REPORT OF THE COMPTROLLER AND AUDITOR GENERAL

Department for the Economy

Introduction

1. In 2020-21, the Department for the Economy (the Department) was tasked by the Executive to implement urgently a series of business support schemes designed to ease the difficulties and disruption being faced by businesses arising from the COVID-19 pandemic.

2. Given the political and economic concerns at the time, these schemes were delivered at extreme pace and in a challenging environment. The situation was made worse by the imposition of home working and a lack of appropriate resources. Given the urgency and speed with which these schemes were designed and delivered, the accounting treatment, and consequently the audit activity, has been complex and at times, a challenge.

Purpose of the report

3. Under the Government Resources and Accounts Act (Northern Ireland) 2001 I am required to examine, certify and report upon the financial statements prepared by the Department for the Economy (the Department). This report explains the background to my qualifications on the Department's Resource Accounts for 2020-21. In addition, it provides information on certain other issues I identified during the audit which did not result in a qualification of my audit opinion, together with an update on other recurring matters.

4. Except for the qualification on irregular expenditure of £5.3 million relating to funding provided to Tourism Ireland, which relates to ongoing funding, all other qualifications relate to grant schemes established to support businesses during the pandemic. Within this report I comment on qualifications on three separate groups of COVID-19 business support schemes administered during 2020-21:

    - Department administered schemes of £140.8 million – see Figure 1;
    - Invest NI administered schemes of £129.8 million – see Figure 3; and
    - Department administered apprenticeship schemes of £12.6 million – see paragraph 23.

Qualified audit opinion on the financial statements

5. The Department sponsors Invest Northern Ireland (Invest NI), a Non Departmental Public Body which is not part of the Department and whose accounts are not consolidated with the Department's. The Department instructed this body to include expenditure on a number of emergency COVID-19 business support grants in its financial statements using its powers under the Industrial Development (Northern Ireland) Order 1982. The amounts totalled £140.8 million in its 2020-21 financial statements and £220m in 2019-20. However, it is my opinion that these schemes were in reality administered and controlled by the Department itself meaning the Department should have included the expenditure in its own accounts; but it did not, as it did not have the legislative power available to it to incur the expenditure.

Figure 1: Department for the Economy administered COVID-19 business support schemes

Scheme	Expenditure in 2020-21 £ million	Expenditure in 2019-20 £ million
Small Business Grant Scheme	23.2	220.0
Tourism and Retail Sectors Grant	73.6	0.0
Large Tourism and Hospitality Business Support Scheme	39.9	0.0
Wet Pubs Scheme	4.1	0.0
TOTAL	**140.8**	**220.0**

Source: Invest NI 2020-21 Annual Report and Accounts

6. This unusual accounting arrangement was used because the Department did not in fact have the legal authority to make the grant payments itself and determined it would take too long to obtain such powers under the Financial Assistance Act (Northern Ireland) 2009. The aim of this arrangement was to reflect scheme expenditure in the entity with the appropriate legal authority to make the payments. Invest NI has the relevant authority under the Industrial Development (NI) Order 1982. So essentially the Department designed and delivered these schemes and incurred the expenditure, while instructing Invest NI to include the expenditure in its accounts on the basis that it had the correct legal powers. However, neither International Accounting Standards nor the Government Financial Reporting Manual (FReM) allow for legal vires as a basis for recognition. I recommend that in future, the Department ensures it has the appropriate legal powers to undertake any planned interventions.

7. The Department, Invest NI, DoF's Land & Property Services (LPS) and Account NI all agreed a Memorandum of Understanding (MOU) which set out the roles and responsibilities of those involved in the policy, design, operation and delivery of the Covid-19 business support grants. In the MOU, the sole duty allocated to Invest NI is to "record the full estimated costs of the grant scheme on an accruals basis in 2019-20 budgets and accounts". However, the primary duties in relation to establishing the scheme, its design and delivery, payment approval and taking responsibility for any losses arising from its administration, were allocated to, and accepted by, the Department. While there was some early consultation with Invest NI on the scheme, no Invest NI staff were involved in scheme delivery and Invest had no role in the payments that were made to grant recipients.

8. The Department is required to provide financial statements which show a true and fair view of its financial transactions and its financial position. Therefore, instructing Invest NI to account for this expenditure rather than accounting for it itself, led to misstatements within the Department's resource accounts, both in 2020-21 and 2019-20. The Department only reflected the expenditure on a cash basis and described it as Grant-in-Aid to Invest NI, rather than Grant expenditure that it had paid directly to recipients. I have therefore qualified my audit opinion on the financial statements.

Figure 2: Misstatements resulting from the accounting treatment for Department for the Economy administered COVID-19 business support schemes

Account area	Misstatement in 2020-21 £ million	Misstatement in 2019-20 £ million
Grant-in-Aid – i.e. payments to grant recipients made from the Department's bank account	(286.1)	(67.7)
Grant expenditure on DfE administered schemes	140.8	220.0
Accruals	7.0	152.3

Account area	Misstatement in 2020-21 £ million	Misstatement in 2019-20 £ million
General Fund – relating to opening accruals	(152.3)	0.0

Source: Invest NI 2020-21 Annual Report and Accounts

9. The Department consulted with the Departmental Solicitor's Office (DSO) and the Department of Finance (DoF) on this novel accounting treatment and both bodies gave their support to it. However, the legal advice is not based on the application of relevant accounting standards and DoF, although supportive, did not issue an accounts direction to the Department to provide a clear basis for the approach taken. It is a requirement of my role to form an independent audit opinion on whether the financial statements reflect a true and fair view, and comply with accounting standards and the Government Financial Reporting Manual. Since the Department controlled and administered the schemes and made the payments to recipients, without any meaningful involvement of Invest NI, it is my opinion that this money was spent by the Department.

10. This is a matter of 'substance over form', an accounting concept which means that, in order to present a true and fair view, financial statements should reflect the economic substance of transactions or events, not their legal form. Financial statements representing a legal form that differs from the economic substance, do not result in a faithful representation. Following a detailed technical review, it is my opinion that the economic substance of the grant schemes outlined in figure 1, is that the Department, not Invest NI, controlled and delivered the schemes and made the payments to recipients with assistance from the Land and Property Services (LPS). As a result, these transactions should have been recorded in the Department's financial statements. I also note that the Invest NI Accounting Officer had no opportunity to govern those schemes or influence the expenditure.

11. I provided the Department with an opportunity to reconsider its accounting treatment and proposed that it make an adjustment to its financial statements to resolve the issue. However, after consideration, it decided not to do so. Therefore, I must provide my opinion on the basis of my disagreement with the accounting treatment of these grants and the related transactions and balances.

12. I have also qualified my audit opinion on the financial statements because they do not provide disclosure on material irregular expenditure, that I have noted in paragraph 14 below, as required by its Accounts Direction.

Qualified audit opinion on irregular expenditure

13. In addition to forming an opinion on whether the financial statements show a true and fair view I am required to give an opinion on the regularity of transactions, by considering if the income and expenditure has been applied for the purposes intended by the Assembly and whether the transactions comply with the authorities which govern them.

The Department did not have legal powers in place to cover expenditure on certain COVD-19 business support schemes it administered

14. Since in my opinion, it was the Department that spent £140.8 million in 2020-21 on the COVID-19 business support grants in Figure 1, which it administered, I must now consider the regularity of this expenditure. As outlined in paragraph 6 above, the Department did not have legal powers in place to provide legal vires for this expenditure. As such, I consider expenditure of £140.8 million

of COVID-19 business support grants administered by the Department to be irregular, albeit that as shown in Figure 2, it has not been appropriately reflected in the financial statements at this value or description.

There was insufficient audit evidence that eligibility criteria for certain COVID-19 business support schemes had been met

15. As part of my work on whether expenditure is regular, I must gather independent audit evidence to assess whether grants administered by Non-Departmental Public Bodies (NDPBs), which were funded by the Department, complied with the eligibility criteria established for each scheme.

16. Expenditure of £100.9 million within the Departments financial statements relates to funding it provided for COVID-19 business support schemes run by NDPBs, which relied on self-declarations from applicants as evidence that eligibility criteria for these schemes had been met. Of this funding, the vast majority related to schemes administered by Invest NI. As the schemes were designed to rely on self-declaration, sufficient appropriate audit evidence was not available to me to determine whether all of the eligibility criteria were met. Expenditure on these schemes reflected in the Invest NI financial statements totalled £129.8 million and is set out in Figure 3 below.

17. In response to the continued impact of the pandemic on Northern Ireland's economy in 2020-21, a number of new business support schemes were launched and administered by Invest NI. All of these schemes relied heavily upon self-declarations made by applicants to confirm eligibility. Therefore, Invest NI could not provide me with sufficient appropriate audit evidence to verify whether the self-declarations made were, in fact, accurate. There were no alternative audit procedures available to me to obtain sufficient appropriate audit evidence to inform my regularity audit opinion in respect of these schemes.

Figure 3: Invest NI administered COVID-19 business support schemes

Grant scheme	Key self-declarations made to determine eligibility	Expenditure during 2020-21 £ million
Coronavirus Hardship Fund for Microbusinesses	○ Turnover had dropped by at least 40 per cent due to COVID-19	23.3
COVID Restrictions Business Support Scheme (CRBSS) Part A	○ Income had dropped by at least 50 per cent due to COVID-19	65.4
COVID Restrictions Business Support Scheme (CRBSS) Part B	○ Income had dropped by at least 40 per cent due to COVID-19	12.8
Newly Self-Employed Support Scheme (NSESS)	○ There a decline of more than 40 per cent in trade due to COVID-19 ○ The business would continue to trade	8.7

Grant scheme	Key self-declarations made to determine eligibility	Expenditure during 2020-21 £ million
Limited Company Directors Support Scheme (LCDSS)	○ Taxable income was less than £50,000 due to COVID-19 ○ The predicted drop in remuneration and dividend income was at least 40 per cent due to COVID-19. ○ There was an intention to carry on trading.	19.6
TOTAL		129.8

Source: Invest NI 2020-21 Annual Report and Accounts

18. Approval for the implementation of these new schemes was given by Ministerial Direction, since the Department's Accounting Officer was unable to provide evidence that these schemes would provide value for money or that there would not be an unacceptably high risk of error or loss of funds. Reliance on self-declarations without corroborating evidence does not mitigate the risk of fraud and error occurring. Whilst I recognise that clawback arrangements were built into the terms and conditions of these grants, the subsequent identification of fraud or error will take significant administrative effort and the recovery of sums owed may not be successful.

19. The DoF published the Cabinet Office's 'Fraud Control in Emergency Management: COVID-19 UK Government Guide '[1], which outlines the steps which should be undertaken by government bodies when administering emergency programmes. One of the overarching principles it highlights is that there is an inherently high risk of fraud in this context and therefore fraud risk assessments should be undertaken and continually updated for new threats and risks. Given that these schemes have already made payments that are at risk of fraud, it is important that post payment checks are now undertaken. I therefore recommend that post payment checks are undertaken, seeking proof of eligibility from corroborating evidence and, where necessary, that clawback procedures are instigated. I understand that work in this area is underway.

20. I would also expect both the Department, and its sponsor bodies to ensure compliance with the Cabinet Office guidance for any future schemes of this nature and draws on lessons learnt, by building suitable control mechanisms into them to prevent and detect fraud and to protect public funds.

Irregular expenditure without appropriate Department of Finance approval

21. During my audit I noted two instances where appropriate approvals from the DoF had not been obtained, making the related expenditure irregular. In light of the Department's past failure to seek approval required for elements of the Renewable Heat Initiative (RHI) scheme, it is extremely concerning to see the practice continues and I have therefore considered this irregular expenditure of £11.5 million to be material and have qualified my regularity audit opinion accordingly.

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[1] Fraud control in emergency management: COVID-19 UK Government guide – issued in March 2020

a) Payments to Tourism Ireland Limited

22. Funding of £5.3 million to Tourism Ireland Limited is irregular since it related to a carry over from the 2020 budget for use in 2021, without the DoF approval being obtained as required by the Management Statement and Financial Memorandum.

b) Apprenticeship Recovery Schemes

23. In September 2020 the Department launched three apprenticeship recovery intervention schemes to support employers, as an economic response to the pandemic, with expenditure in 2020-21 as follows:

- Return, Retain, Result - £5.7 million;
- Recruit – £6.5 million; and
- Challenge Fund - £0.4 million.

24. The Employment & Training Act (Northern Ireland) 1950 was used to provide the legal vires to make the payment under these schemes. However the legislation specifically required DoF approval to be obtained in advance of any payments being made. Payments were commenced without this approval being sought. The Department subsequently identified this issue and paused the schemes on 4 October 2021 whilst it sought DoF approval, but by this stage £6.2 million of payments had been already been made. The Department was unable to clarify how much of these payments related to expenditure within the 2020-21 financial statements, but indicated that it believed that it was the vast majority.

25. Since the legislation required DoF approval prior to payments being made it was not possible to obtain retrospective approval for the £6.2 million already paid, and this expenditure is therefore illegal. DoF approval was, however, obtained for future payments and the schemes then recommenced.

26. In light of findings in the RHI public inquiry, it is difficult to understand how the Department is not aware of the requirements of a piece of primary legislation that it should be more than familiar with. Yet again, it has missed the opportunity for a DoF review of the business case, before payments were made. It is clear that the Department did not understand approval requirements or attempt to research them adequately before making payments on these apprenticeship schemes. It is completely unacceptable that a Department fails to comply with the requirements of primary legislation it is relying on as vires to make payments. This is a basic requirement, and it is extremely disappointing to see that the Department has failed to learn lessons from its past failure on obtaining RHI approvals.

Other issues identified which did not lead to audit qualification

Loan to Glenmore Generation Limited

27. I have qualified my audit opinion of the Invest NI financial statements due to irregular expenditure and income reflected in Invest NI's 2020-21 financial statements relating to a loan made in previous years to Glenmore Generation Limited. In August 2021 the DoF advised me that it considered a loan of £14.2 million to this company to be irregular, since certain conditions of the DoF approval had not been complied with. Since the original loan is now irregular, all expenditure and income streams flowing from the loan are also irregular. The loan was subsequently written off and payments and interest charges have ceased. Further details are provided in my report on Invest NI's 2020-21 financial statements.

Non-Domestic Renewable Heat Incentive (RHI) Scheme

28. In the previous five years I reported on aspects of the RHI scheme including its total cost, progress of site inspections, judicial reviews following amendments to reduced tariffs payable under the

scheme, and the future of the scheme. In 2020-21 costs of the scheme were again under budget, at £7.2 million (for both domestic and non-domestic RHI schemes), well below estimated costs of £33.5 million. The inspection programme continued during the year but was limited to some extent by COVID-19 restrictions. As in previous years, I was still unable to obtain sufficient evidence that the controls over spending on the non-domestic RHI scheme were adequate to prevent or detect abuse of the scheme, however I have not qualified my audit opinion on the 2020-21 financial statements in this respect.

29. During 2020-21 £2.3 million (2019-20 : £0.74 million) of RHI expenditure relating to payments made in respect of applications received between 1 April 2015 and 28 October 2015 is irregular since DoF approval had not been renewed for the scheme during this period. The total irregular expenditure relating to these applications continues to cumulate each year.

30. In October 2021 a judicial review against the change in tariffs brought about by the Northern Ireland (Regional Rates and Energy) Act 2019 was dismissed by the High Court in October 2021. An appeal, however, is ongoing in respect of reduced tariffs made under the RHI Scheme (Amendment) Regulations (NI) 2017. In February 2021 the Department launched a consultation on the future of the scheme, with its preferred option to close the scheme with compensation paid to legitimate current participants. I will continue to monitor future developments.

31. I plan to publish a report in early 2022 on the progress made in implementing recommendations made by the RHI public inquiry. This report will consider developments in governance arrangements in the Department since issues around RHI emerged, and consider what improvements have been made across government in response to recommendations made by the independent public inquiry into the Non-Domestic RHI Scheme.

Updates on matters noted in previous audits

Presbyterian Mutual Society

32. At the height of the financial crisis in 2008 the Presbyterian Mutual Society (PMS) went into administration. Loans of £225 million were made by the former Department of Enterprise to bail out PMS. Of this balance, £50 million is at the bottom of the creditors' priorities and is unlikely to be paid. The remaining £175 million was repayable by instalments and was due to be settled in full by November 2020. The Joint Supervisors of the PMS requested an extension to this repayment period due to the pandemic limiting its ability to sell assets to fund the repayments. Following professional advice on the matter, the Department extended the repayment period to November 2022.

33. At 31 March 2021, the total amount still due was £43.5 million, however the financial statements reflect that only £25 million of this was expected to be recovered. The shortfall of £18.5 million was included in the financial statements as an expected credit loss, in line with accounting standards. The Department has recently received a report from the Joint Supervisors showing that this loss is likely to reduce by £4.1 million, however the 2020-21 financial statements have not been adjusted for this and I do not consider the misstatement to be material. The actual loss which materialises will depend upon market conditions at the time that remaining assets are sold.

HMS Caroline

34. I reported last year on the significant challenges the Department has faced restoring HMS Caroline and transforming the ship into a viable marine heritage visitor attraction. Visitor numbers have been disappointing since the ship's opening, resulting in operating deficits. It was then closed to the public in March 2020, due to the pandemic. The 2020-21 deficit of £350,000, brings the total deficit to date to £1.9 million.

35. The interim operating agreement between the Department and the National Museum of the Royal Navy (NMRN), who operated the ship on behalf of the Department, expired in June 2020. The Department was unable to put a new arrangement in place, establish a new funding model or to procure a new operator. The attraction therefore remains closed until all costs and future options are evaluated. During this time the NMRN continued to provide oversight and maintenance of the ship, and the Department met the associated costs.

36. Negotiations remain ongoing between the Department, NMRN and the National Lottery Heritage Fund on the future of HMS Caroline. Last year I urged that a permanent operator solution be found for the ship and it is disappointing that a solution could not be found. I will continue to monitor progress on this issue.

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2 March 2022