Report by the Comptroller and Auditor General to the Northern Ireland Assembly

Department of Health 2021-22

Introduction

1. This report highlights significant matters arising from my audits of the Department of Health's (DoH) and its subsidiary bodies' annual reports and accounts for 2021-22. The Department has incurred expenditure of more than £47 million over a number of years without authority and therefore this expenditure is irregular.

2. Regularity is the concept that the income and expenditure recorded in the financial statements must accord with the purposes intended by the Northern Ireland Assembly. If a department fails to adhere to this principle the resulting financial transactions will normally be considered irregular.

3. I have not qualified my audit opinions on the financial statements of DoH or these subsidiary bodies as otherwise the matter is beneath the levels of materiality for the accounts. Nevertheless, I believe it to be of sufficient importance to be drawn to the attention of the Northern Ireland Assembly.

4. Irregular expenditure has been incurred in a number of different programmes and projects:

   - the Vaccine Management System;
   - the Northern Ireland Electronic Care Record;
   - in Patient Exemption Fraud/Error; and
   - Dunmurry Manor consultancy expenditure.

5. This report also updates my 2020-21 report on the accounting treatment of liabilities within the HSC sector.

Vaccine Management System (VMS)

6. The Department of Finance (DoF) refused to provide retrospective approval for expenditure of £15,204k (£9,845k capital and £5,359k revenue), incurred by the Department of Health (DoH) on the Vaccine Management System (VMS).

7. Towards the end of October 2020, the Department was requested to develop urgently appropriate digital supports to the administration of the vaccination programme. The vaccination programme administered the first doses on the 8 December 2020. The required digital supports therefore needed to be developed and deployed rapidly and in a manner sufficiently flexible to meet the emerging needs and priorities of the vaccination programme. The Department adopted a rapid, agile methodology resulting in a series of phases of development as additional requirements emerged. The traditional linear, lengthy requirement development processes would not have delivered the outcomes in the limited time available to meet the programme's needs.

8. The Department told us that this demand was unprecedented. It required DoH to rapidly design and deploy a system which did not exist at that time, against a backdrop of unpredictable clinical conditions and continuously changing technical requirements, all within a bureaucracy which is not designed to work at such speed.

9. Throughout the development, both the policy requirements and the financial reporting structures were subject to change at short notice. The Accounting Officer and the Minister were kept informed of progress, with increasing expenditure and the acknowledgment that the business cases required adjustment and mitigations put in place to ensure value for money.

10. DoF concluded that, whilst accepting there was a clear need for the Vaccination Programme and associated VMS, it was apparent that neither the original business case to obtain initial internal DoH expenditure approval nor the subsequent request for DoF approval were completed at the appropriate time. It also concluded that the Department of Health has failed to provide evidence of steps that it is taking to ensure no recurrence.

11. Irregular expenditure of £5.1 million was incurred in 2021-22. A significant proportion of this expenditure passed through the accounts of the HSC Board (HSCB), £3.3 million (capital) and £1.6 million (revenue) and hence is also irregular. I recognise the successful development of the VMS and the outstanding work of Departmental staff during the pandemic. Nevertheless, it is important that a more agile and responsive means of managing approvals is developed to accommodate the demands of delivering at such pace.

Northern Ireland Electronic Care Record

12. The Northern Ireland Electronic Care Record (NIECR) is a project designed to provide a "single view" of a patient record, drawing on data stored in a number of secondary care systems. It has also developed a number of care pathways and information stores that reside wholly within the NIECR system. An outline business case was approved by DoF in 2011 with an estimated cost of almost £25 million over an 8 year period from 2011-12 to 2018-19.

13. In May 2022, DoF notified NIAO that it would not grant retrospective approval for expenditure of £29,521,214 (including capital expenditure of £11,027,990 and resource of £18,493,223) incurred by the Department of Health (DoH) on the NI Electronic Care Record (NIECR).

14. DoF approval was originally granted for the NIECR project in September 2011. This approval was based on an Outline Business Case (OBC) costed over an 8-year period (2011/12 – 2018/19). The estimated total cost of the project was £24,978,877 (including capital expenditure of £11,511,545 and resource expenditure of £13,467,332).

15. Due to the management arrangements for delivering the project, particularly the procurement, implementation and commitments to spend, a significant proportion of this expenditure passed through the accounts of the Business Services Organisation (BSO) and the HSC Board (HSCB) during this period. This amounted to £1.9 million in 2021-22 and hence is also irregular.

16. DoH submitted a request for retrospective approval to DoF on 30 November 2021, seeking retrospective approval for expenditure incurred on the NIECR project in 2020-21 and 2021-22. This submission highlighted that the NIECR project had been implemented on a different basis to that originally covered by DoF's approval – whilst DoF approval was based on an 8-year expenditure profile, the project entered into a contract for 5 years with 5 x 1-year optional extensions. Having not sought revised DoF approval for this change at the appropriate time, DoF advised DoH that retrospective approval would be required in order to regularise the total expenditure on this project from 2011-12.

17. DoF concluded that whilst the original business case was based on an 8-year period and expenditure profile, the project had been implemented on a 5-year plus 5 x 1-year annual optional extensions. DoF had not been not advised of this change. Moreover, the NIECR Evaluation Report shared with DoF by DoH indicates that some of the original functionality intended as part of the preferred option was not delivered and that 'new' functionality beyond the scope of the original business case was provided. As such, DoF concluded that project implementation breached the original approval without revised approval being sought as required; and therefore the first condition for granting retrospective approval was not met in relation to the initial 8-year period.

18. DoF also concluded that, in relation to 2020-21 spend and beyond, the contract extension business case prepared by DoH was completed in March 2020, whilst the decision to extend the contract for the full permitted term was made in May 2019. Consequently, it is not clear that steps were taken at the appropriate time to ensure no recurrence of this situation within the project.

Patient Exemption Fraud/Error

19. The BSO, on behalf of the HSC Board, handles payments to contractors providing family practitioner services. Counter Fraud and Probity Service within the BSO is responsible for checking patient exemption entitlement and for taking follow-up action where a patient's claim to exemption from statutory charges has not been confirmed. This can be due to fraud or to error. Given the volume of Dental and Ophthalmic claims each year, sampling is used to establish an estimate of the total annual potential loss due to fraud/error.

20. For 2021-22, the central estimate for potential losses due to fraud/error was £3.3 million, (£2.2m dental and £1.1m ophthalmic). This is an increase on the £1.8 million of fraud/error reported for last year (£1.1 million of dental fraud/error and £0.7 million of ophthalmic fraud/error). Greatly increased activity levels account for a proportion of the increase in 2021-22: activity in 2020-21 was artificially low due to the pandemic. The figure for fraud/error in 2019-20 was £3.9 million.

Dunmurry Manor consultancy expenditure

21. Following the publication of the Commissioner for Older People for Northern Ireland's report (COPNI) in June 2018 into care failures at Dunmurry Manor Care Home, the Department commissioned a Follow up Review into Care at Dunmurry Manor Care Home.

22. The Review (undertaken by CPEA Ltd) will provide the DoH and the wider HSC system with an independent analysis and insight into how the whole system responded to the issues at Dunmurry Manor Care Home. Ultimately this will enable the Department to understand if failings were the result of flaws in system design, their operation, or a combination of both and to identify learning for future improvements.

23. In progressing the review, costs of £474,500 were incurred prior to 2020-21 with further costs of £145,000 incurred in 2020-21 and £14,000 in 2021-22. Whilst DoF has not ruled these costs as irregular, it has yet to issue approval. The Department is currently seeking to secure appropriate authorisation.

Accounting treatment of liabilities

24. My report on the DoH annual report and accounts for 2020-21 and the audits of the HSC Trusts highlighted a number of examples of the Department and the wider HSC sector applying an accounting treatment for liabilities that does not meet the DoF's budgetary guidance or International Accounting Standards. The overall effect of treating liabilities of £135 million as accruals rather than provisions is that the HSC retained significant sums from its 2020-21 DEL budget allocation, rather than surrendering it for use by other departments or returning it to the Treasury. This ensured that the funds were secured for future expenditure rather than having to bid for them again in 2021-22.

25. This matter remains unresolved. The Department and trusts' accounts disclose £102 million of accruals at 31 March 2022 that should have been treated as provisions. I have qualified my audit opinion on the accounts of the Northern Ireland Ambulance Service as a consequence, where the sum is material in the context of its overall operating expenditure. I have not qualified my audit opinions on the financial statements of DoH or the other trusts as the matter is beneath the levels of materiality for their accounts.

Summary of findings

26. My audit work has identified a number of examples of irregular expenditure within the Department and its subsidiary bodies. The circumstances in which each arose differ widely and there are important lessons to be learned from each example. Nevertheless, the overall effect is that the Department and its subsidiaries have incurred significant expenditure without the proper authority.

27. The inappropriate accounting treatment of liabilities identified in 2020-21 has not been resolved. Disclosing items as accruals which should properly have been treated as provisions instead, has the effect of securing funds from existing budgets for future payments. This treatment is not in line with International Accounting Standards nor with budgetary guidance from the Department of Finance.

The Department of Health's response

28. In relation to the irregular expenditure the Department told me that it continues to endeavour to ensure that all of its expenditure is incurred in accordance with Managing Public Money Northern Ireland and other applicable guidance, whilst recognising that its performance has fallen short of what is required in the instances highlighted in this report. It also highlighted the particular issues associated with the pace at which the development of the Vaccine Management System needed to be progressed and advised that it will continue to work with the DoF on appropriate methods of approval for such projects in the future.

29. In relation to the recognition of liabilities the Department told me that it has prepared its accounts on what it assessed to be the appropriate accounting treatment and that it accepts that its opinion on the correct treatment differs from that of the NIAO in an area that is both technical and a matter of accounting judgement. Where advice has been provided to the Trusts on the appropriate accounting treatment for liabilities, the Department has advised me that this has been done in consultation and agreement with the Finance Directors of the Trusts. It has also consulted with the DoF where appropriate. The Department has also assured me that should these liabilities remain outstanding at 31 March 2023 it will revisit the accounting treatment applied to ensure that it remains content that it is appropriate.

Conclusions

30. I remain concerned by the Department's apparent failure to pay sufficient regard to the DoF's budgetary guidance and to accepted accounting practice. The Department contends that this does not represent a deliberate attempt to circumvent DoF financial controls and I have no evidence that this is the case. However, I consider that it is undeniable that significant sums have been spent without the proper authority and that the accounting treatment of liabilities does not meet the requirements of International Accounting Standards.

31. In my view, the Department is now seeing the consequences of its decision to scale back its focus on governance in the face of the Covid 19 pandemic, a focus which in normal times should have provided early warning signs of these issues. It is evident that this focus needs to be restored as a priority.

32. I will continue to monitor the Department's response to this report and may report further on this matter, if necessary, next year.