

**HANSARD**

**NOVA SCOTIA HOUSE OF ASSEMBLY**

**COMMITTEE**

**ON**

**PUBLIC ACCOUNTS**

**Friday, June 23, 2023**

**COMMITTEE ROOM**

**2023 Report of the Auditor General - *Investigation of Island Employment Association***

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## **Public Accounts Committee**

Hon. Kelly Regan (Chair)  
Nolan Young (Vice-Chair)  
John A. MacDonald  
Melissa Sheehy-Richard  
Tom Taggart  
Kent Smith  
Hon. Brendan Maguire  
Susan Leblanc  
Kendra Coombes

[Melissa Sheehy-Richard was replaced by Chris Palmer.]  
[Hon. Brendan Maguire was replaced by Braedon Clark.]

### In Attendance:

Kim Langille  
Legislative Committee Clerk

Gordon Hebb  
Chief Legislative Counsel

Kim Adair  
Auditor General, AGO

Adam Harding  
Senior Audit Principal, AGO

Michelle Myatt  
Audit Principal, AGO

**WITNESSES**

**Department of Labour, Skills and Immigration**

Ava Czapalay  
Deputy Minister

Marjorie Davison  
Senior Executive Director, Skills and Learning Branch

**Nova Scotia Government and General Employees Union**

Sandra Mullen  
President



**HALIFAX, FRIDAY, JUNE 23, 2023**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**9:00 A.M.**

**CHAIR**

Hon. Kelly Regan

**VICE CHAIR**

Nolan Young

THE CHAIR: Order. I'll call this meeting to order now. This is the Standing Committee on Public Accounts. My name is Nolan Young. I'll be chairing this committee. I'll remind everyone to put their phones on silent, and I'll ask committee members to introduce themselves, beginning on my left.

[The committee members introduced themselves.]

THE CHAIR: I'll note also that we have officials from the Office of the Auditor General of Nova Scotia, the Office of the Legislative Counsel, and the Legislative Committees Office in attendance as well.

On today's agenda we have officials with us from the Department of Labour, Skills and Immigration and the Nova Scotia Government and General Employees Union with respect to the 2023 Report of the Auditor General: *Investigation of Island Employment Association*. I'll ask the witnesses to introduce themselves, starting on my left.

[The witnesses introduced themselves.]

THE CHAIR: I'll invite opening remarks, and we can start with Deputy Minister Czapalay.

AVA CZAPALAY: Like many of you, I was deeply concerned by the findings in the Auditor General's report. The audit found evidence of gross mismanagement of public funds, including unprofessional and unethical conduct.

The investigation confirms findings first made by the Nova Scotia Office of the Ombudsman and the reason why, within weeks of both the Minister and me starting in our new roles at the Department of Labour, Skills and Immigration, we acted. We ended the department's funding to the organization in September 2021 and we referred the matter to the police. Let me be clear: We strongly condemn the actions of the people who grossly mismanaged public funds at Island Employment Association.

The Auditor General also had important and specific advice for my department, advice on how we can more effectively monitor and strengthen our oversight of the community-based organizations with whom we contract employment services. We are grateful to the Auditor General's Office for the important work they do. We fully cooperated with the Auditor General's investigation, and we welcome their suggestions on how we can improve. We have accepted all of the recommendations and have already started to implement them.

The Auditor General's report builds on the findings of the Ombudsman's report of gross mismanagement of funds. The report confirms that my department made the right decision to end its contract with Island Employment. As you know, Island Employment was an independent organization contracted by us to provide a service to the local community. When we cancelled the contract, the board of Island Employment made the decision to close.

When we learned of Island Employment's decision to close, we acted quickly to put in place an interim service provider. Our priority was to continue providing important services to the public. I am pleased to confirm that there was no disruption in services.

While we were not their employer, Island Employment's employees were also top of mind. The collective agreement that employees had with Island Employment did not include severance provisions. Given the entire situation, we provided Island Employment employees with 60 days' working notice plus eight weeks of paid severance, and we moved quickly to put in place new service providers who would require additional staff with skills that matched the skills and experience of the former Island Employment employees.

Government's role is to hold the service providers accountable for delivering the services we have contracted with them to provide to local communities. Unfortunately, it can be very challenging to guard against willful acts of deceit and unethical behaviour. We know we have a duty to do everything we can to lessen the risks. That's why, as a department, we will do more to strengthen our oversight and provide more education to arm's-length boards on governance and how to identify and report unethical activity. We

will use every tool at our disposal to better educate our partners and to better monitor contracts for signs of unethical behaviour.

We want our community partners to be strong and effective. We are also focused on ensuring that our contractual agreements are clear on the oversight responsibilities of organizations who deliver our programs. We will require service providers to submit more detailed financial information to us, and we will more effectively engage external auditors to review contract delivery, including more in-depth reviews of governance practices.

As Nova Scotians hear about the misconduct of a few, we must remember: The vast majority of Nova Scotians who work in community-based organizations and who provide employment services do good work. This is best exemplified by the people who did the right thing and reported the misconduct. I echo the minister in expressing my sincere thanks to them for speaking out.

In closing, I would like to thank the Auditor General's team. Their work with us over many months, including their specific advice and recommendations, has already made us stronger. I appreciate the confidence the Auditor General has expressed in my department to make the necessary improvements. As mentioned, we are already implementing the recommendations which will strengthen our system.

I welcome any questions.

THE CHAIR: Ms. Mullen, did you have some opening remarks? Ms. Mullen.

SANDRA MULLEN: I do, thank you. My name is Sandra Mullen and I'm president of the NSGEU.

Thank you for the opportunity to speak about the thirty Nova Scotians who, through no fault of their own, lost their jobs with Island Employment Association. Before their jobs were taken, they were members of our union. The Auditor General's report was vindication for our former members that they did the right thing, and if they hadn't, how much more public money would have been used inappropriately? How many more millions would be gone from the public purse? And what did those thirty people get in return for showing integrity? They lost their jobs.

Rather than protect the workers and target those in the wrong, the executive director, the board of directors, and, lastly, look inwards towards their government's own oversight, they simply cut the program and the jobs that went with it. The minister has the audacity to thank those former employees for coming forward in a press release. As a result of their jobs being cut, they are no longer members of our union, but I think it's reasonable to ask that if given their due, would they give up their jobs to report gross misconduct again? We don't know the answer to that. This process does send a mixed message for

anyone who sees misconduct in their workplace and now might think twice before putting their own job on the line.

It should be clear that the Office of the Ombudsman made no recommendation to stop funding Island Employment Association. Removing the executive director, replacing the board, and providing more rigorous oversight from the Province could have protected jobs and kept a valuable community service in place and uninterrupted. New service providers were subsequently contracted to ensure that the people in Cape Breton can still access employment services. However, the former employees were only provided with the opportunity to apply for these jobs which were now at lower wages and fewer benefits than they'd had before.

Why do the minister and government think it's okay to offer less pay, fewer benefits, and fewer opportunities to those they turned their backs on when they stopped funding?

I do thank the AG's office for their investigation and work on this file. The report speaks for itself and is troubling on many levels. Why must working people pay the price for the government's lack of accountability and oversight? They stood up when they suspected something was wrong. They were right, and they did the right thing. The NSGEU advocated for an investigation and the AG did their job. For that, we thank them.

There are many lessons to be learned from this process, and it's my hope and the hope of our union that more respect and consideration be shown to workers in the province. Without their dedication and commitment to the truth, how much more money would be missing? Whistleblower protections should protect working people who want to do the right thing. Executives need to be held to account without workers putting their own livelihood on the line. This government owes those workers more than a line in a press release.

THE CHAIR: Before we begin questioning, just to remind everyone: The way this operates is we'll do 20 minutes, 20 minutes, 20 minutes of questioning. At the end of your 20 minutes, if you're in the middle of an answer or question, I will cut you off. It's just how this committee works.

We'll begin our questioning with the Liberal party. The time now is 9:10 a.m. Mr. Clark.

BRAEDON CLARK: Thank you, Mr. Chair, and thank you to the witnesses for being here this morning.

I'd like to begin by thanking some groups - the Nova Scotia Office of the Ombudsman and the Office of the Auditor General of Nova Scotia for doing this investigation and this report which made for sober reading, for sure. I think most

importantly, I want to thank the people who came forward to register the first complaint on this issue, which is now almost 5 years ago. I think it takes real, genuine courage and bravery to do something like that when you see something that is obviously going wrong and you have suspicions, and these are people whom you work with every day and who you probably know personally to one degree or another. That's a very difficult thing to do that not everyone is willing or able to do. I want to thank those people above all else for getting us to this point today.

I did want to ask Ms. Mullen if I could, and you touched on this in your opening remarks as well: In your view, what would have been the ideal or just outcome for the employees of Island Employment Association who had no connection whatsoever to the abuse of funds that we read about in the AG's report? What do you think should have happened?

SANDRA MULLEN: As I mentioned, there have been many examples within the Province of Nova Scotia where discrepancies were identified in funded agencies. There are many examples, and I worked with a few of them, where someone was transplanted. The jobs were not disrupted, the administrator, the executive director, what have you, would be removed and government put in someone else. I know of several examples in my own area. I think there was a better way to do this to have the workers' lives uninterrupted, the service to the community not disrupted, and then the investigation could have transpired with somebody new in place so that they didn't have to shut down operations.

BRAEDON CLARK: Perhaps it's not safe for me to assume this, but during the course of this whole investigation and ongoing process - which, as I said, we're closing in on five years now since the beginning of it - did the NSGEU make that position that you just laid out clear to the Department of Labour, Skills and Immigration or to government in a formal sense?

SANDRA MULLEN: Yes, we did on a number of occasions. My predecessor wrote many letters on behalf of the employees at the agency. We certainly worked with them as closely as we could and pressed to have a deeper investigation. We cited that there were examples that this could have been done differently, which would have certainly caused less disruption to their lives.

BRAEDON CLARK: Deputy Minister Czapalay, if you could perhaps respond to that and give us a sense as to why the department and government made the decision to basically shut down Island Employment rather than take the steps that Ms. Mullen has laid out.

AVA CZAPALAY: As I mentioned in my speech and you echoed as well, it does take courage to come forward. I do want to acknowledge the courage of the employees. It's not every day that we hear the term gross mismanagement of funds. I don't know that I've heard that in my career, and that's probably a new term for many of you. The Ombudsman



first used that in his report, which came out in late Spring. When we read the details of his report and reached out to the board of Island Employment - which, remember, is an independent organization - the board declined to meet with us without the executive director being present. To me, that signalled a lack of interest in the board in truly changing and addressing the issues identified in the Ombudsman's report.

When the new government was formed and I came on board as deputy minister in September, we did act quickly. We acted quickly to end funding, our contract with Island Employment, but we also acted quickly to put an interim provider in place. There was no disruption in services, and we also moved quickly to ensure that a permanent provider - in fact, there were two providers ultimately put in place early in the new year.

It's important to recognize that the interim provider and the permanent provider, they were looking for the experienced provider. They were looking for experienced workers with the exact same skill sets that the Island Employment employees had. We were doing our part. I also mentioned in my remarks that we did offer eight weeks of working notice to the employees, and further to that, we also provided a package that included about eight weeks of severance, but at the end of the day, they're Island Employment employees. We went above and beyond the contract to support them.

[9:15 a.m.]

BRAEDON CLARK: I do commend you for taking swift action when you came into the position. Obviously, you'd been there not long, and I'm sure this was the last thing that you had hoped to have to deal with so soon in your time there as the deputy minister. I wonder - you said that the board, for example, didn't want to meet unless the executive director was there. From your perspective, that showed an unwillingness to change or adapt, and I don't disagree necessarily with that point of view.

I'm wondering, and perhaps this wasn't possible, and if it wasn't, I'd like to hear the explanation. Would it have been possible to basically scrub everything clean? Board goes away, executive director goes away, everyone who was involved in this gross mismanagement of funds goes away and those who were working there - doing the right things, and helping people - stay, and then there's a new leadership team, new board, et cetera, continuing that operation that, to be fair, in most cases was helping people and doing good work. Was that not possible, and if not, why not?

AVA CZAPALAY: We considered many options and settled on the option of ending our contract. The Ombudsman's report did show us that there was a pervasive mismanagement of funds, the "gross" part of the mismanagement of funds - meaning big and widespread. Also, the board's lack of engagement with us signalled that there was no capacity within that organization to - an interest to rectify the situation in a proactive way.

Also, I want to remind everyone that this is an independent organization. We can't just sweep in and close it down. It's not our organization; it's an independent organization. Our relationship with that organization was the contract, which we chose to end. I think the Auditor General validated that we made the right decision in her report, which everybody has read and perhaps found quite sobering in terms of the findings.

This has caused us to reflect. Did we make the right decision? I'm here today to say we made the absolute right decision in ending our contract with Island Employment.

BRAEDON CLARK: I just want to make sure I understand, though. Within the contract, which you mentioned, did the department have the authority or the ability to, for example, remove the board and appoint a new board? Was that power available or not?

AVA CZAPALAY: Island Employment is an independent organization, just like the Y, or any other providers. We can't assume ownership of an organization just because we have a contract with them. There is no opportunity to go in and remove the board or take that kind of action. Our piece of control was the contract that we had with Island Employment.

BRAEDON CLARK: Thank you for that, I appreciate that. Obviously, nobody wants this kind of situation to repeat itself, but as you mentioned in your remarks, sometimes people want to do things and it's very difficult to plan for everything and prevent everything, and I appreciate that. What contingency plans or steps are being taken within the department to minimize, if not eliminate as much as we can, the possibility of this sort of thing? As you know, Nova Scotia Works, we're talking about tens of millions of dollars - \$22 million, I think, roughly - of public funds that are out there. How do we, and how do Nova Scotians, have confidence that this sort of thing will not happen in the future?

AVA CZAPALAY: As we speak, staff are reviewing the contracts that we have with our service providers and with our solicitor through the Department of Justice to tighten up the language. The Auditor General's team had very specific advice for us on how we can be more clear in our language in our contracts. We found the advice to be very helpful and we're meeting with the solicitors right now to review the contracts to make them clearer and make the responsibilities more well-known.

We also have very clear direction on how to mitigate risks. We're reviewing both our quarterly reporting processes as well as our annual reporting processes. I'm meeting with Internal Audit along with Marjorie and the team in a few weeks to show them what we're thinking of doing in terms of strengthening some of those processes and working with them to make sure that we're on the right track.

Marjorie has some details, and I just wonder if there's time left to invite her to answer in more detail.

THE CHAIR: Ms. Davison.

MARJORIE DAVISON: I would like to offer that a number of improvements were made post this incident with Island Employment. It is the nature of Employment Nova Scotia, which is the division responsible for these third-party contracts, to engage in continuous improvement. In 2020, we did establish a contract management unit, and that unit brought expertise into Employment Nova Scotia so that we could do a better job of not only working with our third parties but looking internally. We developed agreement foundations management training so that all of our staff fully understand their responsibility and their due diligence around contract management.

Also, we implemented all of the recommendations of the Ombudsman's report, which does include looking at having an internal complaint process so that we don't wait until we have to put the onus on the employees to come forward, but that there's a way to bring those complaints forward now and to Employment Nova Scotia so we can act very quickly to respond to those.

In addition, we've added a number of new agreement reporting requirements. We require more detailed expense reports and monthly cash flow updates. We had moved to an annual update of that, but now it's monthly, projected monthly expenses and quarterly reporting, and if there's variance in that, we do a three-step follow-up to make sure that we have a clear understanding of what that variance is.

We've also added a requirement to track contributions by source. This was an issue that was raised by the Ombudsman and the Auditor General around these third parties that are receiving monies from different sources, not just the provincial government, not just from Employment Nova Scotia. We require a better detailing of those sources of funding and how those sources are expended and making sure that those that we're responsible for are clearly separated and articulated.

We've also upgraded our financial reporting requirements. At the time of 2020, we moved to a review engagement, and now what we'll do going forward is move to audited financial statements from the organizations. Those are a few examples of some things that we have been doing. Going forward, we will continue to do our compliance audits on an annual basis, but we'll also be increasing our sampling of our auditing on a quarterly basis throughout the year with our contracts. We will be assessing the risk that is associated with third-party delivery.

I think this was also a big piece coming out of the Auditor General's report. We had not updated those risks in a number of years, so it will be important for us to have a new risk register to develop the mitigations for those risks and to ensure that the monitoring that we put in place responds to those specific risks. That doesn't mean that we're putting all of our service providers on notice, but it means we will be working collaboratively with our

service providers to come up with answers to how better we can work together to make sure this doesn't happen in the future.

BRAEDON CLARK: Those steps sound certainly reasonable and hopefully helpful. The other thing I'm curious about is governance. Obviously, the department has a major role to play in terms of oversight and accountability, but at the ground, granular, day-to-day level, boards really have a critical role to play to make sure that things are going correctly. Obviously that did not happen in this case. I may have the details wrong, but I believe there was no quorum at Island Employment from November 2021 on. That's a year and a half of meetings with no quorum. Meeting minutes made no sense. In some cases there was no oversight on expenditures, conflicts between who's signing cheques and who's getting reimbursed, all those kinds of things that are Governance 101 in a lot of cases. What will the department do to make sure that governance, the closest level to the daily operations of these providers, is really strengthened so that if there are any potential issues in the future, you can nip them in the bud, and it doesn't take us five years to get to this point that we're at today?

AVA CZAPALAY: Certainly, this shone a bright light on the importance of good governance. One of the things that we will do is take a look at the training that we have been providing to boards and to executive directors and looking for ways to strengthen that in light of this report and also in light of some of the red flags that the Auditor General's identified. I think there are places where we can provide stronger training and support for the boards, but it is critical that the boards function well and that the executive director is working closely with the board to ensure that the operation is running smoothly.

BRAEDON CLARK: In your view, Deputy Minister, does your department as it stands today have the capacity, the staffing levels, the resources necessary to take all of these steps that we're laying out? It's wonderful to have the steps, to have the policies and procedures in place, but it's another to have the people in place to actually execute and implement them. Are you confident that you have the capacity within the department as it stands right now to do that?

AVA CZAPALAY: We do have the capacity, but we're also looking at our tools. We use a technology system that's used across government for contract management. It's called Labour Market Programs Support System, and we're looking at that system to make sure that it's as robust as it can be for the additional work that the Auditor General has identified in terms of oversight. Part of our monitoring has always been to use third-party organizations to do audits, so the Auditor General's team pointed out some ways that we can better instruct our third-party audit firms to look for red flags and also to look at, in particular, governance and best practices in governance, and work with us to identify any issues early.

BRAEDON CLARK: In my last two minutes, I'd like to go back to Ms. Mullen if I could. Just on the issue of the employees, of course, which we started with. I appreciate the

deputy minister's comments around authorities and abilities and powers within contracts, but just as a human being on a basic fairness level, there is something that doesn't feel right, for sure, about how things have transpired here. We're talking about roughly 30 people. Of those 30, how many are today working in the equivalent organizations or delivering services similar to what they would have been doing a year ago? Of the 30, how many?

SANDRA MULLEN: As you know, those members are no longer members of the NSGEU, and as we followed along with them, and we were appreciative of the severance that was offered in light of the fact that the contract didn't provide for that, they were not all qualified to do the roles that were offered. A lot of them were at a lesser pay. There are not many folks whom I know who want to apply for a job that pays less. I do not have the full number of who is employed in the new agency, but we know of a handful who were not.

BRAEDON CLARK: Is it safe to say that the major disruption to the lives, the livelihood, the families, the friends, everybody who is associated with these folks was a result of something that they had no control or fault in?

[9:30 a.m.]

SANDRA MULLEN: Yes. Just to wrap that up, I worked with this type of . . .

THE CHAIR: Order. We'll move to the NDP colleagues. We'll start with MLA Coombes.

KENDRA COOMBES: I'll just call on President Mullen to finish her thought.

THE CHAIR: Ms. Mullen.

SANDRA MULLEN: Just with respect to a change in employment and working with folks who are seeking employment in the community in which they were living, these employment counsellors would be no longer working with that person, so a new person coming in to follow through with that service would be starting over. Not only did we disrupt the lives of 30 employees who worked with a clientele, but I remember, certainly, they would have been working with 20 or more clients per person. Those members of the community would have to start over in the type of service they were looking for, so it was very disruptive.

KENDRA COOMBES: I'm going to start off with some comments first. To talk about our thanks and our utmost respect for the workers who blew the whistle really is the very least we can do. They should have been protected under the Whistleblowers Act and they were not. Their jobs were not protected. They lost their jobs doing the right thing, so it's really kind of a bare minimum coldness to even give them thank you, because they lost their jobs. They were under suspicion for things that an ED did, or things that management

did, and things that a board did, and the failure of the Department of Labour, Skills and Immigration to oversee what was occurring with them, with the finances.

It was gross mismanagement on the ED, and management, and the board's part, but it was also a mismanagement on the Department of Labour, Skills and Immigration. The Department of Labour, Skills and Immigration did not fulfill its responsibilities to protect the public interest and provide effective oversight and monitoring of Island Employment. The decision to renew Island Employment's contracts for 2016 and 2019 were not supported. Island Employment's contract renewal was completed before the conclusion of a 2019 compliancy process. Multiple weaknesses were noted in Island Employment's contribution agreements, limited to no evidence of the review by the Department of Labour, Skills and Immigration on Island Employment's financial or activity reports.

The Department of Labour did not assess Island Employment's government practices. The Department of Labour did not properly investigate three complaints by Island Employment. When we talk about the fact that the Department of Labour had no say in regard to the board, in actual fact, it should have been assessing the governance of that board. To say that the AG said that the Department of Labour did the right thing with regard to Island Employment is not factual. Actually, within the report, the AG said on - I believe it's Page 34, 1.80: "We found the decision to terminate the agreement with IEA was sufficiently supported." Not that it was the right one.

So with that, I'm going to ask the deputy minister: Can they talk about the multiple options that were reviewed?

AVA CZAPALAY: We received the anonymous complaint in June, and that was one of three letters. That was the one that related to financial matters. There were two other letters: One was an HR issue from a former employee, and the other was a board member with an issue regarding the board practices. The letter that related to financial concerns - we met with our solicitors. We were discussing how we might proceed with that information. We worked out a plan to include the concerns expressed in the letter with the third-party audit that I referenced earlier that we contracted out regularly. That audit was coming up in the next six months, so we decided that we would incorporate some of the concerns into that, along with extra sampling.

Then a letter was sent to the Office of the Ombudsman, and that letter detailed, similarly, financial concerns, and the Ombudsman investigation started. The Ombudsman's office, as you know, has more extensive powers than we do. Our powers involve the contract. The Office of the Ombudsman's powers go into the organization itself, the independent organization. The investigative powers of the Ombudsman were far greater than ours, so at the time we made the decision that that was the best route to go. We waited for the Ombudsman's investigation to conclude.

The Ombudsman's investigation took quite some time, but when we had the interim report, we reviewed it. We understood that there was going to be a characterization of gross mismanagement of funds, and at that time - it was, I think, December - we realized that there was going to be a significant issue with that organization in terms of how we can work with it. The final report came out that June, and the deputy minister before me had reached out and had requested a meeting with the board to say: We have the interim report, we're really concerned, the final report has confirmed everything found in the interim report, and we'd like to meet with the board without the executive director present.

The board responded and said: We'll only meet with you with the executive director present. The deputy minister declined to pursue that meeting. We felt like there was nothing further that we could do, given that approach and attitude of the board to engage with the board in a meaningful way around the deep concern that we had with the Ombudsman's report.

My own background is I left government for seven years to set up a not-for-profit. I know what it takes to set up a strong, well-governed not-for-profit. It's not something that's done in a few weeks. It's not something that's done in a few months. I actually left government saying to myself, I'll take a few years to set this up, and when it's working well, then I'll go back to government, and it took seven years. It's not a quick fix. To me, finding a way to quickly set up another organization to offer these important services to the local community, that was not a serious solution in my view.

Our focus has to be on providing important employment services to the communities that are served by these contracts. The Auditor General's report has pointed out the importance of strong governance. There's no way that an ad hoc group of employees could have stood up an organization and had that strong governance in place that quickly. We moved as fast as we could. I actually have notes that we briefed the minister on September 22<sup>nd</sup>, and on October 5<sup>th</sup> we issued the expression of interest for the permanent provider. Lightning speed in government terms.

The thinking behind that was: get an interim provider in place as quickly as we can who can deliver the services. Ms. Mullen mentioned the importance of the clients themselves in not having their services disrupted. Let's have that interim provider in place. We were able to do that - no disruption in services - and then let's go and put a permanent provider in place that can deliver the services that Island Employment was delivering previously to that.

KENDRA COOMBES: When the agency was closed, why was it not considered to guarantee the jobs for the 30 skilled workers who were let go due to the fact that an ED, a board, and the Department of Labour mismanaged this file? Why were those skilled workers not provided guaranteed jobs into these new services? In fact, the only thing they were guaranteed was the ability to apply.

AVA CZAPALAY: You're right in that they are skilled workers. We moved quickly to put solutions in place that mitigated the impact on these skilled workers. One was financial. I mentioned the 60 days' working notice - also the additional eight weeks of severance contribution, and then also the important piece was that the capacity in Cape Breton was still there. Clients still needed these services. The interim provider needed capacity to provide the services to the clients. They were looking for experienced and skilled workers with the same skill sets that Island Employment workers had. Also, the permanent providers would be looking for the exact same skill sets. Our job in ensuring the impact on the employees was lessened was moving fast, and we did move very quickly.

KENDRA COOMBES: I'm sorry, Deputy Minister, but that didn't answer my question. Why were these workers, who blew the whistle, who did the right thing, who were not part of the gross mismanagement, not guaranteed jobs?

AVA CZAPALAY: I've already expressed the appreciation of the department for the individuals who came forward and blew the whistle. Our role was to move quickly to end the contract with Island Employment. It was the right decision. The Auditor General has reinforced that as the right decision. Then our job was to mitigate the impact on the employees, and I've outlined the ways that we have mitigated the impact on the employees. I will add that it wasn't me in my office making these decisions. I was meeting and talking with the employees. They were relating to me directly, and I was phoning them and meeting with them. I have an idea of how many were ultimately employed, and I have an idea of what their situations were.

I feel like the department went above and beyond their collective agreement, and we went above and beyond with the working notice, and we moved very quickly, as fast as we could, to put an interim provider in place who would be advertising the same jobs, and then having a permanent provider in place early in the new year, fewer than five or six months after ending our contract with Island Employment.

KENDRA COOMBES: I'm going to move on, but I just want to - it took six months for some to find permanent positions and jobs. Four employees are still without work, and most of these employees were under the dark cloud of Island Employment, which I'm going to tell you in Cape Breton, that is a hard time to go find a job, when everybody knows where you worked. It would have been great to have them guaranteed jobs.

Can you provide details on the nature - you already talked about that actually, the nature of the complaints. My question is: Why were these not properly investigated, as the AG said? The AG said that the complaints were not properly investigated and in fact new contracts were signed before the issues and the compliance of the work was completed. I'm just trying to figure out: How do we get from complaints beginning in 2017-2018 to the closure without actually looking at everything that was occurring at Island Employment? Why did it take so long? We didn't act swiftly here. You keep saying we acted swiftly.



There was no swiftness about this. The complaints began in 2018. Things could have been started and finished had those complaints been properly investigated quickly - and they weren't - had someone in the Department of Labour stepped in prior to more funding and another contract being signed. Again, why did it take so long?

AVA CZAPALAY: Perhaps I'll tackle my answer in chronological order. In 2016, our employment services underwent a transformation. There were 52 organizations, no common ground. Often organizations were offering similar services in a similar geographic region. The transformation reduced the number of service providers to 18 operating in 53 communities throughout Nova Scotia.

[9:45 a.m.]

In 2016, with this transformation, the banner Nova Scotia Works was created, and the 18 service providers were contracted to work under that banner. Proposals at the time were submitted to the department, and the department had a process in place where they selected the providers looking at geographic communities throughout Nova Scotia.

Then in 2019, there was a review of all of the agreements. We hired a third-party audit firm to audit the compliance of the contracts, and in the case of Island Employment, we saw the interim report from the audit and moved forward in renewing the contract with Island Employment based on that interim audit report.

I know my colleague has more details, so if you wanted to direct the question to her, I think she could answer that.

KENDRA COOMBES: No, that's fine. I'm going to address some elephants in this room. The majority of these instances of mismanagement occurred at a time when the executive director of this organization was the spouse of a sitting MLA. Did this impact the decision to delay the investigation into complaints?

AVA CZAPALAY: I'll start with the letter of complaint that you mentioned in your previous question. LSI received two complaints, one in May and one in June of 2018, just prior to the Office of the Ombudsman receiving a complaint and beginning an investigation, which happened in September of 2018. A complicating factor to the June complaint - I mentioned previously, the May complaint was a board member. The board member had a complaint about someone else on the board. The June complaint was anonymous; we don't know who it came from. Whether it was public, or an employee, or a board member, they didn't say. The June complaint does indicate financial mismanagement from the person's perspective who wrote the complaint.

We immediately met with our solicitor when we received that complaint, and the plan at the time was to engage the third-party audit firm, which we were already planning to do a compliance review with, and have that audit firm do extra sampling and pay

attention to the flags that were in the letter. Meanwhile, the Ombudsman's investigation got started in September 2018, and as I mentioned earlier, the Ombudsman's powers went far beyond our own in terms of their ability to investigate. We took the decision at the time that it was better to let the Ombudsman's report complete itself. In hindsight, we didn't know it would take as long as it did, so we decided, let the Ombudsman do their report and investigation, and let's see if, as part of that investigation, they are able to get at the complaints in this June 2018 letter.

The Ombudsman's report took, I think, two years, maybe a bit more, and they published their draft report in December of 2020, and then we received the final report in June of 2021. Then, in September, the new government came in, including myself as a new deputy minister, and we made the decision within two weeks of arriving in the department.

KENDRA COOMBES: That really didn't answer my question, so I'm going to ask again: Now that the MLA's former colleagues have formed government, how did this impact the closure? I'm going to say this because this is being talked about in Cape Breton right now, that this is the issue here. Ms. Czapalay, yes or no. Is this . . .

THE CHAIR: Order. That concludes questioning for the NDP. We'll move on to the PC caucus, starting with MLA Taggart.

TOM TAGGART: I think my first question would be to Deputy Minister Czapalay. Can you provide us with the scope of the roles and responsibilities that are held by the department, the board of Island Employment, and the union representing the employees? Just broad terms. Whose responsibilities?

AVA CZAPALAY: As I've mentioned, Island Employment is an independent organization. It's an independent, board-governed organization, one of many that we contract for services. It's important for us to provide services at a community level. It's not only with Employment Nova Scotia, it's throughout government. We contract local organizations to deliver services. In this case, we contracted with an independent organization, Island Employment, to deliver those services for us.

Island Employment hired their employees. They are not government employees. They're not our own employees, they're Island Employment employees. They hired their employees to deliver the services that were needed to meet the obligations under our contract. Your question was relating to the union. I believe it was 2019 that the employees entered into a relationship, a collective agreement with the union.

TOM TAGGART: To follow that up, to Ms. Mullen - and I recognize that you weren't present at the time - but you negotiated a contract in 2019. What protection or severance terms existed in the contract - sorry, I want to preface this, because I absolutely agree, there were a lot of probably innocent people who were hurt by this, without question. I have no doubt that there's blame in a lot of places. I hope we soon get to talking

about what we can do to make sure it doesn't happen again. What protections or severance terms existed in the contract that the union negotiated with Island Employment employees in their collective agreement with Island Employment?

As a follow-up: Has the union, who's there to protect employees, seen something there that they should be negotiating into future contracts to protect employees? Was there anything in the contract then, and have you found a better way to try to protect your employees so this doesn't happen again?

SANDRA MULLEN: Yes, my predecessor was handling most of this file during that time - difficult negotiations with a small organization that is funded by government and so on. It's not the same as our civil service contract, so there weren't severance agreements, and the deputy minister did indicate that they did make that offer. However, it's very difficult to put into a small contract like that that there be a guarantee that if that organization changes hands, they go to someone else.

We certainly worked with the employees during that 60-day extension to do what we could to ensure that they were as protected as they could be, given the circumstances they found themselves in. As we've said, we felt there were other ways to guarantee. You could put in the request for proposal that here's an organization that needs to be picked up, and here are the employees that go with. Quite frankly, ironically, today if you look for an employer to do something and say, I've got the 30 employees you need, that's almost heaven-sent right now.

We felt that there were ways to guarantee because, as you know and as the members have indicated, the cloud that went with these employees, and they were the whistleblowers - they obviously prevented huge amounts of money from going missing in the future. To walk into other employers and see on their resume that their previous one was under this cloud of employment is the problem we saw.

TOM TAGGART: I really do want to make just a quick comment. I appreciate the real difficulty of this. So far, we've talked a lot about who's to blame, really and truly and all that kind of thing, but on that piece I want to say clearly, if you want to point out the current government, we took action. Some will agree, some won't agree it was the right action, but we took action as soon as we became aware.

Most importantly, I think we need to move toward what we can do. This government has a \$14.4 billion budget, and we give money to a tremendous number of - we don't give, the government supports a tremendous number of organizations, and I expect the vast majority of them are great organizations, great folks, and great employees. I think that we need to focus on what we need to do to ensure that we're not here in two or three years dealing with another one of these.

Thank you very much. I'll move to MLA Palmer now.

THE CHAIR: MLA Palmer.

CHRIS PALMER: Quite a lot of information this morning. Nova Scotians, over the last few days, are learning an awful lot about interrelationship with governments, different departments, and local service providers, and that relationship and how things work. We've learned a lot this morning about the oversight things that have been put in place, and some of the things that are being done by the department to assure Nova Scotians that some of these issues might not happen in the future with service providers.

This topic, I think, is very important to rural areas in Nova Scotia, places like I represent, like in Kings County. You've mentioned, Deputy Minister, in some of the conversation this morning that government can't just come in and do certain things. We have to have autonomy for the board and different local organizations. Can you expand on that a little bit more in how the department will work to maintain that rural autonomy for organizations and avoid government overreach while achieving the objectives we're trying to get to with accountability, and oversight, and those things, please?

AVA CZAPALAY: I just want to echo that our community organizations do good work every day. Many of you may not know that the relief program that was announced yesterday and is being rolled out today is being delivered by our Nova Scotia Works offices to provide a relief grant for people who lost employment during the wildfires. We use our community-based organizations to do a lot of important work in the communities where they know the people, they know the issues, and they know what's needed.

To your point, local people using those services develop a relationship with the providers and want to use those services. I would not want to see an extreme reaction to this, being that we don't use our local community partners. All of government uses community partners to deliver important services to those communities.

I feel as though there are important conversations to be had with all of you on governance and where the reach of government is in terms of managing an independent organization. We try to walk that line between good governance and providing the education and the training that's necessary to have a board that operates properly, for an executive director to know what their roles and responsibilities are, and to also support the board in their good governance practices.

With the Auditor General's advice, we need to take that a bit further in terms of our training, in terms of our work with boards and executive directors to really help them look for red flags. People who are administering funds on behalf of the Province need to be held accountable for properly managing those funds, so our oversight will get sharper as a result, but to say that we can go in and dissolve a board or to fire an executive director, that's not within our authority. Our authority is the contract for the services delivered, so we're going to call upon experts, like Internal Audit, to help us get that right, but I think there's an important conversation to be had amongst all of us in terms of what kind of

oversight we want to have with boards that administer a wide range of government money from a few thousand dollars to millions.

CHRIS PALMER: As a follow-up to that, keeping the rural lens a little bit, issues around conflict of interests were also mentioned by the Auditor General in her report. However, you can imagine in rural Nova Scotia, there are a lot of people related to each other, and those conflicts might be more apparent than in other areas. Can you talk about how the department will work to address the recommendations regarding conflict of interest and disclosure respecting the reality of the available workforce in places like rural Nova Scotia?

[10:00 a.m.]

AVA CZAPALAY: As you know, I'm from rural Nova Scotia, but I do feel like conflict of interest is something that we need to be aware of throughout Nova Scotia. It's a small community in and of itself. It's not just an issue with rural Nova Scotia, but I take your point. There are a lot of relationships within small communities.

We required all of our service providers to have a conflict of interest policy in place. Island Employment had a conflict of interest policy in place. In fact, when our third party did the audit, Island Employment reported that they had no conflicts of interest. That to me is where we have to be able to work with our third-party audit firm to dig a little deeper and get at what potential conflicts of interest might be there.

I do want to go back to the point about conflicts of interest in that if someone is related to a board member, or if someone is related to someone who is providing the services, does that mean they can't qualify for services, especially in a small community where it might be a hardship to travel to get those services elsewhere? This is all about the adage: You not only have to be honest, but you have to be seen as being honest. Is someone going to be disqualified if they have a relationship of some sort to the service provider? No, but that has to be disclosed so that we can track trends, we can watch for possible abuse of funds and abuse of authority.

I feel like it's on us to have the conflict of interest policy go that step further in terms of making sure that when an organization says: No, there's no conflict of interest, to first of all make sure they understand what a conflict of interest actually is, and also the impact of reporting a conflict of interest. It's not necessarily that we're going to say: That person doesn't get funding; it's to say: Let's track that now. That's a flag for us. If they're eligible, let's track that and see if there's a trend here.

CHRIS PALMER: I'll pass it over to my colleague, MLA MacDonald.

JOHN A. MACDONALD: This is a sobering, I would say sickening report that had to be created. One of the things is we keep talking about Island Employment as the money

that the Province has given. Island Employment actually received federal money also, unless I'm wrong, and I'm pretty sure the Auditor General's report showed they were a Canadian charitable organization. We definitely would not have the controls to be able to supersede and walk in and say: You're fired, replace the board. That, in my view, would be a complete overreach.

I've sat on many boards, and I'm sure that if any of the people who have had to put up with me on a board are looking, they'd be going: That's why you were a pain, yes. I've heard people say they're volunteers. You have to realize what you're doing. Because of the board and the executive director, we had a number of Cape Bretoners lose their jobs because of what was done. I just want to preface that or just say that I agree, this is not a report that anybody should be taking lightly. I understand, President Mullen, you weren't there. I'm pretty sure Deputy Minister Czapalay - I always mess up your name, I apologize - you weren't the deputy minister.

One of my questions is, and I've got to be careful how I say it because I'm really not happy, this report was created in April 2021. This government was August of 2021. Why did the government of the day not act on it? I don't know if you're going to have my answer, but I think it needs to be very clear, that was another six months of what - President Mullen, we don't know. Was there also more missed on it? If you look at the numbers, roughly \$10 million of Nova Scotia's money, not including the federal, went into this. For every dollar that went in, if - and I trust the Auditor General implicitly - 10 cents of it was grossly mismanaged. Does anybody know why the government of the day didn't actually act on it and it took a change of government to actually deal with this?

AVA CZAPALAY: I wasn't sure who that question was coming for. As I mentioned to MLA Coombes, the Ombudsman report came out, the final report came out, I think, in June of that year. I can double check, is it June? The election was called that Summer, and then when the government came in, within a few weeks of that, as a new deputy minister and as a new minister, we met and were briefed on this file, and made the decision to end the contract. There was no evidence of gross mismanagement of funds until the Ombudsman report was published.

JOHN A. MACDONALD: Okay, I guess I won't split hairs. I'm pretty sure the Auditor's report says April. Could have been the end of April, could have been the first of June. Oh, did you - I'll let - I think she's got more . . .

THE CHAIR: Ms. Davison or Deputy Minister Czapalay?

AVA CZAPALAY: My colleague just mentioned that the draft report came out in April, and the final report came out in June. That was made public.

JOHN A. MACDONALD: Another question I have, and the president, well, you may not know because you weren't the president at the time, but were members letting

NSGEU know of these issues? Also - and obviously, if it's confidential, I totally understand - if so, what actions did NSGEU take to let the government then work on that?

SANDRA MULLEN: While I was not president, I was the first vice-president and was quite aware of all that was going on. Certainly, the members did reach out and let us know of their concerns because again, seeking protection under the whistleblowers concept, that they were making serious accusations here, we certainly were working with them, and adhering to their contract, and looking at all that went on with what they were wanting to identify.

JOHN A. MACDONALD: According to the department, performance was considered when vetting potential service providers, but the AG's report cites a lack of supporting evidence for this. What is the current standard for vetting service providers? I'm going to expect either the deputy minister or she'll defer it, Mr. Chair.

MARJORIE DAVISON: I will just mention that all standards for 2016, for 2019, and now looking at renewal of agreements, are based on federally established standards, that we made sure that we incorporated what the federal government requires for accountability. Those were developed into a guideline document that we used with our team of assessors. Each of 2015, 2016, 2019, we had a team of assessors that represented different levels of individuals who had worked with those organizations, whether they were in the field or moving up to senior leadership.

Upon the renewal in 2019, we actually had a presentation made to departmental officials but also officials from other departments so that those processes, even though we did fail in terms of our documentation of the results of our conclusions around those assessments and doing a better job of explaining why/how we arrived at those decisions, there were very ample processes in place for both the 2015-16 transformation and the renewal of the agreements in 2019. As we move forward, we've made - as I mentioned earlier - we've made a number of improvements . . .

THE CHAIR: Order. That concludes the first round of questioning. The second round of questioning will be approximately 11 minutes each. We'll start with our Liberal colleagues. MLA Clark.

BRAEDON CLARK: Just a question about the comprehensive assessment and review of the whole Nova Scotia Works program that the Auditor General has asked for, and I know the department has agreed to do. I believe the goal is to have that complete by next December, December 2024. Just wondering: At that time, will that report be publicly available?

AVA CZAPALAY: I want to just say that we hope to have many improvements in place well before then, starting immediately. As I mentioned, we're already working on strengthening the contract, but we'll also be doing our risk analysis, and looking at all of

the other recommendations, and working very swiftly to implement them as quickly as we possibly can. We'll also be working with our third-party audit firm to ensure that they have stronger parameters around their audits, including more sampling.

In terms of the overall package of improvements, I would think that we would be able to say - I don't know that we have to wait that long, to be honest with you. I feel like we will be able to have a running update in terms of how things are going and what we've implemented, and that kind of thing on a regular basis.

BRAEDON CLARK: I would encourage that to be as public and transparent on this as possible because obviously, inevitably issues like this erode trust and confidence in the public, and how their tax dollars are being used and spent, so I think the more openness we can have on that, the better. Obviously, this document is public and there's a lot of not great news in it, so this is better news and improvements. I would hope that all of that would be made available.

You touched on existing contracts. I think there are 16 service providers or so, somewhere in that range, across the province. Obviously, they all have their own contracts. Will those existing contracts all be amended to, for example, remove subjective language, some other inconsistencies that cropped up in the case of Island Employment and caused issues?

MARJORIE DAVISON: Yes, definitely. We have already started to work with our solicitor to review that contribution agreement. That contribution agreement is a standard document that we use with all of our service providers, so it was not unique to Island Employment at the time, and the weaknesses that have been identified, as well as the omissions, we have those well-articulated now, thanks to the work of the Auditor General. We will be looking at subjective language, we will be looking at a clearer definition of the deliverables that we expect. We will be looking to make sure that we have the powers that we need to enforce when there are difficulties that arise, and work with our service providers. So that work is under way, and we plan to have that available to our service providers as we renew this next round.

BRAEDON CLARK: Just to clarify, when you mentioned as the next round continues, this will kind of be a rolling process, then? Is that right? As each agreement comes up for expiration?

MARJORIE DAVISON: Our funding comes through the Labour Market Development Agreements, in particular for the service providers for employment services. We are dependent upon the federal government looking at its renewal of these agreements, so that is something that the federal government has committed to do. In light of that, we will be extending and renewing agreements with our current providers, and we will incorporate all of these changes that we've been asked to bring into the contribution agreements, but we won't be inviting, necessarily, new organizations to apply.



BRAEDON CLARK: Deputy Minister Czapalay, I just wanted to ask: You talked earlier about walking the line on governance oversight. To be clear, I'm not suggesting that I think the Province should go in and dissolve every board and get rid of everybody. I'm not sure - I'm not saying that having that ability is right or wrong. I'm not positive on that, but I'm just curious: Where do you see that balance right now? Do you feel that - are you comfortable, I guess, with the level of authority that the Province has in these situations? Obviously, this is an extreme situation and far from ordinary, but are you comfortable, I guess, with the ability you have as a department and as a deputy minister to step in at times when things do go wrong?

[10:15 a.m.]

AVA CZAPALAY: I do feel as though we have the tools available to us to provide the oversight needed. We also have partners who are capable of delivering strong services in terms of board governance and executive director training, and we want to look for ways to work with them to improve that training. As I said earlier, I do feel it's an important conversation with everybody in terms of where our oversight is.

We fund everything from food festivals to employment services. With the Province, the scope is even larger. There are a lot of organizations that receive funding from government in the many millions. I need to have a conversation with Internal Audit to see if there's a government standard between one level of oversight versus a higher level of oversight, depending on the amount of public funding that's in play in a contract. Those are conversations that I'm going to be having, but I feel like individuals around this table and other tables will also perhaps be engaging in similar conversations, because as mentioned earlier, it's really important that we have community organizations delivering services to communities throughout Nova Scotia. They know best what is needed and they know the individuals requiring the services and how best to deliver those, and they do great work.

We don't want to have a disruption in the community's ability to deliver services. I think that's important. Where that line is, we have to have more conversations on that and arrive at some policies that, believe me, will be well-documented so that everybody is aware of the degree of oversight needed depending on the level of funding being provided.

THE CHAIR: MLA Clark, approximately three and a half minutes.

BRAEDON CLARK: I think that makes a lot of sense. I think sometimes too often, we can see things in politics - we are compelled to see things as black and white and right and wrong and good and evil. Oftentimes, there's a lot of nuance and variance that's required. I think that's reasonable. As MLA Taggart, I think, said earlier, the Province funds hundreds of organizations, and some of them might be \$3,000 to put on a thing on a weekend, and for others it's millions. The scale and complexity are vastly different depending on what kind of organization you're talking about. The level of oversight, as

you suggest - maybe it's not a one-size-fits-all cookie-cutter approach for this sort of thing. I think that's a usable lesson from what we see in the AG's report here as well.

With that, I will actually cede the last three minutes or so of my time to my NDP colleagues, but I just want to thank all of you for being here today and for answering my questions.

KENDRA COOMBES: I have some quick snappers for the Department of Labour. It's yeses or noes. Is the department working with the Cape Breton Regional Police Service on their investigation?

AVA CZAPALAY: We did refer the matter to the Cape Breton Police in the Fall, the same time as ending our contract with Island Employment. I personally haven't heard from the police. I assume it's an active file. I know that the Auditor General mentioned in her press conference that she has provided her findings to the police. That's about the extent that I'm able to comment on that.

KENDRA COOMBES: Will you be asking the AG to look at other service providers and do an AG report on them?

AVA CZAPALAY: Typically, we don't ask the AG. We use Internal Audit within government, and I have a meeting with Internal Audit coming up. The Auditor General's advice to us was very specific and it's very helpful, and we'll be applying that lens to all of the service providers within Employment Nova Scotia, but I do feel as though there are important lessons that we can use for other contracts that we have throughout our department.

KENDRA COOMBES: This is going to President Mullen. Can you summarize the impact on the workers of the decision to close Island Employment?

SANDRA MULLEN: I guess in summary, if you look back at the process they've been through, they worked in an organization that they knew, they felt, had mismanagement of funds. You debate as an employee what to do. They came forward with the thought that they would be protected because they identified what turns out to be gross mismanagement of funds. In return for that, they lost their employment. They are working in rural communities in Cape Breton in which everyone knows everyone. The cloud that continued under the process and the employment of Island Employment carries with them. The offers that were made to apply to employment that replaced their previous employment, the requirements changed, the qualifications changed as much as some were deemed bilingual and qualifications that they didn't have, so therefore they didn't qualify. Plus a lot of the employment offers were less pay than they had previously had.

Not only did they work in turmoil, they were now seeking other sources of employment to replace that in rural Cape Breton, which is a challenge on many fronts, and they were under the cloud of those folks who were the whistle-blowers. Without a proper report that has since come out to maybe clear their names, they've had a rough few years.

KENDRA COOMBES: When Island Employment was closed, the NSGEU said it seemed that government had "decided to make the hard-working frontline staff pay for poor management practices and government's own failure to ensure proper use of public funds . . . Instead of trying to address the issues with management and the Board, government is just trying to sweep this messy situation under the rug, end the contract, and hand these jobs to another service provider."

Is there anything else you can add to this since the AG's report came out?

SANDRA MULLEN: I think the biggest thing is that the employees felt that there was a cover-up, as was mentioned here earlier today. They questioned whether or not it had to do with who people were, who they were connected to, and again, in rural areas of Cape Breton and rural areas of Nova Scotia, those questions mill around. It certainly has taken a long time to clear their reputations, but they have certainly been under a tremendous amount of stress during this process.

KENDRA COOMBES: I'm going to hand off the rest of the questioning to my colleague, MLA Leblanc.

THE CHAIR: MLA Leblanc.

SUSAN LEBLANC: I just wanted to pick up on my colleague Mr. Taggart's suggestion that he hoped in this meeting we could get to some suggestions about how to make sure this doesn't happen again. Earlier in the discussion, Ms. Mullen, you talked about how these days, where getting quality employees is really tricky right now for employers, having an RFP where it's like, here's the RFP, here are the requirements, and here are the employees would be heaven-sent.

I just want to pick up on that. I want to ask: It feels like when government is creating contracts, they can put whatever they want into an RFP or a contract. Of course, we know that if there are no bids on those RFPs, then they go into an alternative procurement. We know that there are all kinds of ways of getting at these issues. My question is to the Deputy Minister: Hearing the terrible impacts of what has happened with this on the employees and presumably the clients, is this something that the department can learn from and incorporate into future RFPs so that future workers are protected?

AVA CZAPALAY: I don't envision being able to build into an RFP the requirement to hire specific individuals. I do feel that would be overreach on the government's part. In this instance, I felt we did what we could control to mitigate the

impact on the employees, and that was in terms of moving quickly to put an interim provider in place and then quickly, again, to put the permanent provider in place - both of whom were looking for the same skill sets that these individuals have.

SUSAN LEBLANC: Fair enough. I want to get at this a little bit more. Can anyone say when Island Employment began operations? Anyone know? (Interruption) Twenty years ago. If it began 20 years ago, was its mandate always to receive government funding and then put that out into the community as a not-for-profit to do employment services?

MARJORIE DAVISON: My understanding is that yes, it didn't exist as Island Employment. It existed in a previous iteration, and its role, particularly with a focus on persons with disabilities prior to the 2015-16 transformation. At 2015-16, there was a requirement for the current organizations in the system to regionally collaborate, so Island Employment was created out of that. It included EmployAbility Association of Cape Breton - which is the previous name of the organization - along with a couple of other organizations. They formed Island Employment Association.

I would say that in general, it was the same mandate - to deliver employment services. Those employment services had been devolved to the Province in 2009. Previously, they were run by the federal government. Then in 2015, the Province received them, and then in 2015-16, we had been working for a number of years on how we could create a system that's more transparent and consistent. That's what that was about.

SUSAN LEBLANC: It seems to me that in this kind of situation, we can build in those things. I understand the deputy minister's point about government overreach and that kind of thing, but literally, these organizations - especially given that they were transformed in 2015-16 - are set up to take government funding and put it into the community. I get that we don't want to be in the business of doing all that, and it's good that they're community-based and all that stuff. But it seems to me that this type of organization is exactly the kind of organization that we could have stronger controls over so that employees are protected, and clients are protected, that kind of thing.

I think that it's a little bit of passing the buck to say: That's a not-for-profit, we're not involved, we don't have overreach over that board. Well, we know that these organizations were formed for this reason. It's a different situation than a not-for-profit where someone has a vision about something in the community or an arts organization. These organizations were set up to do a job for government.

I'm surprised to know that the unionization only took place in 2019, which is after the first complaint. The union drive on behalf of employees, do we know if it was in relation to the complaints?

SANDRA MULLEN: I'm not sure, but I can bet that it was.

SUSAN LEBLANC: Great. One would think when there's trouble, one of the first things employees will do is look to see how they can be protected from the trouble. It should have been a big red flag, I would say. When these RFPs are created, what is included? Would it be something - for instance, does the government require all employees to be bilingual or use official languages or a percentage? Are things like that in the RFPs?

MARJORIE DAVISON: I'll try to answer your question to the best of my ability. I am aware that at transformation we were looking to have bilingual services provided. I can't say that they always were part of that contract. As I mentioned earlier, the guidelines around our contracts are based on our relationship with our federal government and the guidelines that they require. A lot of items that we've discussed today are in the contracts and are required of the organizations. I think what the AG pointed out to us is that we need to do a better job of effective monitoring of those items.

[10:30 a.m.]

Yes, there were some deficiencies, but all-in-all, a lot of what we've talked about are things that we do ask our service providers to provide to us, to have in place. But we have to figure out - as I think our Deputy Minister Czapalay has mentioned - what the next level of interaction is with our third parties that we're funding that doesn't result in overreach but does result in better governance and effective monitoring.

SUSAN LEBLANC: How is that going to happen? It feels like, Ms. Davison, you're the only person who was around during - because Ms. Mullen is a more recent president, Deputy Minister Czapalay didn't come in until the government changed, but you were there. Can you talk a little bit about what changes you're seeing or what changes are planned?

MARJORIE DAVISON: I can clarify that I was not there. (Laughter) However, there's a very strong staff team that has been there through all of this, and we've worked diligently together. We also . . .

THE CHAIR: Order. That concludes questioning for the NDP. I'll move on to the PC party.

JOHN A. MACDONALD: Thank you, Mr. Chair. Ms. Davison, if you want to finish your answer, that would be fine.

MARJORIE DAVISON: I'll probably need be reminded of the question that I was in the middle of asking. (Interruption) What changes are happening, yes. I was in the middle of saying that we have a staff team who have been there through the changes, and that we've worked together to design what it will look like going forward with support from our senior leadership as well.

As has been mentioned many times, we're relying on Internal Audit to give us guidance in this area, but the main thing we need to do is a comprehensive risk assessment so that we better understand what the risks are associated with this type of contracting with third parties, and what the mitigations are. How do we provide the processes in place for employees, so they're not found in the situation of being under a dark cloud of what management is doing in their organization?

This is deeply concerning to us, and we're very upset about what the employees have experienced. We are also keeping them in mind as we think about going forward, how we're going to manage and provide effective monitoring for these contracts.

JOHN A. MACDONALD: Just a comment. The more we tie into an RFP, the less people want to get into it because the more you're controlling them, then it's government. From the private sector, which I am, it literally is. (Interruption) It literally is. In most cases, they're going - if you look at how contract law works now, they go off and are going: Well, hold on, if they're dictating your hours and whatever, you're actually employed. I do agree we need to be tighter, but the point of being able to replace a board of an independent is not something I would think is a good idea.

To get back to just one point, and that is the leasehold improvements. One part that I'm confused on is why was LSI required to fund the leasehold improvements of Island Employment when we now know that at the end of the year, they still had money in the bank? If you could explain, is that a one-off? Is it done elsewhere? I'm not sure who wants to take it.

MARJORIE DAVISON: It did become a big red flag for us when we looked back to see that we needed to step in and support Island Employment with paying leasehold improvements. The organization had just become Island Employment. They did need larger space and they had moved into a new space. They had proceeded without full approval from the department, which resulted in a number of leasehold improvements that needed to be made.

We did feel that we needed to support them in those costs, but looking back, we realized it was a red flag in terms of how Island Employment managed its contract with us.

JOHN A. MACDONALD: Just a follow up. Are our new contracts very clear that if another person tries to do this without approval, we're not going to fund them?

MARJORIE DAVISON: Yes. As I mentioned earlier, we've put in much more, tighter financial controls, so we will be doing that monitoring of expenditures on a monthly basis so that we understand if there are any variances. Then we have a process that we can review those variances. But they will have to have pre-approval from the department.

JOHN A. MACDONALD: I will defer now to MLA Smith.

THE CHAIR: MLA Smith.

KENT SMITH: Thank you to the witnesses for being here and talking about this important discovery and investigation. My first question is going to be for Deputy Minister Czapalay. It's a bit of a preamble to say that I come from private business. I was a long-time entrepreneur. I don't have a lot of experience with unions. It's clear in this example that we have, that the union is not satisfied with the department and the protection of the employees. But as I sit here and think about my experience as a business owner, and think about the fact that owning a garbage company, I applied for contracts with government. It was municipal government, but still government. The majority of my revenue came from government. I was expected to provide a service.

Had I mismanaged those funds resulting in the company dissolving and those employees losing their jobs, I can't even think of a scenario how anyone would point fingers at anyone other than the management of the company. I'm just wondering: It's been clear that we've taken the recommendations of the AG, but can you speak to that again? This is a service provider that we provide money to, and yes, there are checks and balances in place, but the day-to-day operations and the management of the entities are not the responsibility of government.

AVA CZAPALAY: The Auditor General made it clear who was responsible for the gross mismanagement of funds. It was not our department; it was Island Employment. There were a number of features leading to the ability of individuals to mismanage funds, and one was that the board was not functioning properly as a board. Our role in that was that we provided board training, as we do for all boards.

However, looking back, I do feel like we can provide stronger board training. With the Auditor General's report and the red flags that we now know about, I feel like we can strengthen the training for the executive directors and for the board members. Someone here mentioned something about individual board members not necessarily knowing their responsibilities. That came out in the Auditor General's report. It was very clear that some of the board members did not understand their duty as a board member.

In terms of our own oversight, we can strengthen our oversight practices. We can use our technology better. We can require more sampling and more investigation through our third-party audit. We're putting a sharper lens on all of this to ensure that the money that we are entrusting to these organizations is well spent and provides important services to the community. I hope I answered your question, but it's on all of us to provide that sharper oversight.

KENT SMITH: Thank you for that response - I appreciate it. You have talked quite a bit about board training - that it was offered and available and provided to these entities. Will we go so far as to write that in the contract in the future, to say that we will provide board training?

AVA CZAPALAY: That's a good suggestion. I think that we definitely can make it a requirement, whether it's in the contract or we just require people to take the training. We contract with an organization called the Centre for Employment Innovation, it's based at St. Francis Xavier University, and also the Nova Scotia Career Development Association. They both have training programs for executive directors and for boards. Marjorie and I are going to be sitting down with them and taking a look at that training in concert with the recommendations from the Auditor General to see how we can strengthen that training. Maybe it's more regular training - not just at the beginning of a contract but maybe throughout the contract, or maybe it's training that looks at very specific issues throughout the time of the contract.

I do feel like we have the tools. Those tools can be sharpened, and we'll use those tools to improve our oversight.

KENT SMITH: With respect to the notice and severance that was offered to these employees that went above and beyond what government was required to do, would we ever go so far as to consider including that type of language in future contracts?

AVA CZAPALAY: This was a bit of a unique situation in that the employees of Island Employment had a contract with their union that did not include severance. In a regular - well, I won't say regular - I don't know what's regular in Nova Scotia anymore. When we contract an organization, that organization often has its own employees. The employees have their own contract already in place. What we're doing is contracting the organization itself to deliver a service.

KENT SMITH: Perfect. I was hoping the answer would be no, because we have a lot of partners that we deal with that we fund. We expect them to be experts in what we're funding them to do, and have the responsibility for their employees, and not have that responsibility on government. That's why we contract, one of the reasons why we contract these things out.

One final question. How much time left, Mr. Chair?

THE CHAIR: About two minutes.

KENT SMITH: Okay. Ms. Mullen, welcome to the committee. Thank you for being here. You've been fairly critical of government and how they responded to these allegations. I'm curious to know what the NSGEU did to help protect these employees and help them find jobs after the investigation started?

SANDRA MULLEN: Throughout that process where we knew what was coming, we made sure we met with the group many times to ensure that they knew what the contract spelled out. We worked with, reached out to the department and to the deputy minister, the now deputy minister, and minister to see what we could do to ensure it. We were pleased to



see that they did offer the eight weeks, but our concern was always that there be a forensic audit because these folks were under that cloud.

We'd looked at the new RFP and the new job offers, and we were critical where we saw that we had a number of folks who would be either not qualified or offered employment of a lower salary. We did what we could to work with them, but again, they were becoming non-members.

THE CHAIR: MLA Smith with 30 seconds.

KENT SMITH: Not much time for a follow-up. I'll just say on behalf of the government caucus, thank you very much for the time and the information on examining this important topic.

THE CHAIR: That concludes questioning. Again, I'll thank the witnesses, and invite closing remarks if you have any, beginning with Ms. Mullen.

SANDRA MULLEN: Thank you for the opportunity to address the committee and thank you for the questions posed. As the MLA indicated, I was not the president at the time, but certainly was aware of the file, and, in my work life, aware of the type of work that is done through Nova Scotia Works.

Again, I just want to reiterate that our members deserved better than coming forward thinking they would be protected under the Whistleblowers Act, that they would identify what turned out to be gross mismanagement of public funds, and the reward - if you want to call it that - is that they lose their employment and live under a cloud for a number of months and years. It's vindication for them - however bittersweet because their employment didn't go with.

We've got a number of examples in our own union work where management changes hands, and the contract does carry on that in the RFP, that these employees go with, and they have a contract. We have been working, I would say yearly, with the Halifax Regional Centre for Education on their change of bus providers. We know it exists, and we're very saddened that it couldn't happen with these employees. We have continued to lobby on their behalf, even though shortly after the end of the eight-week severance they were no longer members of NSGEU. We continued to fight on their behalf because it's an issue that other employees will see - that they made the complaint, and they were treated what we see as unfairly. Thank you for your time.

AVA CZAPALAY: Thank you, everyone, for the important questions today, and also for the good discussion. I am very sincere in our department's response to the Auditor General's report. We take our role seriously, and we will implement all of the recommendations and the advice received from the Auditor General.

[10:45 a.m.]

I'd also like to point out, again, that our community organizations provide good and important services throughout Nova Scotia. We value the work of these community organizations. I mentioned earlier that our Nova Scotia Works offices today are rolling out the Emergency Relief Grant for Individuals for those impacted by the wildfires. They stood up that grant and rolled it out very quickly under Marjorie's leadership. That's the positive and good work that these organizations can do for us in communities when it's most needed.

As someone who left government to set up a not-for-profit, I know how much work it takes to put good governance practices into effect. It's a passion of mine. I'm interested in working with the Auditor General's report, my team, and the tools and supports that we have available to us to see where we can strengthen both our oversight and the good governance practices of our community providers.

I'd like to thank all of you today for the good discussion, and I look forward to tackling this work.

THE CHAIR: Thank you again. Maybe we'll take a quick three-minute recess while everyone wraps up, if that's okay. Seeing some nods.

We're now in recess.

[10:46 a.m. The committee recessed.]

[10:51 a.m. The committee reconvened.]

THE CHAIR: Order. I will call this committee back from recess. Looking for a motion to accept the recommendations that have been accepted by the department.

KENT SMITH: I so move that the committee accept the recommendations in the Auditor General's report that have been accepted by the department.

THE CHAIR: Seeing no discussion.

All those in favour? Contrary minded? Thank you.

The motion is carried.

We have a substantial amount of committee business, but we're down some of our permanent members, so just looking for unanimous consent that we can maybe move this to our next meeting. Seeing nods around the table.

Today, as you may know, is Kim Leadley's last PAC meeting. She'll be retiring in July. I'd like to thank Kim for all of her work. (Applause)

Our next meeting will be September 20, 2023, with the Nova Scotia Liquor Corporation, Department of Finance and Treasury Board, regarding the 2023 Report of the Auditor General: *Follow-up of 2018, 2019, and 2020 Performance Audit Recommendations* regarding NSLC - Phase 1 (2020) and Phase II (2021).

Is there any further business? Seeing no further business, I'll call the meeting adjourned. The meeting is adjourned.

[The committee adjourned at 10:53 a.m.]