure that it is complete and valid, and that no duplicates have been included for payment. This could give rise to payments being made incorrectly or in duplicate.

Blank application forms are distributed to some learning providers for direct issue to applicants. Unscrupulous learning providers could use blank forms to solicit ILA accounts and later phone the individuals for ILA membership numbers, resulting in fraudulent claims and payments.

The ILA scheme is vulnerable to learning providers creating ILA accounts for non-existent individuals, or soliciting ILA numbers from members of the public.

7. For PIN numbers to be fully effective, individuals should only provide the PIN directly to Capita as confirmation that they have registered with a provider and attended a course. The cost-effectiveness of using PIN numbers to validate course registration and attendance prior to payment should be considered.

8. ILA account numbers should be combined with additional information, eg first three letters from name and date of birth, to prevent trawling of ILA accounts. Learning providers should also be monitored for failed attempts to enter individual account numbers, and followed up through the compliance and review function as appropriate.

9. The policy regarding non-residential addresses for individuals should be clarified. Procedures should be introduced for reporting and follow-up of non-residential address registrations. *(Capita implemented this by checking individual's addresses against those of registered learning providers.)*

10. The ILA database should have mandatory fields for all key data, including ILA form numbers which are required for tracing to source documentation.

11. The payment file should be subject to an automated check for potentially duplicate payments, at both the learner provider and ILA level, within both the current and prior payment batch.

12. Consideration should be given to discontinuation of bulk distributed blank application forms. *(Capita had reported on the increased use of blank application forms in its monthly reports to ELLD, and had recommended they should be withdrawn.)*

13. Consideration should be given to the requirement for National Insurance numbers to be provided by ILA applicants.

Access to Capita's ILA databases

Access to ILA numbers is widely available to Capita personnel. Users may obtain and sell numbers to unscrupulous parties.

A review of system access privileges indicated that the same individual could perform some incompatible functions.

Changes to ILA registration dates are sometimes made by IT outside normal system functions and based upon e-mail approval. There is no clear authority list for such approvals.

There is no detailed review of learning provider additions and amendments for completeness, accuracy and validity, giving rise to the possibility of unauthorised amendments to the learning provider database.

There is no detailed review of ILA additions and amendments for completeness, accuracy and validity. It is possible for some users to reset ILA balances and to alter enrolment dates. Amendments could therefore be made to perpetuate and conceal a fraud.

Mis-match in data and communication

The consultants identified a number of learning providers on the Capita database which could not be located on SUfl's learner provider list or approved course listing. This could give rise to payments to providers which had not been registered with SUfl.

A number of learning providers currently subject to investigation and for whom SEn has rejected payment are reflected as live on both the Capita and SUfl systems.

Capita held all learning provider records on its ILA Centre database and only removed them on the explicit instructions of ELLD or SEn. SUfl deleted from its database learning providers who has been suspended, hence the mismatch.

Lack of fraud deterrent

Eligibility rules, compliance requirements and penalties for learning providers are not clearly communicated to learning providers at the time of provider registration.

14. Sensitive system functions should be logically segregated, in particular, the ability to create and amend learning providers, ILAs and to book and confirm course enrolments. Whilst it is impractical to fully restrict access internally, access should be restricted as much as possible and access privileges should be reviewed regularly. *(Capita immediately considered changes in relation to changing menu permissions for call centre agents to reduce the possible risk of incompatible functions being carried out by the same user.)*

15. Reports of key additions and amendments to learner provider and ILA records should be produced and independently reviewed for completeness, accuracy and validity.

16. The compliance and review function should include a comparison of registered learning providers appearing on the Capita and SUfl-approved databases. As part of the payment authorisation process, SEn should also obtain a list of approved providers and check that all providers on the payment file appear on the approved list.

17. Capita should be notified regularly of learning providers subject to investigation. Such providers should be suspended from further payment pending the result of inquiries.

18. Eligibility rules, compliance requirements and penalties for learner providers should be formalised and incorporated into provider registration material. This material should also clearly set out the:

- potential for recovery of funds and prosecution in the event of non-compliance or fraud
- right of independent audit of supporting documentation and site visits.

Other issues

The consultants identified a number of apparently related learning providers through identical bank account numbers. Multiple provider registrations may be used to reduce the number of claims per individual and may increase the risk of fraud.

ILA return addresses appear on envelopes sent to individuals. Providers could obtain account numbers for fraudulent purposes.

19. Related learning providers should be subject to review for related complaints and investigations.

20. Individuals should be informed, via unmarked envelopes, of their account number.

Appendix 4: Consultants' findings on the validation exercise

1. Following closure of the ILA scheme in December 2001, SEn and HIE commissioned KPMG to undertake an independent validation exercise of claims made by learning providers between approximately September and November 2001, whether paid or unpaid. The objective of the exercise was to determine whether learning providers had complied with scheme regulations.
2. The consultants' fieldwork involved examination of a sample of approximately 10% of the total 51,202 learning episodes claimed by providers during the period. 611 different learning providers were included in the sample. Sample selection was geared towards learning providers and learning episodes deemed to have the highest risk of non-compliance with scheme rules, but also included selection of a number of training episodes on a random basis. The sample took into account the historical pattern of claims by provider; the results of monitoring already undertaken by SEn and HIE; and a list of providers, issued by DfES, over which there was some concern.
3. The ILA scheme required learners to obtain an individual account number by applying to Capita's ILA Centre using a standard signed application form. Thereafter, each time the individual desired to undertake a learning episode, he/she approached the identified learning provider and completed a standard enrolment statement. The enrolment statement included details of the student's name and account number, course name and reference code, the potential incentive to be claimed and a signed statement from the student stating that he/she was not claiming any other public funding for the course and his/her agreement to pay the minimum £25 contribution towards the cost of the course. The learning provider was required to have this signed form before it made an on-line claim to the ILA Centre for payment of the incentive.
4. The validation exercise therefore involved, for the sample selected:
 - Seeking confirmation that the learning provider was in possession of the signed standard enrolment form.
 - A comparison of signatures between that appearing on the application to open an ILA and the signature on the learning episode enrolment form.

- A telephone survey of learners to confirm, inter alia, that the training claimed for was provided and that the £25 minimum contribution had been paid.
5. On the use of the standard enrolment form, the consultants found that in 19% of the sample no form could be provided, and in a further 27% of cases a non-standard form had been used. A number of providers told consultants that they had not been able to obtain sufficient copies of the standard enrolment form and had either devised their own form or had not completed any enrolment form. Some distance learning providers said that they had found it difficult to obtain learner signatures as the training amounted to the provision of a CD-rom and on-line support.

Exhibit C: KPMG's findings on use of the standard enrolment form

	Sample sizes			% of total
	SEn	HIE	Total	
Standard enrolment form used	2,473	232	2,705	54
Non-standard enrolment form used	1,257	84	1,341	27
No form available	886	78	964	19
Total	4,616	394	5,010	100

Source: KPMG report 'ILA Scheme in Scotland: Results of Validation Exercise' April 2002

6. The consultants could only undertake a comparison of signatures in respect of 61% of the sample because of the absence of a signature or an illegible signature, or as a result of not having an enrolment form. Where signature comparison was possible, the consultants concluded that in 7% of cases there was evidence that the individual signing the enrolment form was probably different to the person originally opening the ILA.

Exhibit D: KPMG's findings on signature comparisons

	Sample sizes			% of total
	SEn	HIE	Total	
Signature comparisons undertaken				
Yes	2,816	248	3,064	61
No, because of no/illegible signature	357	37	394	8
No, because of absence of form	1,443	109	1,552	31
Total	4,616	394	5,010	100
Results of signature comparisons				
Signatures were probably the same	2,521	237	2,758	90
Signatures were probably not the same	216	10	226	7
Different individual	15	0	15	1
Unable to conclude	64	1	65	2
Total	2,816	248	3,064	100

Source: KPMG report 'ILA Scheme in Scotland: Results of Validation Exercise' April 2002

7. 53% of learners in the sample could not be contacted by telephone to participate in the survey. Of the 2,379 learners who *did* participate in the telephone survey, the consultants found that 32% did not receive the training for which the learning provider had claimed, and 19% of those who undertook training did not make any contribution to the cost of the learning episode. In a small number of cases, the learning provider had offered cash or other inducements to encourage the individual to enrol in a course which exceeded the value of the personal contribution made.
8. As indicated in Exhibit D, 759 individuals for whom a claim had been made indicated that they had not undertaken the recorded training course. The consultants were able to compare signatures, as described in paragraph 6 above, in 415 of these 759 cases. They concluded that in 373 cases, the signature was probably the same. In 42 cases involving 17 learning providers the signatures on the two forms were probably not the same or they were unable to conclude if they were the same. The consultants identified three possible explanations for these cases:
 - i) The provider had adopted 'door-stopping' sales techniques and had encouraged the individual to sign the account application form and the enrolment form at the same time. The learner had subsequently provided the account number to the learning provider but had not undertaken any training

Exhibit E: KPMG’s findings on training taken (obtained from telephone survey)

	Sample sizes			% of total
	SEn	HIE	Total	
Participated in survey				
Yes	2,157	222	2,379	47
No, because no number available/not contactable/unwilling to participate	2,459	172	2,631	53
Total	4,616	394	5,010	100
Analysis of those who participated				
Training taken	1,422	161	1,583	67
Training not taken but not cancelled	596	48	644	27
Training not taken as a result of cancellation	106	9	115	5
Early termination of call	33	4	37	1
Total	2,157	222	2,379	100
Analysis of those who took training				
Contributed at least £25	1,132	128	1,260	80
Contributed less than £25	22	2	24	1
Did not contribute to cost	263	30	293	19
Early termination of call	5	1	6	–
Total	1,422	161	1,583	100

Source: KPMG report ‘ILA Scheme in Scotland: Results of Validation Exercise’ April 2002

- ii) Distance learning providers had sent a CD-rom to the learner, but the learner never undertook the training
 - iii) Learning providers had made a claim without the learner’s knowledge and had falsified the learner’s signature.
9. The consultant’s report also noted some explanations given by learning providers which may have contributed to non-compliance with scheme rules. These included: the inability of many learning providers to obtain any, or sufficient, supplies of the standard enrolment form; erroneous guidance issued by Capita on the requirement to obtain a learner’s signature on the enrolment form; and, the need to process cancellations if an individual decided to cancel from a course.

10. In conclusion, the consultants found that 3% of learning providers in the sample met criteria, indicating a high level of non-compliance and indications of possible fraud meriting further investigation:
- significant numbers of signatures which were probably not the same
 - a high proportion of learners who had stated they had not received the training for which a claim had been made
 - little or no evidence of learner contribution to the cost of training
 - a significant absence of documentation
 - having individuals on a list of 1,700 identified by Capita as having “gone away”.

Appendix 5: Policy guidelines on the release of funds and other action

ELLD's policy guidelines of August 2002 on the release of funds, administrative recovery and related action to be taken in cases of potentially irregular or irregular payments, and non-compliance with ILA scheme regulations, replaced earlier guidelines agreed with SEN and HIE in January 2002. The revised guidelines took into account the results of monitoring and audit work to date together with other information obtained. The guidelines provided a framework for action which was intended to:

- minimise losses incurred and demonstrate best efforts to recover monies paid in error
- take due account of the legal implications of action proposed
- take due account of the cost/benefit implications of action proposed.

The policy guidelines set out:

- the basis for the release of funding, either wholly or in part, by SEN and HIE in respect of learning providers whose claims had not yet been cleared for validation
- the parameters in respect of administrative recovery action to be taken by SEN and HIE where cases have been identified of potentially irregular or irregular payments and of non-compliance with scheme rules.

In doing so, the policy guidelines identified indicators of potentially irregular payments and non-compliance with the scheme, and included agreed bases for the calculation of an error rate of payments made.

Indicators of potentially irregular payments or serious non-compliance with the rules of the scheme

- Where more than 10% of learners sampled indicated that learning was not received or, in the case of distance-learning providers, that learning was received but was unsolicited

- Where in excess of 5% of learning sampling identified a possible signature mismatch between the application form and the course enrolment form
- Where additional information indicating potentially irregular payments or non-compliance was received by SEn and HIE as a result of validation and audit work
- Where additional information indicating potentially irregular payments or non-compliance was received by ELLD through its survey exercise of 60,000 account holders, the ILA evaluation exercise carried out by York Consulting in June 2002 and/or through complaints received from individual learners.

Calculation of error rate

The error rate was based on the proportion of learners contacted in the learner sample who confirmed that learning was not provided or, in the case of distance-learning providers, that learning material was received but was unsolicited.

Policy on the release of funds

SEn was to release funds in full immediately, subject to the conditions set out below, to the following categories of learning provider:

- Learning providers which receive core funding from the Scottish Funding Councils for Further and Higher Education, where learning providers have:
 - provided adequate information in respect of learning not received, eg in relation to course cancellations, payment was to be made in full, subject to appropriate adjustments for confirmed cancelled courses
 - not provided adequate information in respect of claims relating to learning not received, eg in relation to course cancellations, an error rate was to be calculated and applied as a percentage rate to all payments claimed. The amount paid was to be reduced accordingly.

- Learning providers where no 'learner contact' had been established, ie where:
 - there had been no other indicators of potentially irregular payments or non-compliance, ie the sole basis for continued withholding of claims is lack of learner sample contact to verify whether learning has been received
 - the amounts being withheld do not justify further action in terms of risk and cost/benefit analysis, ie where the claim by the learning provider concerned was less than £5,000 and where the total paid to the learning provider did not exceed £60,000.

HIE was to release funds for part-payment of claims to the following categories of learning provider:

- Learning providers which receive core funding from the Scottish Funding Councils for Further and Higher Education:
 - Where learning providers have provided adequate information in respect of learning not received, eg in relation to course cancellations, payment was to be made in full, subject to appropriate adjustments for confirmed cancelled courses.
- Learning providers with claims submitted in respect of learning not received, as confirmed by monitoring.

In calculating the amounts to be paid:

- In the case of learning providers where HIE had contacted more than 30% of learners, HIE was to release outstanding payments in respect of learners who confirmed that learning was received.
- For other learning providers, HIE was to apply the error rate and pay only the percentage of payments claimed which relates to learning received. Any error on previous payments made, calculated on the basis of the error rate, was to be deducted prior to HIE making such payments.

In some cases, the amounts being withheld may not justify further action in terms of risk and cost/benefit analysis, ie where the sum of claims outstanding did not exceed £5,000 and where the total paid to the learning provider did not exceed £60,000. Where there were significant indicators of potentially irregular payments or serious non-compliance with the rules of the scheme, HIE was to investigate

further prior to a decision being made, in consultation with ELLD, on whether to release payment.

Policy on administrative recovery action

No administrative recovery action was to be taken in respect of claims made prior to September 2001, unless there was clear evidence of systematic non-compliance with the scheme. Administrative recovery of monies paid in error was to be undertaken in respect of learning providers with claims for 'learning not received' other than those which receive core funding from the Scottish Funding Councils for Further and Higher Education.

SEn was also to undertake administrative recovery of monies paid in error in respect of high-risk learning providers, defined as those where there was a significant number or combination of indicators of potentially irregular payments or non-compliance with scheme rules.

Policy on action to be taken in cases of potentially irregular payments

In the case of learning providers where there was sufficient grounds to suspect potentially irregular payments, SEn was to pass dossiers on to the Crown Office. The Crown Office was to co-ordinate action with regards to further investigation by the relevant police authorities prior to cases being passed to the Procurator Fiscal. In the case of learning providers based in England where there were sufficient grounds to suspect potentially irregular payments, dossiers were to be passed to DfES who would liaise with the relevant police authorities in England.

Source: ELLD 'Policy guidelines on the release of funds, administrative recovery and related action to be taken in cases of potentially irregular payments and non-compliance with scheme rules' August 2002.



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