NIAO
Northern Ireland Audit Office

Financial Auditing and Reporting

General Report by the Comptroller and Auditor General for Northern Ireland – 2010

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
22 December 2010

Northern Ireland Audit Office

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I present this report pursuant to Sections 10(4) and 11(3) (c) of the Government Resources and Accounts Act (Northern Ireland) 2001.

K J Donnelly
Comptroller and Auditor General

Northern Ireland Audit Office
22 December 2010

The Comptroller and Auditor General is the head of the Northern Ireland Audit Office employing some 145 staff. He, and the Northern Ireland Audit Office are totally independent of Government. He certifies the accounts of all Government Departments and a wide range of other public sector bodies; and he has statutory authority to report to the Assembly on the economy, efficiency and effectiveness with which departments and other bodies have used their resources.

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Abbreviations

ALB	Arm's Length Body
BELB	Belfast Education and Library Board
C&AG	Comptroller and Auditor General
CMEC	Child Maintenance Enforcement Commission
CMED	Child Maintenance and Enforcement Division
CPD	Central Procurement Directorate
CPI	Consumer Prices Index
CS2	Child Support 2 System
CSCS	Child Support Computer System
CSL	Central Science Laboratory
DAO	Dear Accounting Officer
DCAL	Department of Culture, Arts and Leisure
DCLG	Department of Communities and Local Government
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
DLA	Disability Living Allowance
DRD	Department for Regional Development
DSD	Department for Social Development
DWP	Department of Work and Pensions
EAGF	European Agricultural Guarantee Fund
EAGGF	European Agricultural Guidance and Guarantee Fund
EAFRD	European Agricultural Fund for Regional Development
EC	European Commission
EHS	Environment and Heritage Service
ERB	Error Reduction Board
ERDF	European Regional Development Fund
ESA	Employment and Support Allowance
EU	European Union

FM	Financial Memorandum
GoCo	Government Owned Company
IFRS	International Financial Reporting Standard
IRT	Independent Review Team
IT	Information Technology
JSA	Job Seekers Allowance
MLA	Member of the Legislative Assembly
MPMNI	Managing Public Money Northern Ireland
NAO	National Audit Office
NCR	Net Cash Requirement
NI	Northern Ireland
NIA	Northern Ireland Assembly
NIAO	Northern Ireland Audit Office
NIHE	Northern Ireland Housing Executive
NISMP	Northern Ireland Schools' Modernisation Programme
NISPD	Northern Ireland Single Programme Document
NIW	Northern Ireland Water
NRO	Net Resource Outturn
OFMDFM	Office of the First Minister and Deputy First Minister
PEACE I	The Special Support Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland
PEACE II	The European Union Programme for Peace and Reconciliation in Northern Ireland
PFI	Private Finance Initiative
PPP	Public Private Partnership
QUB	Queens University Belfast
RfR	Request for Resources
RPA	Reform of Public Administration
RPI	Retail Prices Index

Abbreviations

SAU	Standards Assurance Unit
SNMA	Special Needs Management Allowance
SSE	Spring Supplementary Estimate
UK	United Kingdom
VAT	Value Added Tax

Foreword

This report to the Northern Ireland Assembly summarises the results of the financial audit work undertaken on my behalf by the Northern Ireland Audit Office, primarily on the 2009-10 accounts. It does not include the results of my examination of the accounts of those bodies within the health and social care sector as these will be published in a separate General Report.

The prime function of public financial audit is to provide independent assurance, information and advice to the Northern Ireland Assembly on the proper accounting for and use of public resources. In addition, we strive to assist audited bodies to improve their financial management processes, governance and propriety in the conduct of public business through our mainstream financial audit work.

This General Report prompts a timely focus on the qualified opinions and reports issued on departmental resource accounts and other accounts for 2009-10. This will enable lessons to be applied in time for the next financial year of accounts and therefore to make a difference. This is when the value of public audit is at its strongest.

The standards of financial accounting continue to remain high, demonstrated by the quality and timeliness of financial reporting. However, whilst the vast majority of accounts received an unqualified audit opinion, 2009-10 was a year when a larger number of accounts than usual received qualifications on truth and fairness and/or regularity grounds. Matters which prompted these qualifications included general failures to obtain proper approvals for the procurement of services including specific examples in relation to business cases to provide consultancy support for large scale projects and single tender actions.

In conducting financial audit work I am always mindful of the need to provide 'added value' to audited bodies. It is reassuring that audited bodies implemented a significant number of changes as a result of recommendations arising from our financial audit work.

In conclusion, I wish to take this opportunity to thank all the staff of the Northern Ireland Audit Office for their continued professionalism in delivery of the financial audits. I am also very grateful to the staff in the Finance Divisions of the public bodies audited for their cooperation. It will be essential that the constructive working relationships are continued as we move forward with our respective responsibilities in a public sector climate that is subject to significant budgetary pressures.

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22 December 2010

Section One:
Financial Audit: Qualified Opinion and Reports on Accounts

Section One:
Financial Audit: Qualified Opinions and Reports on Accounts

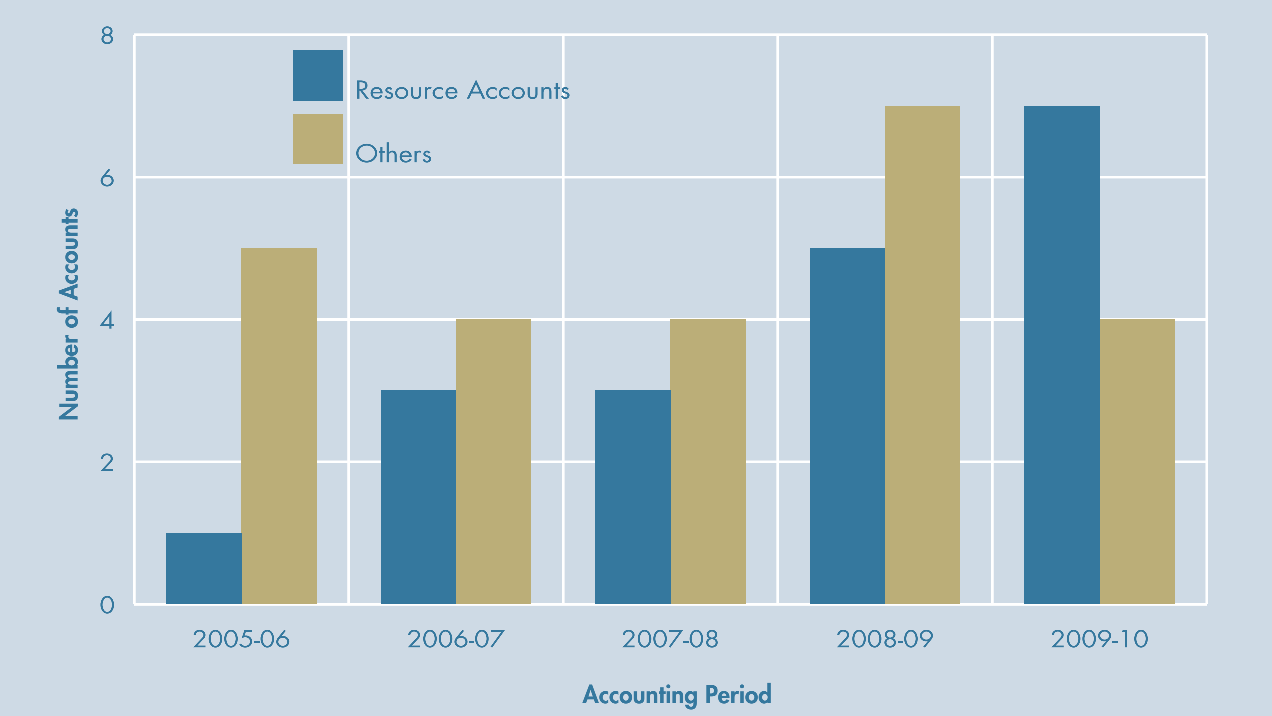
Qualified Opinions and Reports on Accounts

1.1 Qualified Opinions – Departmental Resource Accounts

1.1.1 The quality of departmental resource accounts submitted for audit had significantly improved since the introduction of accrual based accounting in central government from 2000-01, when ten out of seventeen accounts were qualified. However, in the 2009-10 accounting period, seven out of seventeen resource accounts were qualified (41 per cent). The number of qualifications has been gradually rising since 2005-06 when only one account was qualified. In all seven my opinion was qualified because of irregular[1] expenditure. In addition two of the seven were also qualified on the truth and fairness of the income and expenditure. Several of the regularity qualifications were as a result of failures to obtain proper approvals for the procurement of services, including specific examples, in relation to business cases to provide consultancy support for large scale projects and single tender actions. **Figure 1** illustrates the number of qualifications on resource accounts and other accounts for a five year period 2005-06 to 2009-10.

1.1.2 Each year there are usually seventeen departmental resource accounts subject to certification. The majority have received

Figure 1: Number of Qualifications for Accounting Periods 2005-06 to 2009-10



1 The concept of regularity reflects the Assembly's concern that public money raised through taxation on the public is used only for the purposes approved by the Assembly.

an unqualified audit opinion. When qualifications arise, this is generally indicative of weaknesses in financial control that can compromise the ability of departments to provide sound accountability to the Northern Ireland Assembly. **Figure 2** contains brief details of the seven resource accounts which received qualified audit opinions for the 2009-10 financial year.

Figure 2

Department	Nature of the Qualification
Department for Regional Development	The accounts' regularity audit opinion was qualified due to irregular expenditure of £5.3 million incurred by Northern Ireland Water in 2009-10 with a further £9.2 million incurred in 2008-09 and £6.5 million incurred in 2007-08. Significant exceptions in the procurement and contract management framework of control and application of the financial delegations framework were identified. For example there were multiple instances of single tender actions greater than £250,000 where DRD shareholder approval was not obtained contrary to NI Water's delegation limits and potential breaches of the Official Journal of the European Union Utilities Contract Regulations had occurred.
Department of Culture, Arts & Leisure	The audit opinions were qualified on three issues. 1. Expenditure on the Grand Opera House Extension/ Refurbishment Project amounting to £1.7 million was identified for which the Department had not obtained the necessary DFP approval. DFP advised the Department that retrospective approval had not been granted because neither it, nor the Department, had the opportunity to challenge either the post tender cost over-run or the subsequent client changes. DFP was of the view that had those challenges materialised much of the expenditure might not have been incurred. The regularity opinion was qualified.

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Financial Audit: Qualified Opinions and Reports on Accounts

Figure 2 Continued

Department	Nature of the Qualification
	2. The Department administered an EU Peace II grant programme, the Water Based Tourism Programme, from 2001 to 2006. Assessments carried out by the EU at the end of an EU scheme may result in disallowance of amounts previously paid, or subject to final payment under the scheme. An EU disallowance of £188,000 has been included in the 2009-10 accounts which will have to be paid back to the European Commission in 2010-11. This liability was deemed to be irregular and the regularity opinion was qualified. 3. In 2008-09 the Department engaged consultants to establish rights to claim ownership of all property assets arising from its responsibility for inland waterways and inland fisheries. The findings of this work resulted in the Department being unable to provide evidence of legal ownership for certain land and buildings. In addition, other assets were identified including land, locks, bridges and weirs which the Department may own, but are not included within their assets. In 2009-10 it was further noted that the Department could not provide evidence of sporting and fishing rights. The true and fair audit opinion was qualified on the basis of insufficient appropriate evidence to support the legal ownership of these assets.
Department of Education	The accounts contained irregular expenditure of £2.1 million incurred in respect of external consultancy fees on six projects which specifically required the approval of DFP but approvals have not been retrospectively granted due to the Department's failure to comply with specific conditions as defined in Managing Public Money Northern Ireland. The Department has identified twelve projects which have in all likelihood incurred irregular expenditure amounting to £4.4 million between 2004-05 and 2009-10. The regularity audit opinion was qualified.

Figure 2 Continued

Department	Nature of the Qualification
Teachers' Superannuation Pension Scheme	The Statement of Parliamentary Supply to the Teachers' Superannuation Scheme resource accounts showed that the authorised expenditure of £467,774,000 had been exceeded by £3,697,000. This is known as an Excess Vote. The Excess Vote arose mainly because of the Department's failure to operate adequate internal controls to manage effectively the estimating process. The biannual exercise for updating the estimates for the Teachers' Superannuation Scheme involves intricate interactions between a number of stakeholders within and external to the Department. The process for agreeing the update to the figure-work was not fully documented which gave rise to ambiguity regarding relevant responsibilities for confirming the estimate figures. The regularity audit opinion was qualified.
Department of Finance and Personnel	The regularity audit opinion was qualified on the basis of EU financial corrections amounting to £25 million relating to the Special Support Programme for Peace and Reconciliation in Northern Ireland (PEACE I) and the Northern Ireland Single Programme Document (NISPD) programme. In the final closure proposals the European Commission advised that weaknesses in the audit trail were confirmed. This was partly due to either, the highly complex management structure of the programme, or misinterpretation of the regulations; and formal compliance with regulations could not be evidenced for all projects audited i.e. there was not an invoice or a proof of payment for every single amount of expenditure selected. The EU corrections of £25 million represent a shortfall of EU funding which will be met by the taxpayer as a result of weaknesses in the system of administrative controls over the use of EU funding.

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Financial Audit: Qualified Opinions and Reports on Accounts

Figure 2 Continued

<table>
<tr><th>Department</th><th>Nature of the Qualification</th></tr>
<tr><td>Department for Social Development</td><td>The audit opinions were qualified on three issues.

1. The material levels of estimated fraud and error in benefit expenditure, other than state pension, administered by the Department through the Social Security Agency. The Department estimated that in 2009 losses of £56.1 million had arisen through overpayments, representing 1.8 per cent of total benefit expenditure. The Department also estimated a further amount of £19.5 million was unpaid to customers, which is 0.6 per cent of total benefit expenditure. The regularity audit opinion was qualified.

2. The accounts include expenditure of £64 million on the Supporting People Programme. £2.2 million of this relates to Special Needs Management Allowance (SNMA) where payments have not been appropriately monitored since 2003 by either the Department or Northern Ireland Housing Executive (NIHE is responsible for administering the programme). The payments have continued without consideration of any change in circumstances. The lack of monitoring of the use of these payments means that the C&AG could not be satisfied that they were being used for the purposes intended and the regularity audit opinion was qualified.

3. The financial audit opinion on the truth and fairness of the accounts was qualified for
• Information Technology (IT) assets and intangible assets developed internally and by the Department of Work and Pensions (DWP) which the Department utilises for the delivery of social security benefits.
• The necessary supporting documentation and evidence was not available to confirm whether the correct accounting treatment had been applied by the Department in accordance with International Financial Reporting Standards (IFRS) to those non-current IT and intangible assets and associated resource costs.</td></tr>
</table>

Figure 2 Continued

Department	Nature of the Qualification
Department of Agriculture and Rural Development	The regularity audit opinion was qualified on three issues: • the Excess Vote caused by the net cash requirement (NCR)[2] being exceeded; • the Excess Vote caused by the net resource outturn (NRO) being exceeded; and • the regularity of amounts due to be paid to the EU in respect of financial corrections. 1. The NCR outturn was 10.3 per cent greater than the Estimate NCR of £225,213,000. The Department advised that it inadvertently requested insufficient cash to deliver the Departmental budget because of a number of administrative errors. 2. The NRO was 5.1 per cent greater than the estimate of £275,706,000. The NRO includes not only cash paid but resources committed to meet outstanding liabilities. The resource excess was due to the inclusion of certain liabilities for EU financial corrections. The Department had not expected these financial liabilities to materialise in the 2009-10 financial year and had therefore not included them in the 2009-10 Estimates. 3. As part of the European Commission's control over the administration of funding, periodic audits are conducted to ascertain whether the Department is complying with EC regulations. The Commission advised that three financial corrections were being applied to the Department due to weaknesses in : • the mapping systems used to record and determine the area of land eligible for payment of grant aid;

2 NCR is the amount of cash required from the Consolidated Fund in the year in question for the department to carry out its business as specified in the Ambit (scope of expenditure).

Section One:
Financial Audit: Qualified Opinions and Reports on Accounts

Figure 2 Continued

Department	Nature of the Qualification
	• the procedures used by the Department inspectors to carry out spot checks which did not ensure ineligible land was excluded from claims for payment of grant aid; and • the processes for implementing recovery of overpayments of grant aid. The liability of £64 million to make good the shortfall in EU funding represents a loss to the public funds which falls outside the Assembly's intentions in relation to the proper administration of EU funding. The expenditure has therefore not been applied to the purposes intended by the Assembly and is not in conformity with the authorities which govern it.

1.2 Qualified Opinions – Other Entities

1.2.1 In the accounting period four 2009-10 accounts of other entities were qualified. Details are outlined at **Figure 3** below. The full content of these qualifications have not been reproduced as they are adequately addressed in the qualifications attached to the associated departmental resource accounts, which are outlined in full at Section 2.

Figure 3

Name of Public Body	Nature of the Qualification
Arts Council for Northern Ireland	Expenditure on the Grand Opera House Extension/ Refurbishment Project amounting to £1.7 million was identified for which the Department of Culture, Arts and Leisure (DCAL) had not obtained the necessary DFP approval. DFP advised the Department that retrospective approval had not been granted because neither it, nor the Department, had been given the opportunity to challenge either the post tender cost over-run or the subsequent client changes. DFP was

Figure 3 Continued

Name of Public Body	Nature of the Qualification
	of the view that had those challenges materialised much of the expenditure might not have been incurred. The Arts Council recognises that the failure to obtain the necessary approvals is a significant breakdown in project management resulting in the additional expenditure being irregular. The regularity audit opinion was qualified.
Northern Ireland Housing Executive	1. Housing Benefit expenditure for the year 1 January 2009 to 31 December 2009 contained estimated levels of fraud and error of £9.3 million overpayments, and £3.4 million underpayments, due to official error. In total this represents some 2.5 per cent of housing benefit expenditure. The regularity audit opinion was qualified. 2. The regularity audit opinion was also qualified due to grant payments in respect of £2.2 million paid as a Special Needs Management Allowance (SNMA) to 34 registered care homes from the Supporting People budget. These payments have not been appropriately monitored since 2003 by either DSD or NIHE (NIHE is responsible for administering the programme). The payments have continued without consideration of any change in circumstances. The lack of monitoring of the use of these payments means that the C&AG could not be satisfied that they were being used for the purposes intended.
Social Security Agency	1. The regularity audit opinion was qualified because of the material estimated levels of fraud and error in certain benefit expenditure, other than State Pension which amounted to £44.5 million in respect of overpayments and £15.2 million regarding underpayments.

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Financial Audit: Qualified Opinions and Reports on Accounts

Figure 3 Continued

Name of Public Body	Nature of the Qualification
	2. The financial opinion on the truth and fairness of the accounts was also qualified with a limitation in scope on the accounting treatment of IT assets and intangible assets developed internally, and by the Department for Work and Pensions (DWP) which the Social Security Agency utilises for the delivery of social security benefits. The Agency was unable to provide the required supporting documentation or explanations necessary for the purposes of the audit of IT assets and intangible assets.
Department for Social Development – Child Maintenance and Enforcement Division Client Funds Account[3]	1. The audit opinion on the truth and fairness of the accounts was qualified because: • The C&AG was unable to determine whether the Department maintained adequate accounting records to support the level of outstanding maintenance arrears balances totalling £80.7 million; • The C&AG was unable to determine if outstanding maintenance arrears figures disclosed were in agreement with the accounting records; and • Not all the information and explanations relating to maintenance arrears balances which were required for the audit were obtained. 2. The regularity audit opinion was qualified because of maintenance assessments which had been calculated incorrectly.

3 The former Child Support Agency ceased to be an Agency on 31 March 2008 and from 1 April its operations were delivered by the Child Maintenance Division within zthe Department for Social Development.

1.3 Reports on Accounts by the C&AG

1.3.1 In the 2009-10 accounting period we issued one further report, on the DHSSPS accounts which was not associated with a qualification. This can be found at section 2.4. [Note that the C&AG also reported on the Belfast Health and Social Care Trust accounts which consequently led to the report on the DHSSPS NI accounts. Details will be contained in the C&AG's General Health Report to be published later.]

1.4 Emphasis of Matter in Audit Certificates

1.4.1 An "emphasis of matter" is an additional disclosure in the audit certificate to indicate a significant uncertainty or other matter, which is appropriately referred to in the notes forming part of the financial statements, but which the auditor considers is significant or important enough to modify the audit certificate.

1.4.2 It must be noted that an "emphasis of matter" paragraph does not qualify the audit opinion. During financial year 2009-10, fourteen of the C&AG's certificates included "emphasis of matter" paragraphs. The fourteen accounts were:

Road Service Agency 2009-10 Accounts
Department for Regional Development 2009-10 Resource Accounts
Department of Enterprise, Trade and Investment 2009-10 Resource Accounts
Health and Social Care Superannuation 2009-10 Resource Accounts
Economic Research Institute for Northern Ireland Ltd 2008-09 Accounts
Giants Causeway Visitor Facilities Ltd 2009-10 Accounts
Rural Cottage Holidays 2009-10 Accounts
Enterprise Ulster 2006-07 and period ended 30 June 2007 [2]
Further Education Colleges 2009-10 [5]

1.4.3 **Figure 4** provides brief details on the circumstances which gave rise to the "emphasis of matter" paragraphs.

Figure 4

Name of Public Department	Details of Emphasis of Matter
Road Service Agency 2009-10	Note 16 of the financial statements included a provision in relation to a contractor dispute. A reliable estimate of the provision, based on all the information available, and a disclosure noting the significant uncertainty in relation to the outcome of this claim, has been included in the accounts. The purpose of the emphasis of matter is to highlight that there still remains significant uncertainty as to the outcome of this claim which could have a material effect on the financial statements.

Section One:
Financial Audit: Qualified Opinions and Reports on Accounts

Figure 4 Continued

Name of Public Department	Details of Emphasis of Matter
Department for Regional Development 2009-10	Note 23 of these accounts drew attention to the inclusion of a provision within the financial statements in relation to a contractor dispute at the Road Service Agency. Because the Road Service Agency accounts are consolidated into the DRD Resource Accounts the emphasis of matter on the same issue was also included in the C&AG's certificate on the Resource Accounts.
Department of Enterprise, Trade and Investment 2009-10	Note 19 of the financial statements indicated the existence of a significant uncertainty over the adequacy or excessiveness of the provisions at 31 March 2010 of £99 million (of which £88 million is anticipated asbestosis claims). The emphasis of matter paragraph is included as the ultimate outcome of the matter cannot presently be accurately determined.
Health and Social Care Superannuation Scheme 2009-10	Note 2.10 of the financial statements considered the appropriateness of certain demographic assumptions used in the actuarial valuation. The valuation at 31 March 2008, which formed the basis of the actuarial liability at 31 March 2010, used certain demographic assumptions applicable as at 31 March 2004. The 2008 full valuation was not sufficiently progressed to enable the scheme to use current scheme specific demographic assumptions. The Scheme's actuary indicated that the updating of the 2004 demographic assumptions to those applicable as at 31 March 2010 was unlikely to have a material effect on the resource accounts. However because of the significant passage of time between 2004 and 2010 the issue was noted as an emphasis of matter.
Economic Research Institute for Northern Ireland Ltd 2008-09	Note 1 of the financial statements explained that the ability of the Economic Research Institute of Northern Ireland Ltd to continue as a going concern was dependent on the company's ability to find cover for any residual deficit. Management were working with the funding department, Office of the First Minister

Figure 4 Continued

Name of Public Department	Details of Emphasis of Matter
	and Deputy First Minister (OFMDFM), on this matter and were, therefore, content that the accounts should be prepared on a going concern basis. The emphasis of matter paragraph is included as the conditions indicate the existence of a material uncertainty which may cast doubt about the company's ability to continue as a going concern.
Giants Causeway Visitor Facilities Ltd 2009-2010	Note 1 of the financial statements explained that the company will be wound up in the near future. Accordingly, the going concern basis was no longer appropriate and the financial statements were therefore prepared on a break up basis, with full provision included to reduce assets to their realisable values, and to provide for liabilities arising from closure. This matter was considered of sufficient importance to be included in the C&AG's audit certificate.
Rural Cottage Holidays Ltd 2009-10	Note 2.1 of the financial statements explained that the company will be wound up in the near future. Accordingly, the going concern basis was no longer appropriate and the financial statements were prepared on a break up basis with full provision included to reduce assets to their realisable values and to provide for liabilities arising from closure. This matter was considered of sufficient importance to be included in the C&AG's certificate.
Enterprise Ulster 2006-07 and period ending 30 June 2007	Note 1 of the financial statements in both sets of accounts explained that the Corporation was to cease operations on 30 June 2007. Accordingly the going concern basis was no longer appropriate. Provision was included in the financial statements to reduce assets to their realisable values and to provide for liabilities arising from closure. This matter was considered of sufficient importance to be included in the C&AG's certificate.

Section One:
Financial Audit: Qualified Opinions and Reports on Accounts

Figure 4 Continued

Name of Public Department	Details of Emphasis of Matter
Further Education Colleges 2009-10	The notes to the financial statements which detail the pension costs incurred by the Colleges during the year detail the Government's announcement in the 2010 budget for the future increases in public sector pension schemes to be linked to changes in the Consumer Prices index (CPI) rather than, as previously, the Retail Prices Index (RPI). This change was treated as a credit to the Income and Expenditure account in the Colleges' accounts. The urgent Issue Task Force is in the process of consulting widely on the accounting treatment for this change. Should a different accounting treatment be required it may be necessary to reflect any change as a prior year adjustment in the accounts of the Colleges. It is for this reason that I have highlighted this matter in my audit certificate.

1.5 Outstanding Accounts

1.5.1 At this juncture there are a number of accounts which would be covered by the scope of this General Report which have not been certified yet due a number of technical and other practical issues. These include: The Belfast Metropolitan Further Education College 2008-09 and 2009-10, the Five Education and Library Boards 2009-10, and the NI Consolidated Fund 2009-10 Revenue Accounts.

1.6 Conclusion

1.6.1 The majority of departments and other public entities have continued to produce good quality accounts for audit scrutiny which result in unqualified audit opinions. However, there are a number that contain inadequate audit evidence to support an unqualified audit opinion or lead to a public interest report being attached to the accounts. All qualifications are indicative of weaknesses in internal control and compromise the entity's ability to provide sound accountability to the Northern Ireland Assembly. Generally there is no consistent pattern to the type of qualifications arising however in this accounting period several of the qualifications were as a result of irregular expenditure due to lack of proper business case approvals for consultancy costs to support large scale projects. We note a similar position existed in the previous accounting period which was reported in the C&AG's General Report published on 7 July 2010. This is an issue which we will continue to keep under review.

Section Two:
Resource Accounts

Section Two: Resource Accounts

2.1 Department for Regional Development 2009-10

Introduction

2.1.1 This report explains the basis of the qualified audit opinion I have placed on the 2009-10 Resource Accounts for the Department for Regional Development.

2.1.2 My opinion was qualified due to the irregular expenditure incurred as a result of significant breaches in governance and controls over procurement in Northern Ireland Water Limited (NI Water). The resource accounts for the Department for Regional Development (DRD) include expenditure in respect of NI Water.

Background

2.1.3 NI Water was established on 1 April 2007 as a Government owned company ("GoCo") with DRD as the sole shareholder. The GoCo is subject to companies' legislation. NI Water was appointed under the Water and Sewerage Services (Northern Ireland) Order 2006 as the provider of water and sewerage services in Northern Ireland, operating under licence from the Northern Ireland Authority for Utility Regulation.

2.1.4 In addition to the requirements of companies' legislation, DRD established particular governance arrangements for the GoCO which allowed the Department to act in accordance with the Shareholder Executive[4] approach for public sector shareholdings. The DRD Accounting Officer holds ultimate responsibility for DRD's shareholding in NI Water. In meeting this responsibility, governance arrangements were agreed with NI Water setting out how DRD would act as shareholder. This included financial delegations where limits were set for certain transactions above which shareholder approval was required.

2.1.5 Funding from DRD to NI Water is in the form of revenue subsidy (NI Water's main source of income), some seventy-five per cent of its income; capital grant support and the issue of capital loan notes. In 2009-10 DRD's subsidy to NI Water was £258 million, capital loan notes of some £170 million were issued as well as capital grant support of some £64,000.

Irregular expenditure incurred in respect of NI Water contracts

2.1.6 In October 2009 the Chief Executive of NI Water[5] (who had been appointed as a subsidiary Accounting Officer in September 2009) became aware of irregularities in the award of a contract in April 2007. This Single Tender Action contract had not obtained the appropriate internal and shareholder approvals in breach of Northern Ireland Water's delegated limits set by DRD. The delegated limit for Single Tender Actions is £250,000 and any over that amount require shareholder approval. The Chief Executive commissioned a wider review of contracts (the Contracts Approvals Internal Audit Review, published in January 2010). The Review found that, from April 2007, £10.1 million had been spent by NI Water on contracts which had not

4 Shareholder Executive model aims to implement a systematic approach to the application of corporate governance best practice addressing the Shareholder Executive's four shareholding principles of clarity, value, transparency and professionalism.

5 The current Chief Executive was appointed in July 2009; the contracts in question were awarded prior to his appointment.

been appropriately approved as Single Tender Actions or which had potentially breached the requirement of the Utilities Contract Regulations 2006 to tender via the Official Journal of the European Union (OJEU).

2.1.7 Due to the significance of the issues emerging the Chief Executive and DRD Accounting Officer commissioned a further review of contracts not examined in the Contract Approvals Internal Audit Review (the 'deep dive' audits). At the same time the Accounting Officers jointly commissioned an independent review team (IRT) to undertake a review of procurement governance issues within NI Water. The IRT report of February 2010 found that the failures identified by internal audit were of a significant nature and represented a serious breakdown (in terms of the quantum of cases and monetary value) in the governance and control framework of NI Water.

2.1.8 In light of the IRT report's findings, the Chairman and three non-Executive Directors of NI Water were dismissed by the Minister for Regional Development in March 2010.

2.1.9 The 'deep dive' audits, completed in April 2010, identified further significant exceptions in the procurement and contract management framework of control and in the application of the financial delegations framework. Taken together, the Contracts Approvals' Internal Audit Review and the further 'deep dive' audits have identified multiple instances of:

- Single Tender Actions greater than £250,000 where DRD shareholder approval was not obtained contrary to NI Water's delegation limits; and
- Potential Official Journal of the European Union (OJEU) Utilities Contract Regulation breaches.

In 2009-10 total expenditure relating to these instances of non-compliance amounted to £5.3 million. A further £9.2 million in 2008-09 and £6.5 million in 2007-08 were also non-compliant. In total £21 million of expenditure did not conform to the relevant financial delegations and procurement regulations.

2.1.10 There were many further instances of Single Tender Actions under £250,000 which required the approval of the Chief Executive (but not DRD approval) but which were not sought. The overall value of unapproved Single Tender Actions under £250,000 was £7.5 million.

2.1.11 The exceptions in procurement and contract management control noted above are disclosed in NI Water's audited financial statements within the Statement on Internal Control and have been noted in DRD's own Statement on Internal Control (see page 53 of the DRD resource accounts). I am not responsible for the external audit of NI Water, which is audited by a private sector firm of auditors. I am therefore reliant on the financial information contained in the audited accounts of NI Water in terms of the amounts disclosed in paragraphs 2.1.6 and 2.1.9 above. The auditors

Section Two:
Resource Accounts

of NI Water provided an unqualified opinion on the 2009-10 financial statements. As a limited company, the auditors of NI Water are not required to provide an opinion on the regularity of its expenditure, notwithstanding that it is largely funded by public money. I would strongly recommend that DRD, in consultation with DFP, ensures that, in future, NI Water, and any other public bodies that do not obtain this assurance, receives and publishes an opinion from the external auditors on the regularity of income and expenditure.

2.1.12 DRD has informed me that a joint DRD/NI Water Action Plan has been developed to significantly improve controls. The Chief Executive is pursuing implementation of the Plan as a matter of urgency and progress is being formally monitored by DRD. As part of the Action Plan a procurement manual has been produced; a training programme for all managers and staff involved in procurement has been developed and is being rolled forward; and the selection process for the appointment of a Procurement Compliance Officer is underway. In addition, DRD is progressing the four recommendations of the IRT Report which relate to its role as shareholder and monthly progress will be presented to the Department's Senior Finance Director. I will continue to monitor developments and the action taken to improve governance arrangements.

2.1.13 I asked DRD if it had come to a view on whether there were conflicts of interest in the award of these contracts and whether there is evidence of fraud. DRD told me that there was no evidence of fraud or conflicts of interest in relation to the expenditure which did not conform to relevant financial delegations and procurement regulations as set out in paragraph 2.1.9.

2.1.14 Given the seriousness of these matters, the Northern Ireland Assembly's Public Accounts Committee has taken evidence on the governance of NI Water on 1 July 2010 and will report on its findings later.

Conclusion

2.1.15 In forming my opinion on the DRD 2009-10 resource accounts, I am required to confirm whether, in all material aspects, the expenditure and income have been applied to the purposes intended by the Assembly and the financial statements conform to the authorities that govern them. On the basis of my findings above, expenditure of £5,342,223 incurred by NI Water in 2009-10 which failed to conform to the relevant financial delegations set by DRD and procurement regulations is irregular. My audit opinion has been qualified as a result. On the same basis, expenditure of £9,188,771 in 2008-09 and £6,455,630 in 2007-08 was also irregular.

2.2 Department of Culture, Arts & Leisure 2009-10

I have qualified my audit opinion on the Department of Culture, Arts & Leisure (the Department) accounts for 2009-10 in three respects, which I have set out below.

Irregular payments in respect of the Grand Opera House Extension/ Refurbishment Project

Introduction

2.2.1 In accordance with the requirements of Managing Public Money Northern Ireland (MPMNI), the Department of Finance and Personnel (DFP) has delegated to Departments authority to enter into commitments and to spend within defined limits, subject to certain restrictions.

2.2.2 It is a general condition of DFP approval that it must be notified if at any time costs or any other key assumptions vary by more than 10 per cent from the estimates given in the business case upon which the approval was based, or if implementation is delayed by more than 24 months.

2.2.3 If a department wishes to make any significant change to a project or to its proposal for procurement, after approval has been granted, DFP agreement must be obtained before any expenditure is committed and before procurement is commenced.

Grand Opera House Extension/ Refurbishment Project

2.2.4 In 2002 the Grand Opera House wanted to extend their building to sites adjacent to and behind the existing theatre building. The Arts Council of Northern Ireland had earmarked, in principle, £2m towards the cost of this building project.

2.2.5 In order to secure this funding from the Arts Council, the Grand Opera House commissioned, in May 2002, an economic appraisal and business plan in support of a building development application for funding from both the National Lottery and public monies. This appraisal was subject to challenge by both the Arts Council and the Department before a revised appraisal for project costs of £8,428,000 was submitted to DFP for approval in September 2002. DFP advised the Department in December 2002 that approval for the extension/refurbishment project had been granted. The project was managed by the Arts Council who appointed a consultancy firm to oversee the project itself.

2.2.6 In 2005, when tender costs were higher than anticipated by £1,183,000 (14% including start up and closure costs) the Department should have submitted to DFP an addendum to the business case. This would have been in line with the NI Practical Guide to the Green Book which states that a standard condition of DFP approval is that, if it becomes apparent that capital costs indicated in the business case will be exceeded by more than 10% DFP should be notified as soon as possible.

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2.2.7 In 2006, client changes were made to the project further increasing the costs by £1,035,000 (12%). These client changes consisted of:

- Claim for loss/expense by the contractor;
- Additional Architect's Instructions;
- Additional start-up/closure costs for the Grand Opera House;
- Overspend on the original contract; and
- Post completion works at the Grand Opera House.

Again the NI Practical Guide to the Green Book states that, if the cumulative cost of client changes exceeds 5 per cent of the approved budget DFP will require an addendum business case to be submitted. The Department did not submit an addendum business case to DFP.

2.2.8 The total cost of the Grand Opera House Extension/Refurbishment Project was identified in 2009 as £10,646,000 – an overrun of £2,218,000. Of this amount, £1,183,000 was attributable to the higher tender cost and £1,035,000 was attributable to the client changes.

2.2.9 The Department was advised by the Grand Opera House that it would require additional funding of £1,736,000. The balance, of £482,000 was to be met through funding already received and expected from the Grand Opera House Development Donations.

Retrospective Approval

2.2.10 If expenditure has been committed or procurement commenced without DFP approval then DFP may be prepared to consider granting retrospective approval in exceptional circumstances and only under specific conditions as defined in MPMNI namely:

(a) it would have granted approval had it been approached properly in the first place; and

(b) the Department is taking steps to ensure there is no recurrence.

2.2.11 In June 2009 the Department wrote to DFP seeking retrospective approval for a payment of £1,736,000 to the Grand Opera House. In doing so, the Department advised DFP that *'there is no evidence that an options assessment was undertaken either at the time of the original post tender cost over-run or the subsequent client changes'* and *'it has not been possible to ascertain that all costs were unavoidable in delivering the project as specified in the original business case'*.

2.2.12 In September 2009, following a request from DFP, the Department provided clarification on a number of points in its June 2009 submission. The Department noted it *'has assessed the cost overruns and has concluded that while a significant proportion of the additional costs incurred were inescapable, it has not been* *possible to ascertain that all costs were unavoidable in delivering the project as specified within the 2002 business case.'*

2.2.13 In October 2009 DFP advised the Department that retrospective approval had not been granted because neither it, nor the Department had the opportunity to challenge either of the two expenditure increases in the project. DFP was of the view that had those challenges materialised, much of the expenditure might not have occurred.

2.2.14 However, in November 2009 the Department advised the Arts Council that there were a number of compelling reasons to support a Departmental contribution to the Grand Opera House. These reasons included, amongst others:

- health and safety issues that needed to be addressed at additional costs but which could prevent future claims;
- the strategic importance of the Grand Opera House to the national and international reputation of Northern Ireland; and
- the potential for the Grand Opera House to be left trading in an insolvent position, should funding not be secured.

The Department concluded that through the Arts Council it should make available to the Grand Opera House the necessary resources to meet the cost increases incurred in delivering the capital project.

2.2.15 I asked the Department what other options were considered other than making available the additional resources. The Department advised me that due and careful consideration was given to the consequences of not providing the additional funding to the Grand Opera House. The Department concluded that an additional funding contribution of £1,736,000 was essential to ensure the realisation of the considerable public investment which had already been made by a number of stakeholders and to enable the Grand Opera House to meet its current obligations, remain operationally viable and regain a stable financial position. The Department's decision was also in recognition of the important role which the Grand Opera House plays as a critical component of the cultural infrastructure in Northern Ireland.

2.2.16 Following notification of the above case, I asked the Department if it was aware of any other projects where DFP approval had not been sought. One additional project was identified which exceeded the 10 per cent threshold – refurbishment of the Ulster Museum - and had not complied with the requirement of MPMNI. I am informed that DFP has subsequently granted retrospective approval for this case.

2.2.17 The Department recognises that the failure to obtain the necessary approvals is a significant breakdown in project management and resulted in the additional expenditure being irregular.

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Conclusion

2.2.18 Expenditure amounting to £1,736,000 has been identified for which the Department has not obtained the necessary DFP approval. As this expenditure has not been applied to the purposes intended by the Assembly I have qualified my audit opinion on regularity. It is concerning that both the Department and DFP recognise that some costs may have been avoided if procedures had been followed. This raises implications about value for money in the project.

Disallowed EU expenditure

2.2.19 The Department administered an EU Peace II grant programme, the Water Based Tourism Programme, from 2001 to 2006. The strategic aim of the programme was to provide prime angling and angling facilities to attract angling tourists to Northern Ireland and to develop the inland waterway network and improve water recreation facilities for the benefit of both local and tourist users, thereby promoting economic and social regeneration of local areas.

2.2.20 Eligibility of claims for EU funds, comprising regularity of the underlying transaction and compliance with scheme rules, is subject to assessment by the EU. Assessment carried out by the EU at the end of a scheme may result in disallowance of amounts previously paid, or subject to final payment under the scheme.

2.2.21 In 2008 DFP EU Verification Unit carried out an audit and recommended that the Department should undertake a review of all payments to ensure systemic weaknesses were not present. A review of 50 per cent of projects in receipt of funding, not already audited, was performed. The Department has stated it did not review all payments because a risk based decision was made regarding the coverage of the audit.

2.2.22 The Lakeland Marine project was reviewed; the expenditure awarded for the project was £251,000 with actual expenditure of £250,000, of which 75 per cent was EU funding. The review highlighted issues in respect of the eligibility of claiming the expenditure under the PEACE II programme. A number of key areas of weakness were identified in respect of the application of adequately transparent tendering / procurement procedures and the availability of supporting documentation for payment claims.

2.2.23 It is my view that disallowance enforced by the EU is always irregular as it represents a shortfall in EU funding which will be met by the UK taxpayer and which has arisen through ineffective controls operated by the UK managing body.

2.2.24 The report of this review has been considered by the Department alongside Internal Audit. The Department's Inland Waterways and Inland Fisheries Branch has worked to address outstanding issues in accordance with an agreed action plan. A subsidiary Article 15 Statement will issue from the Head of Internal Audit to DFP for review and onward transmission to the European Commission. An amount of £188,000 has been included in 2009-10 financial statements and will be paid back to the European Commission in 2010-11.

2.2.25 Although Internal Audit was unable to establish any additional evidence regarding the eligibility of the project in line with EU requirements the Department considered that the project had been delivered in line with anticipated outputs. This was supported by site visits and opinions from DCAL's Fisheries Technical Officer. The Department is therefore considering if the expenditure can be allocated against departmental funding as opposed to seeking claw back from the recipient.

Conclusion

2.2.26 The liability of £188,000 represents a loss of public funds which falls outside the Assembly's intentions in relation to the proper administration of European funding. I have therefore concluded that expenditure has not been applied for the purposes intended by the Assembly and is not in conformity with the authorities which govern it and qualified my audit opinion on regularity.

Legal ownership of assets

2.2.27 In 2008-09 we reported that on its formation on 1 December 1999, the Department took various assets onto its non current asset register which had previously been held in the registers of other departments. Given the nature of some of these assets, legal ownership had not been formally established in all cases. The Department has advised me it is also possible that it may have taken on ownership of assets following the transfer, details of which are not recorded in its register. This situation continues to exist in 2009-10.

2.2.28 The Department has advised me it has sought to quantify the deficit in legal ownership and resolve this as appropriate. The Department considers this may be an extended process but that it is being addressed expeditiously with priority given to establishing legal ownership to land on which the Department has buildings or other structures.

2.2.29 In 2008-09, the Department had received a report from consultants who were engaged to establish rights to claim legal ownership to all property assets under the responsibility of inland waterways and inland fisheries. The findings of this work were that the Department was unable to provide evidence of legal ownership for certain land and buildings currently included in its financial statements. The report also identified other assets including land, locks, bridges, and weirs which the Department may own, but are not included within tangible fixed assets. I note:

- the financial statements include non current assets with a net book value of £34,401,000. Included in this amount are land and buildings with

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a net book value of £9,657,000 of which the Department cannot prove legal ownership for £3,461,000; and

- approximately fifty assets have been identified which may belong to the Department, but are not included in non current assets. The value of these assets is not known.

2.2.30 I asked the Department what progress it has made in resolving this matter since my last report. The Department advised me that Departmental Solicitors Office advice has been sought regarding its intention to register those sites on which the Department has buildings or other structures. The decision to extend the exercise to other assets will depend on the experience with this first group of assets, subsequent risk analysis and associated costs.

2.2.31 In my 2009-10 audit I have further noted that the Department could not provide evidence of ownership of sporting and fishing rights. The Department has confirmed that the absence of ownership extends to assets valued at £438,000. The Department intends to actively investigate this issue and will develop an action plan to carry out remedial work and liaise with relevant departments and agencies to ascertain if Fishing Rights documentation currently exists.

2.2.32 There were no procedures I could have undertaken as part of my audit to satisfy myself regarding verification of ownership for these assets. In the Statement on Internal Control, included in the departmental resource accounts, the Accounting Officer has referred to the absence of legal ownership.

Conclusion

2.2.33 As I have been unable to obtain sufficient audit evidence concerning the legal ownership of these assets, I have qualified my audit opinion due to this limitation in the scope of my audit. I will keep the Department's actions and progress in resolving this matter under review.

2.3 Department of Education 2009-10

Irregular Expenditure on External Consultancy Projects

Introduction

2.3.1 In accordance with the requirements of Managing Public Money Northern Ireland (MPMNI) and DAO(DFP) 06/05, the Department of Finance and Personnel (DFP) has delegated to departments authority to enter into commitments and to spend within defined limits, subject to certain restrictions. Prior DFP approval is required for each separate engagement of external consultants expected to cost over £75,000 (or otherwise agreed with DFP). DFP approval in such instances is only granted on completion of a satisfactory business case.

2.3.2 It is a general condition of DFP approval that it must be notified if at any time costs or any other key assumptions vary by more than 10 per cent from the estimates given in the business case upon which the approval was based, or if implementation is delayed by more than 24 months.

2.3.3 If a department wishes to make any significant change to a project or to its proposal for procurement, after approval has been granted, DFP agreement must be obtained before any expenditure is committed and before procurement is commenced.

Retrospective Approval

2.3.4 If expenditure has been committed or procurement commenced without DFP approval then DFP may be prepared to consider granting retrospective approval in exceptional circumstances and only under specific conditions as defined in MPMNI.

2.3.5 The purpose of this report is to explain my qualification of the Department of Education (the Department) Resource Accounts 2009-10 on irregular expenditure incurred in respect of external consultancy fees on six projects which specifically required the approval of DFP.

2.3.6 In 2008-09 we reported on this subject. Consultancy expenditure amounting to £2,576,624 had been identified for which the Department had not obtained the necessary DFP approval. This was irregular, but because it had been accounted for in years other than 2008-09 the regularity opinion in that year was unqualified. Subsequent information has, however, identified £211,592 of expenditure in the 2008-09 financial year for which the approval of business cases in line with the relevant guidance was not secured. This is summarised in Figure 5 overleaf.

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Figure 5: Irregular Expenditure Incurred on external consultancy costs in 2008-09

Name of Project	Irregular Expenditure 2008-09 £
Classroom 2000	38,350
Northern Ireland School Modernisation Programme - Legal costs incurred due to appeal process; - Costs incurred to develop alternative procurement mechanism	 2,430 49,199
School Leadership Project [50% of total expenditure incurred applicable to the Department]	39,238
Appointment of School Meals Advisor	9,197
Education and Skills Authority Implementation Team Audit of Non-school Accommodation	23,728
Education and Skills Authority Implementation Team Service Delivery Workshops	49,450
Total	**211,592**

2.3.7 The Department recognised that the failure to obtain the necessary approvals in the various cases was a serious breakdown in the project management process. A series of actions to be undertaken to enhance the arrangements within the Department and its funded bodies were outlined in the 2008-09 Statement on Internal Control.

2.3.8 There were three projects namely Holy Cross College Strabane PPP, Derry Diocese PPP and RPA Project Management Consultancy Support where retrospective approval from DFP to incur expenditure had been refused. There were three other projects where the Department considered it unlikely that retrospective approval would be given by DFP namely Down and Connor De La Salle PPP, Lagan/Tor Bank PPP and the Belfast Education and Library Board (BELB) Strategic Partnership (for which the Department was responsible for 50 per cent of the expenditure).

2.3.9 In the case of Down and Connor De La Salle PPP the Department was advised by DFP that retrospective approval was not being granted. For the other two cases the Department did not seek retrospective approval.

2.3.10 The consultancy requirements on the RPA Project Management Consultancy Support and BELB Strategic Partnership have come to an end with no expenditure incurred in 2008-09 or 2009-10.

2.3.11 The Department had anticipated irregular expenditure of £708,000 on the other four projects. Actual irregular expenditure in 2009-10 amounted to £1,935,429 a difference of £1,227,429 (173 per cent increase). I asked the Department to explain why there was such a variance. The Department advised *'it was not aware of the additional tasks in the Derry Diocese PPP, Down and Connor De La Salle PPP and Lagan/Tor Bank PPP when the information was being supplied for the 2008-09 resource accounts'*. I am disappointed the Department did not provide accurate and reliable information on these projects and the costs associated with them.

2.3.12 The Department was asked by my staff, as part of the 2008-09 audit, to determine whether there were any other projects where DFP approval had not been sought. As outlined above 3 cases were identified. Representations were given by management that they were not aware of any other cases. However, in October 2009 another case emerged namely Classroom 2000 (C2K) –Appointment of external consultancy to support completion of Lot 7 Outline Business Case. Since then another project has been identified – The Northern Ireland Schools' Modernisation Programme. In addition, four other consultancy projects within the Department's delegated limits (i.e. not requiring DFP approval) have been identified which have not secured the necessary departmental approval.

2.3.13 In summary the Department has now identified 12 projects which have in all likelihood incurred irregular expenditure amounting to £4,358,348 between 2004-05 and 2009-10. This is shown in Figure 6 overleaf.

Classroom 2000

2.3.14 The C2k project is a PFI scheme which provides an IT system to schools to support teaching, learning and administration. The project was split into a series of Lots. Retrospective DFP approval was sought for the appointment of external consultancy support to take the Lot 7 contract to procurement/final business case stage.

2.3.15 In September 2009 the Department was advised that retrospective approval had not been granted because the business case submitted in June 2008 was not compliant with guidance applicable at the time and was therefore not sufficiently robust to justify retrospective approval. DFP also registered concern over the time taken to develop the business case. *'It appeared to have taken over a year to develop into a robust business case by which point the consultancy contract appears to be almost complete. ….. The delay suggests that proper weight was not given to the business case or approvals process.'* DFP were also disappointed to note that measures taken by the Department to enforce proper business case practice had not been successful in preventing a recurrence.

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Figure 6: Total Irregular Expenditure incurred by the Department

Name of Project	Irregular Expenditure £ incurred on external consultancy costs						Total
	2009-10	2008-09	2007-08	2006-07	2005-06	2004-05	
RPA Project Management Consultancy Support	0	0	19,170	8,730	0	0	**27,900**
BELB Strategic Partnership	0	0	520,564	364,146	0	0	**884,710**
Derry Dioceses PPP	613,879	0	77,313	287,852	152,574	44,631	**1,176,249**
Down and Connor PPP De La Salle	832,841	0	0	0	0	0	**832,841**
Lagan/Tor Bank PPP	389,751	0	0	49,133	0	0	**438,884**
Holy Cross College Strabane PPP	98,958	0	0	162,168	129,984	237,942	**629,052**
Classroom 2000	60,748	38,350	0	0	0	0	**99,098**
Northern Ireland School Modernisation Programme							
- Legal advisers	8,178	0	0	0	0	0	**8,178**
- Legal costs	76,967	2,430	0	0	0	0	**79,397**
- Procurement mechanism	1,835	49,199	0	0	0	0	**51,052**
School Leadership Project	0	39,238	0	0	0	0	**39,238**
Appointment of School Meals Advisor	0	9,197	9,374	0	0	0	**18,571**
Audit of Non-school Accommodation;	0	23,728	0	0	0	0	**23,728**
Service Delivery Workshops	0	49,450	0	0	0	0	**49,450**
Total	**2,083,175**	**211,592**	**626,421**	**872,029**	**282,558**	**282,573**	**4,358,348**

Northern Ireland Schools' Modernisation Programme

2.3.16 One of the main objectives of the Northern Ireland Schools' Modernisation Programme was to establish modern, streamlined procurement arrangements to deliver the capital investment needed in the schools' estate. These arrangements were planned to be delivered by procurement vehicles known as frameworks.

2.3.17 One of these frameworks was at an advanced stage when it was the subject of a legal challenge. The judge ruled in favour of the plaintiff and the framework was set aside by the High Court. The Department has lodged an appeal against this ruling. There are three elements to this project which have given rise to irregular expenditure in 2009-10:

- the extension of a previous business case for the continued use of legal advisers in developing and implementing the procurement frameworks for the NISMP. A condition of the DFP approval of the external consultancy case was a requirement on the Department to inform DFP and seek approval in advance if the contract was to be extended beyond 31 March 2009. The Department did not do this therefore retrospective approval was not granted by DFP. DFP commented that *'you refer to a number of actions specifically introduced to ensure that controls in this area are improved and which will be subject to scrutiny by the NIAO in their audit of the 2009-10 resource accounts. However, the simple fact in relation to this and other cases is that substantial room for improvement remains'* ;

- the Department has indicated retrospective approval may not be secured in relation to the expenditure incurred on legal costs associated with the appeal. This expenditure is outside the scope of the original business case and as such DFP approval should have been sought for this expenditure. A business case for this purpose has been prepared by the Department but has not yet been submitted to DFP to request retrospective approval; and

- the High Court ruling necessitated the development of an alternative procurement mechanism outside the framework. The costs associated with the development of the procurement mechanisms were not part of the business case scope originally approved. A business case detailing the change in scope has been prepared and will be submitted for DFP retrospective approval, however, the Department has once again indicated that approval is unlikely because of the failure to comply with the requirements of the business case approval process.

Delegated Departmental Approval

2.3.18 Departmental approval refers to the delegation by DFP to the Department of the authority to enter into commitments and to spend within defined limits, subject to certain restrictions, without the prior approval of DFP. The four projects that did not receive departmental approval were:

- the School Leadership Project which was jointly funded on a 50:50 basis by the Department of Education Northern Ireland and the Department of Education and Skills in the Republic of Ireland. The Regional Training Unit which, for accountability purposes, is classed as part of the Belfast Education and Library Board (the Board), and Leadership Development for Schools in the Republic of Ireland were tasked with taking forward the project. The Board has the authority to appoint consultants for a single

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contract without recourse to the Department up to a total of £50,000 as stipulated in the Board's Financial Memorandum (FM), however under the terms of the FM, the Department's approval is required if the total cost of the assignment exceed £50,000. As the estimated costs for this project were £80,000, the Board should have submitted the business case to the Department for approval.

- the appointment of a part-time school meals advisor for a two year period from April 2007 to 2009, to provide professional advice to the Department and to Voluntary Grammar and Grant Maintained Integrated Schools on all aspects of the school meals service;
- the audit of non-school accommodation within the education sector with a view to providing a comprehensive platform to assist Education and Skills Authority Implementation Team (ESAIT) in the development of a location strategy; and
- the provision of a series of service delivery workshops.

Progress on Actions Outlined in the 2008-09 Statement on Internal Control

2.3.19 The 2008-09 Statement on Internal Control outlined a number of actions to be implemented to enhance the arrangements within the Department and its funded bodies to ensure robust and effective processes are in place in terms of governance and compliance with the approvals control procedures.

2.3.20 The Department committed to increased monitoring on a quarterly basis of compliance with business case approval processes at Directorate level and reporting to the Departmental Board; and a specific requirement within the Directorate Statements on Internal Control to confirm adherence to the business case process. I can confirm that quarterly monitoring has been carried out at September 2009, December 2009 and March 2010. All directorates have made the necessary returns, however, I would urge the Department to ensure the assurance statements are received on a more timely basis.

2.3.21 The Department's Internal Audit team undertook an assessment of the business case process operating within the Department and reported a Limited[6] assurance level.

2.3.22 Internal Audit identified nine areas requiring improvement within the business case approvals process and made six recommendations, of which three are priority one[7]. The recommendations include the development of a comprehensive finance manual to cover all aspects of the business case approvals process; and the need for management to remind staff to comply with current departmental guidance. It is my understanding that management are currently reviewing and assessing Internal

6 Limited means that *'there is considerable risk that the system will fail to meet its objectives. Prompt action is required to improve the adequacy and effectiveness of risk management, control and governance.'*

7 Priority one means that the weaknesses are deemed to be significant and should therefore be addressed immediately.

Audit's recommendations and intend to put in place a programme of actions as soon as the report is finalised.

2.3.23 The Department committed to a 'test drill' of external consultancy projects undertaken in 2008-09 within the Department and its ALBs. The purpose of this exercise was to ensure that appropriate standards had been applied, that decisions had been taken on a proper basis and that the appropriate approvals had been secured in advance of work commencing.

2.3.24 The review examined a sample of seventeen business cases, thirteen from the Department and four from ALBs. A number of failings were identified. The Department has informed me that the details of the test drilling exercise are to be disseminated within the Department and across all the ALBs highlighting the need to ensure that business cases are completed with appropriate and proportionate effect.

2.3.25 In addition, the review identified the four projects referred to earlier that had not secured the necessary departmental approval.

2.3.26 In light of these findings the Department intends to complete a similar exercise for the 2009-10 year with a view to having it completed by September 2010. Given the outcome of the 2008-09 exercise the potential risk of more irregular expenditure being identified clearly exists.

2.3.27 The final action point relates to Directors within the Department and its ALBs supplying details of all projects undertaken since 1 July 2006 to ensure that business cases have been completed for all projects, appropriate approvals secured and that post project evaluations have been completed. An initial analysis of the information received has been completed by the Department but a full report on the outcome of the exercise is not yet available. I have therefore asked the Department to provide me with a synopsis of the current position and whether any further projects are likely to emerge which have not followed the proper approvals process.

2.3.28 The Department informed me 'that a database of projects has been compiled but that information within this is deficient. This is currently being addressed by the Department with a view to having a comprehensive report completed in early September. Whilst the information, at this stage, has not identified any additional cases where appropriate approvals have not been secured, the Department was unable to confirm whether any further instances would emerge.'

2.3.29 I welcome the disclosure in the Accounting Officer's Statement on Internal Control on progress against the 2008-09 action plan and the need for further action in light of the findings emanating from the work undertaken by the Department during 2009-10.

Conclusion

2.3.30 In forming my opinion on the Department of Education Resource Accounts 2009-

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10, I am required to confirm whether in material respects the expenditure and income have been applied to the purposes intended by the Assembly and the financial transactions conform to the authorities which govern them. On the basis of my findings above, I conclude that expenditure in 2009-10 amounting to £2,083,175 (including VAT where it cannot be reclaimed) has been identified for which the Department has not obtained the necessary approvals. This expenditure did not conform to the proper authorities and is therefore irregular. My regularity opinion has been qualified in this respect.

2.3.31 The findings are disappointing, particularly in light of information and representations that were given during the 2008-09 audit. I therefore urge the Department to ensure these matters are fully remedied and appropriate actions are taken and controls put in place to prevent any recurrence of the failings. I will keep progress under review.

2.4 Department of Health, Social Services and Public Safety 2009-10

Regularity of contractual commitment of £36.14 million

2.4.1 The Department of Health, Social Services and Public Safety (the Department) was established by the Departments (NI) Order 1999 and is one of 11 Northern Ireland Departments. It is responsible for health and social care, public health and public safety and is the sponsoring Department for 17 arms' length bodies, including the Belfast Health & Social Care Trust. In 2009-10, the Department spent £4.48 billion.

2.4.2 Under the Government Resources and Accounts Act (Northern Ireland) 2001, I am required to examine and certify the Department's financial statements. I conduct my audit in accordance with International Standards on Auditing (UK and Ireland) to give reasonable assurance that the financial statements are free from material misstatement whether caused by fraud or error. I am also required to satisfy myself that in all material respects the expenditure and income have been applied to the purposes intended by the Assembly and the financial transactions conform to the authorities which govern them.

2.4.3 In my report on the financial statements of the Belfast Health and Social Care Trust (the Trust) for 2009-10, I reported the circumstances surrounding the Department of Finance & Personnel (DFP)'s decision that the commitment of £36.14 million of the additional expenditure for the Royal

Victoria Hospital Redevelopment – Phase 2B project was irregular. The project is for the construction of a new Critical Care building on the Royal Victoria site, originally due for completion in 2012. The contractual commitment of £100.7 million for this project is included within the Trust's accounts at 31 March 2010. As the expenditure considered irregular by DFP has not yet been incurred my regularity opinion on the 2009-10 accounts of the Trust was unaffected.

2.4.4 As the Department is the sponsoring department of this Trust I also considered the impact of this issue on my opinion for the Department's Resource Account.

2.4.5 DFP approved a revised business case for the project in September 2005 at an estimated cost of £97.6 million. By the time the construction contract was signed in July 2008, costs had increased by approximately 50 per cent to £143.5 million due mainly to inflation. One of the conditions of DFP approval is that if total capital or total revenue expenditure is likely to be more than 10 per cent of the costs originally approved the Department should notify DFP immediately to agree further appropriate action.[8]

2.4.6 Although the contracted costs exceeded DFP approved limits, the Department did not go back to DFP to obtain a revised approval until February 2010. The Department and Trust have advised of their previous understanding that inflationary uplifts did not require additional DFP approval if within the construction industry inflation index (MIPS).

2.4.7 Consequently, DFP took the view that £36.14 million of the expenditure, above the accepted level (£107.36 million representing the approval of £97.6 million plus 10 per cent), should not have been committed without its specific approval and is therefore irregular. In arriving at this decision, DFP was mindful of the recommendations of the Public Accounts Committee on retrospective approval.[9]

2.4.8 DFP became aware of this issue when the Department approached them in February 2010. While I recognise that this matter only came to light through action taken by the Department, it should have approached DFP much earlier once the commitment to expenditure, although not yet incurred, had exceeded the 10 per cent tolerance level. Departments must be more proactive in monitoring the profile of their spend particularly in the current economic climate. The Department has now investigated this area thoroughly and assured my staff that there are no other such cases requiring retrospective approval from DFP. Furthermore, procedures have now been strengthened to prevent such issues arising in the future.

2.4.9 As this expenditure will not be incurred until after 31 March 2010 my regularity opinion on the 2009-10 Resource Accounts is unaffected. If the project continues in its current form I will qualify my regularity opinion once the contractually committed irregular expenditure has been incurred.

8 Section 9.3 of the NI Guide to Expenditure Appraisal and Evaluation
9 Report on Use of Consultants (2008) - 16/07/08r

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2.4.10 The Minister has recently announced that the Trust will be taking forward a review of the construction project for the Critical Care Building and this is due to be completed in the Autumn. The Department has indicated that this review is likely to lead to a revised business case being submitted to DFP for approval. This approval may cover some or all of the additional expenditure which DFP has declared irregular.

2.4.11 I welcome the Department's full disclosure of these circumstances within its Statement on Internal Control.

2.5 Department of Finance and Personnel 2009-10

EU Financial Corrections

Introduction

2.5.1 The Special Support Programme for Peace and Reconciliation in Northern Ireland and the Border Counties of Ireland (PEACE I) was implemented for the period 1995 to 1999. The strategic aim of the programme was:

"To reinforce progress towards a peaceful and stable society and to promote reconciliation by increasing economic development and employment, promoting urban and rural regeneration, developing cross-border co-operation and extending social inclusion".

2.5.2 The Northern Ireland Single Programme Document (NISPD) set out the mechanisms through which the European Union (EU) was to contribute to the economic and social development of Northern Ireland in the period 1994-99.

2.5.3 The total contribution due from the EU for the ERDF elements in respect of these 1994-99 programmes was €882 million, equivalent to some £605 million.

Financial Corrections

2.5.4 Following audits by the European Court of Auditors in 2004, the European Commission (the Commission) announced in November 2008 potential financial corrections totalling £53 million against the PEACE I and NISPD programmes.

2.5.5 The purpose of financial corrections is to restore a situation where 100 per cent of the expenditure declared for co-financing with the EU is in line with the applicable national and EU rules and regulations. Where it is not possible or practicable to quantify corrections on the basis of information contained in individual project files, the Commission determines corrections on the basis of extrapolations or at flat rates.

2.5.6 The Commission imposes flat rate corrections of either 2 per cent, 5 per cent, 10 per cent, 25 per cent or 100 per cent depending on the seriousness of the deficiency in the management and control system or the individual breach and the financial implications of the irregularity.

2.5.7 Following negotiations and formal hearings, on 15th December 2009, the Commission issued its revised final closure proposals for the PEACE I and NISPD programmes.

2.5.8 In these final closure proposals the Commission advised that:

- the audit work at closure and the in depth analysis of the responses of the Member State had confirmed weaknesses in the audit trail. This was partly due to either the highly complex management structure of the programme or misinterpretation of the regulations (for example, incorrect instructions for the retention of supporting documentation at project level); and
- formal compliance with the regulations could not be evidenced for all projects audited ie. there was not an invoice or a proof of payment for every single amount of expenditure selected.

2.5.9 The Commission acknowledged the high rate of control work carried out and advised that although not strictly compliant with the requirements, they were accepting "elements of evidence" provided in respect of supporting projects' expenditure. However, not withstanding this they concluded that the existence of a residual risk could not be excluded for the overall programmes.

2.5.10 As a result the Commission revised the flat rate used to calculate the financial correction from 5 per cent (which had been used to calculate the figure of £53 million in the November 2008 announcement) to 2%. I note that this is the lowest level of fixed rate penalty levied by the Commission[10].

2.5.11 The EU proposed corrections in respect of individual project irregularities of €9 million and flat rate corrections of €18 million in respect of the two programmes. The total corrections of €27 million were equivalent to £25 million.

Payment by DFP

2.5.12 In March 2010, the Department of Finance and Personnel (DFP) paid £9.9

10 When performance is adequate in relation to the key elements of the system, but there is a complete failure to operate one or more ancillary elements, a correction of 2% is justified in view of the lower risk of loss to the fund, and the lesser seriousness of the infringement as per "Guidelines on the principles, criteria and indicative scales to be applied by Commission departments in determining financial corrections under Article 39(3) of Regulation (EC) No 1260/1999".

million to the EU, comprising £4.4 million in respect of PEACE 1 and £5.5 million in respect of the NISPD in relation to the £25 million financial corrections. The amount paid was the total financial corrections less £15.1 million that had been due from the Commission in respect of the programmes.

2.5.13 As indicated at Note 29 to the financial statements it was not possible to allocate the flat rate penalty to the other Departments which had been accountable for the PEACE 1 and NISPD spend. In addition, records held by DFP did not facilitate allocation of the individual project irregularities to the accountable Departments. Consequently, Ministerial approval was sought and obtained for DFP to make the payment on behalf of Northern Ireland.

2.5.14 DFP's ambit[11] covers "payments and income under the European structural funds programmes". Consequently DFP had sought approval in the 2009-10 Spring Supplementary Estimate to make a payment "in respect of PEACE I closure". The additional resources were sought from the Department's Request for Resource (RfR) B, the purpose of which is "To deliver efficient and cost effective services to the public in the Department's areas of executive responsibilities".

2.5.15 The financial corrections of £25 million represent a shortfall of EU funding which will be met by the taxpayer as a result of weaknesses in the system of administration controls over the use of EU funding.

Qualified Opinion

2.5.16 I have qualified my audit opinion on DFP's 2009-10 Resource Account on the grounds of regularity. The financial corrections of £25 million represent a loss of public funds which falls outside the Assembly's intentions in relation to the proper administration of European funding, I have therefore concluded that expenditure has not been applied for the purposes intended by the Assembly and is not in conformity with the authorities which govern it.

2.5.17 The department disagrees with this opinion and its views are outlined on page 3 of the annual report. However, my view remains that the losses are irregular as funds have not been applied for the purposes intended.

11 The ambit describes in concise terms all the expenditure to be financed by the Request for Resource (RfR). While RfRs will have titles expressed in terms relating to departmental objectives the text of an ambit describes the spending activities to be undertaken.

2.6 Department for Social Development 2009-10

2.6.1 The Department for Social Development (the Department) is responsible for administering a wide range of expenditure aimed at helping those in need, promoting measurable improvements to housing in Northern Ireland and tackling disadvantage amongst individuals and communities. Through the Social Security Agency, the Department is responsible for the administration of social security benefits. The Department through its Child Maintenance and Enforcement Division (CMED) is responsible for the administration and collection of child support. The Northern Ireland Housing Executive (NIHE) is responsible for administering Housing Benefit Rent and Rates for tenants and the Land and Property Services of the Department of Finance and Personnel is responsible for administering Housing Benefit Rates for owner occupiers. The Department's financial assistance to the housing and urban regeneration sectors is administered through its Resources, Housing and Social Security Group and the Urban Regeneration and Community Development Group respectively. In 2009-10, the Department accounted for expenditure of £5.8 billion on these areas, including associated administration costs, in its consolidated Resource Account.

2.6.2 This report:

- summarises the results of my audit and sets out the reasons for my qualified audit opinions;
- reviews the results of my audit of expenditure on social security benefits and on noncurrent IT and intangible assets; and
- summarises the results of my audit of Supporting People expenditure and highlights my Report on the governance arrangements for the administration of the Social Housing Development Programme.

2.6.3 I have qualified my regularity audit opinion on the Department's Resource Accounts on the basis of material levels of estimated fraud and error in benefit expenditure, other than State Pension which accounts for a high level of the total benefit expenditure and has a low level of error. The estimated level of losses due to overpayments of benefits (other than State Pension) to customers as a result of fraud and error in 2009 is £56.1million (1.8 per cent of total benefit expenditure). A further estimated amount of £19.5 million (0.6 percent of total benefit expenditure) was underpaid to customers.

2.6.4 I have qualified my audit opinion on the financial statements for Information Technology (IT) assets and intangible assets developed both internally and by the Department of Work and Pensions (DWP) which the Department utilises for the delivery of social security benefits. The necessary supporting documentation and evidence was not available to me to confirm whether the correct accounting treatments have been applied by the Department in accordance with International Financial Reporting

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Standards (IFRS) to these non-current IT and intangible assets. As a result, this has placed a limitation in scope on my audit of noncurrent IT assets and associated resource costs. Further comment is provided at paragraphs 2.6.53 to 2.6.55.

2.6.5 The Department's Resource Accounts include expenditure of £64m on the Supporting People programme, £2.2m of this relates to Special Needs Management Allowance (SNMA). I consider this £2.2m to be irregular as the expenditure does not conform to the authorities which govern it due to weaknesses in control and monitoring of this expenditure and I have therefore qualified my regularity opinion in respect of this matter.

Qualified Audit Opinion Arising from the Level of Estimated Fraud and Error in Social Security Benefits

2.6.6 The Department is responsible for administering a wide range of expenditure aimed at helping those in need, promoting measurable improvements to housing in Northern Ireland and tackling disadvantage amongst individuals and communities. Through the Social Security Agency (the Agency), the Department is responsible for the administration of social security benefits. On behalf of the Department, NIHE is responsible for administering Housing Benefit Rent and Rates for tenants and Land and Property Services (LPS) of the Department of Finance and Personnel (DFP) is responsible for administering Housing Benefit Rates for owner occupiers.

2.6.7 The Departmental Resource Account provides for expenditure on "a fair system of financial help to those in need and to ensure that parents who live apart maintain their children; encouraging personal responsibility and improving incentives to work and save."

2.6.8 During 2009-10, the Department accounted for £4.16 billion in benefits administered by the Agency, including £2.05 billion on non-contributory Social Security benefits, £2.01 billion on contributory Social Security benefits and £0.1 billion on Social Fund benefit expenditure. Additionally, the Department accounted for expenditure of £550 million (2008-09 - £482 million) on Housing Benefit, comprising £455 million for Housing Benefit Rent and £61 million for Housing Benefit Rates (tenants) which are both administered by NIHE and £34 million for Housing Benefit Rates (owner occupiers) which is administered by LPS.

2.6.9 This report reviews the results of my audit of the benefit expenditure and sets out the reason for my qualified audit opinion. My audit of this expenditure examined the work undertaken by the Department to establish the estimated level of fraud and error within the benefit system. I also provide an update on the issues I reported on last year.

2.6.10 For a considerable number of years the audit opinion has been qualified because of significant levels of fraud and error in benefit expenditure (other than for State Pension which has a low percentage level of fraud and error).

2.6.11 The Agency is an Executive Agency within the Department. Benefit expenditure accounted for within the 2009-10 Agency Account is also included within the Department's Resource Accounts.

2.6.12 My audit of the 2009-10 Agency Accounts has been completed and I recently reported on the results. I qualified my opinion on regularity because of material levels of estimated fraud and error in benefit expenditure, other than State Pension which accounts for a high level of the total benefit expenditure and has a low level of error.

2.6.13 I also reported recently the results of my audit of the 2009-10 NIHE Accounts. I qualified my opinion on regularity because of significant levels of estimated losses due to fraud and error in Housing Benefit.

Departmental arrangements for monitoring and reporting fraud and error

2.6.14 The Department continues to regularly monitor and measure the estimated levels of fraud and error within the benefit system. Key to the effectiveness of this work has been the greater focus given by the Department's Error Reduction Board (ERB) which sets the strategy for reducing errors and regularly monitors and directs the Department's performance in this regard. The ERB has ensured that ongoing risk assessed error reduction initiatives are now developed and integrated into the annual published Programme Protection Strategy. The Department's Error Reduction Division (ERD) continues to develop its business relationships with the Department of Work and Pensions (DWP) fraud and error team and is represented on DWP's Fraud and Error Stakeholder Engagement Group. These arrangements should contribute to the achievement of financial accuracy targets and the reduction of losses arising as a result of fraud and error.

2.6.15 Monitoring and measuring the levels of fraud and error essentially involves two main exercises, Financial Accuracy monitoring and Benefit Reviews. The results of these exercises are combined to establish the total estimated level of irregular payments due to fraud and error within the benefit system resulting in overpayments and underpayments. The Department's Standards Assurance Unit (SAU) examines statistical samples of benefit awards on a continuous basis for the purposes of Financial Accuracy monitoring and on a rolling programme basis for the purposes of Benefit Reviews.

2.6.16 Financial Accuracy monitoring involves examination of customer case papers to ascertain if the customer is receiving the correct amount of benefit according to their present circumstances and provides a measure of internal Department error (Official Error). The Benefit Review exercises involve a thorough review comprising detailed customer interviews to establish if a person's entitlement to, and the level of benefit in payment, is correct. This review includes a visit to, and a detailed interview with the customer. Benefit Reviews provide a measure of customer fraud and customer error.

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2.6.17 The Department presents the results of these exercises in Note 42 (entitled 'Payment Accuracy') to the resource accounts. This note also explains the extent of statistical uncertainty inherent within the estimates of fraud and error. The estimate of fraud and error disclosed in the accounts is, nevertheless, the best measure available.

2.6.18 As part of our audit work in this area my staff examined and re-performed a sample of the Department's case work during the year for both the Financial Accuracy and Benefit Review exercises. We also reviewed the methodologies applied by the Department in carrying out these exercises. I am content that results produced by the Standards Assurance Unit are reliable and complete.

Qualified opinion due to irregular benefit payments

2.6.19 I am required under the Government Resources and Accounts Act (Northern Ireland), 2001, to report my opinion as to whether the financial statements give a true and fair view. I am also required to report my opinion on regularity, that is, whether in all material respects the expenditure and income have been applied to the purposes intended by the Northern Ireland Assembly and the financial transactions conform to the authorities which govern them.

2.6.20 Note 42 'Payment Accuracy' discloses the best estimate of all such irregular payments and I have summarised the key figures in Figure 7 below along with some further analysis. Due to the timing of the Department's payment accuracy work

Figure 7: Estimated Overpayments due to fraud and error in benefit expenditure (2009)[12]

	State Pension £million	Other Benefits £million	Total £million
Expenditure	1,559.1	3,155.8	4,714.9
Overpayments due to:			
Official error	2.3	18.8	21.1
Customer error	0	15.2	15.2
Customer fraud	0	22.2	22.2
Sub-total	2.3	56.2	58.5
Underpayments due to:			
Official error	3.4	16.4	19.8
Customer error	2.9	3.1	6.0
Sub-total	6.3	19.5	25.8

12 Estimates in this and the other tables are quoted to the nearest £0.1m and presented with 95 per cent confidence intervals, which include adjustments to incorporate some non-sampling sources of uncertainty.

these figures are reasonably reported on a calendar year basis, not on a financial year basis.

2.6.21 As shown in more detail in Note 42 to the accounts, some £1.56 billion (33 per cent) of total benefit expenditure relates to State Pension payments made in 2009. The Department estimates that in 2009 official error (the Benefit Review exercise found no customer error overpayments or fraud for this benefit) within State Pension payments resulted in:

- overpayments of £2.3 million (0.15 per cent of related expenditure); and
- underpayments of £6.3 million (0.40 per cent of related expenditure).

Overpayments and underpayments in State Pension are not deemed irregular as there is no fraud within State Pension payments and the estimated level of error (as shown above) within State Pension is not significant.

The Department also estimates that for other benefits (valued at £3.16 billion):

- fraud and error gave rise to overpayments of £56.2 million (1.8 per cent of related expenditure); and
- underpayments of £19.5 million (0.6 per cent of related expenditure).

Only underpayments (for benefits other than State Pension) made as a result of official error (£12.7 million or 0.48 per cent of related expenditure) are deemed irregular. Underpayments due to customer error are not deemed irregular.

2.6.22 I have therefore qualified my opinion on the Resource Accounts on the regularity of benefit expenditure (other than State Pension) for the following reasons:

- because of the level of overpayments attributable to fraud and error which have not been applied to the purposes intended by the Northern Ireland Assembly; and
- because of the level of under and over payments in such benefit expenditure which do not conform to the relevant authorities which govern them.

Estimated levels of fraud and error

2.6.23 Fraud and Error in benefit awards can arise because of internal Departmental error (official error), customer error or customer fraud. Figure 8 and 9 show the estimated levels of overpayments and underpayments due to each of these. The Department estimates that in 2009 losses of £58.5 million have arisen through overpayment of benefits to claimants, representing 1.2 per cent of total benefit expenditure. This compares with losses of £57.2 million in 2008, or 1.3 per cent of total benefit expenditure. Although total benefit expenditure increased by £458.2 million (or 10.8 per cent) in 2009 compared to 2008, the percentage of total estimated overpayments due to fraud and error continued to decrease. I note that whilst overpayments due to official and customer error (as a percentage of

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total benefit expenditure) fell, estimated fraud increased by £6.5 million, in monetary value, an increase from 0.3 per cent to 0.4 per cent of total benefit expenditure. The increase in estimated customer fraud is attributable to Incapacity Benefit where fraud rose by £4 million in monetary terms to 2.2 per cent of the total specific benefit spend (0.9 per cent in 2008). I have commented further on this at paragraph 2.32. Table 2 shows the value and percentage of estimated overpayments over the last five years. Within total benefit expenditure of £4.71 billion in 2009, State Pension accounts for £1.56 billion (33 per cent). Excluding State Pension (which I have not qualified for fraud and error since 2007-08) the level of error in estimated overpayments reported by the Department this year is £56.1 million (1.8 per cent of total expenditure) compared with £57.2 million in 2008 (1.8 per cent of total expenditure).

2.6.24 The estimated levels of fraud and error across different benefits vary significantly. The benefits system is complex and some benefits are easier to administer than others. Note 42 of the Department's Resource accounts shows that levels of fraud and error continue to be lowest for those non-means tested benefits, such as State Pension, which are easier to claim, relatively easy to determine and largely unaffected by changes in circumstances. Fraud and error is more frequent on means tested benefits, where a claimant's financial circumstances are required to be taken into account.

2.6.25 There is a general trend of an overall percentage reduction in total overpayments due to fraud and error year on year. The percentage decrease in overpayments is mostly attributable to a continual reduction each year in the level of official error and until 2008 the level of customer fraud.

Figure 8: Estimated Overpayments due to fraud and error in benefit expenditure

	2009 £million	**2008 £million**	**2007 £million**	**2006 £million**	**2005 £million**
Overpayments					
Official error	21.1	19.8	25.2	29.2	25.2
Customer error	15.2	21.7	19.1	18.8	21.0
Customer fraud	22.2	15.7	15.2	21.4	32.6
TOTAL	**58.5**	**57.2**	**59.5**	**69.4**	**78.8**
Total benefit expenditure	**4,714.9**	**4,256.7**	**4,071.8**	**3,939.9**	**3,786.2**
% of benefit expenditure	**1.2%**	**1.3%**	**1.5%**	**1.8%**	**2.1%**

Figure 9: Estimated underpayments due to error

	2009 £million	2008 £million	2007 £million	2006 £million	2005 £million
Underpayments					
Official error	19.8	17.6	23.9	19.6	19.6
Customer error	6.0	3.3	3.2	2.9	4.2
TOTAL	**25.8**	**20.9**	**27.1**	**22.5**	**23.8**
Total benefit expenditure	**4,714.9**	**4,256.7**	**4,071.8**	**3,939.9**	**3,786.2**
% of benefit expenditure	**0.5%**	**0.5%**	**0.7%**	**0.6%**	**0.6%**

2.6.26 The Department also estimates that underpayments of benefits in 2009 amount to £25.8 million or 0.5 per cent of total benefit expenditure. Table 3 gives a more detailed analysis of estimated underpayments. In contrast to the more significant reduction in overpayments (on a percentage basis), there has been little overall change in the overall percentage of underpayments due to error over the last five years, with figures varying between 0.5 per cent and 0.7 per cent of total benefit expenditure. However the monetary value of underpayments due to official error have decreased from a high of £23.6 million in 2007 (0.65 per cent of total benefit expenditure) to £16.1 million (0.39 per cent of total benefit expenditure) in 2009. The downward trend in customer error underpayments did not continue for 2009 when such estimated errors more than doubled in monetary terms from £2.5 million (0.07 per cent of total benefit expenditure) in 2008 to £5.4 million (0.13 per cent of total benefit expenditure) million in 2009.

2.6.27 With the exception of the rise in monetary terms of underpayments due to customer error in 2009, estimated customer overpayment error levels have not changed significantly over the period, perhaps indicative of the lower level of control that the Department has over this. Although there has been progress since 2005 in reducing the estimated levels of customer fraud, in 2009 there was a significant increase, in monetary terms from £15.7 million in 2008 to £22.2 million in 2009, in percentage terms this is an increase from 0.3 per cent to 0.4 per cent of total annual benefit expenditure.

2.6.28 Estimated official error overpayment and underpayment levels have varied over the five year period but there has been a general overall reduction in both elements from 2005 to 2009. I continue to highlight this category of error as it is my view that this is the area where the Department continues to have the most control. The total estimated levels of official error reported by the Department's

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financial accuracy exercise for 2009 are £21.1 million of overpayments and £19.8 million of underpayments. This represents an average accuracy rate of 99.6 per cent and is a further improvement from last year. The Department set 99 per cent financial accuracy targets (98 per cent for State Pension Credit) for 6 major benefits and targets were achieved for all, with the exception of State Pension Credit where financial accuracy of 96.6 per cent was estimated. In the case of Incapacity Benefit the target was achieved within the statistical levels of tolerance set (97.5 per cent to 99.4 per cent) with 98.6 per cent achieved. I note that no financial accuracy targets have been set for Social Fund payments and for Employment and Support Allowance payments.

2.6.29 I asked the Department why no financial targets have been set for both these benefits. The Department told me that Employment and Support Allowance (ESA) is a relatively new benefit, which has been bedding in since it was introduced in October 2008. The Department has put in place procedures for monitoring and reporting financial accuracy and to gather the necessary information to inform target setting. This is in keeping with the Department for Work and Pensions which has not established targets in respect of ESA over this period. The Department has set financial accuracy targets for the 2010-11 year. A Social Fund target has not been set. Social Fund is not a weekly or fortnightly paid benefit and is primarily made up (almost 75 per cent) of budgeting and crisis loans which, by their nature, are paid back to the Department. The remainder comprises discretionary payments for community care grants, together with other payments for maternity grant and funeral payments. The Department would highlight that Social Fund official error is measured and the results are published in the overall Department fraud and error figures, and included when comparing the Department's fraud and error performance against target.

2.6.30 There is no financial accuracy target set for Housing Benefit. It is my understanding that NIHE has set a Processing Accuracy Target of 96 per cent that relates to the percentage of cases for which the calculation of the amount of benefit due was correct. The Department told me that the outturn for 2009-10 was 96.8 per cent.

2.6.31 Benefit Reviews of Housing Benefit were completed in 2009 and this brings the methodology for Housing Benefit (for tenants and owner occupiers) into line with that used for other benefits. I noted particularly that in the case of Housing Benefit (for owner occupiers) which is administered by Land and Property Services of the Department of Finance and Personnel, the estimated level of benefit overpayments due to official error has increased from £0.16 million in 2008 to £0.87 million in 2009, or from 0.5 per cent to 2.5 per cent of payments for this benefit. The Department told me that the figures for 2008 were based on the outcomes from testing completed in 2004-05 which were subsequently uplifted to reflect the increase in expenditure for 2008. The outcome reported for 2009 has been derived from Standards Assurance Unit testing carried out in 2009. As NIAO have acknowledged, the methodology now being applied brings Land and Property Service into line with all other benefits and as a consequence the 2009 figure is a more reliable measure of financial performance. Action to improve the situation lies with Housing Division and Land and Property Services. Standards Assurance Unit provides feedback and a detailed breakdown of the errors identified, to enable Land and Property Services to take appropriate remedial action through instruction, training and targeting of high risk areas.

2.6.32 The total estimated monetary value of losses due to official error for all benefits decreased when compared to last year, and official error as a percentage of total benefit expenditure also decreased from 0.5 per cent to 0.4 per cent. There were increases in official error losses, in monetary terms within a number of individual benefit categories: Disability Living Allowance, Incapacity Benefit, State Pension and Social Fund. Nonetheless both Disability Living Allowance and State Pension official error overpayments as a percentage of relevant expenditure remained the same at 0.1 per cent for both the 2009 and the 2008 years. There were small rises in monetary terms of estimated underpayments within seven benefit categories: State Pension Credit, Jobseeker's Allowance, Disability Living Allowance, State Pension, Attendance Allowance, Carer's Allowance and Social Fund. However, in percentage terms underpayments for State Pension Credit reduced from 2.6 per cent to 1.6 per cent, Social Fund underpayments reduced to 1.3 per cent from 1.7 per cent and Disability Living Allowance remained at the same percentage rate in 2009 at 0.2 per cent. I particularly welcome the significant reduction in losses due to official error for Income Support from £4.6 million, (1.0 per cent of relevant expenditure in 2008), to £1.7 million (0.4 per cent of relevant expenditure in 2009). There was a corresponding reduction in official error underpayments within Income Support, from £2.5 million (0.5 per cent in 2008) to £1.6 million (0.4 per cent in 2009). There was also an increase in the financial accuracy rate for this benefit of 0.8 per cent. This is a complex benefit to administer and the Department has done well to reduce official error rates.

State Pension Credit

2.6.33 State Pension Credit is a means tested benefit introduced in 2003 and, similar to Income Support, is a particularly complex benefit to administer. From the total estimated official error total for 2009 of £16.7 million (Table 2); £6.2m related to State Pension Credit. I have summarised this and other key figures relating to this benefit in Figure 10 overleaf.

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Figure 10: Estimated Over and Under payments due to fraud and error in State Pension Credit benefit expenditure

	2009 £million	2009 %age	2008 £million	2008 %age
Expenditure	**340.8**	**Estimated Error**	**331.2**	**Estimated Error**
Overpayments due to:				
Official error	6.2	1.8%	6.9	2.1%
Customer error	5.5	1.6%	5.4	1.7%
Customer fraud	1.2	0.3%	1.1	0.3%
Sub-total	**12.9**	**3.7%**	**13.4**	**4.1%**
Underpayments due to:				
Official error	5.5	1.6%	8.7	2.6%
Customer error	1.6	0.5%	1.6	0.5%
Sub-total	**7.1**	**2.1%**	**10.3**	**3.1%**

2.6.34 I remain concerned about the significant levels of estimated fraud and error reported by the Department for this benefit. The estimated level of overpayments due to both fraud and error in State Pension Credit for 2009 remains high at £12.9 million and this represents 3.7 per cent of State Pension Credit paid in the year, albeit a reduction from a level of 4.1 per cent in 2008. The estimated level of customer fraud in this benefit is proportionally low (£1.2 million, 0.3 per cent of benefit expenditure) and this is likely to be attributable to the apparent lower propensity to commit fraud in certain age groups. It is the level of error, both customer and official that is an ongoing matter of concern - although £5.5 million (1.6 per cent of related benefit expenditure) of estimated overpayments in State Pension Credit is due to customer error, the majority of overpayments (£6.2 million, 1.8 per cent of related benefit expenditure) is because of official error. In percentage terms this has reduced to 1.8 per cent of relevant benefit expenditure in 2009 from 2.1 per cent of relevant expenditure in 2008. Significant progress has been made in relation to underpayments with those due to official error reducing from £8.7 million in 2008 (2.6 per cent of relevant expenditure) to £5.5 million in 2009 (1.6 per cent of related benefit expenditure). Underpayments due to customer error have remained the same from 2008 to 2009 at £1.6 million in 2009 or 0.5 per cent of relevant expenditure. However, despite this improvement 34.2 per cent of the 2009 total estimated official error underpayments for all benefits relate to State Pension Credit.

2.6.35 In 2007-08 the Department advised me that it had developed a specific State Pension Credit Accuracy Improvement Plan for 2008-09 to co-ordinate activities that will impact directly on accuracy levels for this benefit. Following this financial accuracy levels have improved from 94.1 per cent in 2007, 95.3 per cent in 2008 to 96.6 per cent in 2009. Whilst the Department failed to achieve its financial accuracy target of 98 per cent for this benefit in 2009, significant progress has been made with financial accuracy increasing from 94.3 per cent to 96.6 per cent, an increase of 2.3 per cent in two years.

2.6.36 I recommend the Department continues to improve financial accuracy performance for this benefit.

Incapacity Benefit

2.6.37 I note that for Incapacity Benefit the estimated level of benefit overpayments due to Customer Fraud has risen from £3.1 million in 2008 to £7.1 million in 2009, or from 0.9 per cent to 2.2 per cent of payments for this benefit. Given that in 2009 new customers are no longer assessed for Incapacity Benefit but instead assessed for Employment and Support Allowance, this rise is a matter of concern. I have asked the Department to provide an explanation. The Department told me that whilst no new claims for Incapacity Benefit have been accepted there remains a significant number of existing customers who continue to receive Incapacity Benefit; as a result benefit expenditure has only decreased by £4.2 million from £334.0 million in 2008 to £329.8 million in 2009. In respect of the increase in the amount of customer fraud overpayments; the results from the 2009 Benefit Review exercise are based on cases within the statistical sample and for 2009 the review found that 13 cases contained fraud as compared to 8 cases in the sample within the 2007 benefit review (when the benefit was last subject to a specific measurement exercise). The 2007 Incapacity Benefit results for customer fraud and error were updated by statisticians to produce the 2008 Incapacity Benefit estimates. Statistical estimates are subject to confidence intervals. While Incapacity Benefit fraud overpayments have increased, the 2009 estimate of £7.1million lies within the confidence interval range of the 2008 result. The Department considers this together with the small number of errors identified within the sample makes it difficult to draw firm conclusions on the statistical significance of this increase. The Department is examining the fraud cases found within the sample to establish what action can to be taken to minimise the future risk of fraud within Incapacity Benefit.

Social Fund

2.6.38 The Department is also responsible for Social Fund payments, which totalled £84.3 million in the calendar year

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2009. The Financial Accuracy exercise completed by SAU estimated that official error overpayments and underpayments for the Social Fund were £2.4 million and £1.1 million respectively. This equates to 2.9 per cent and 1.3 per cent respectively of the Social Fund payments made in 2009. My regularity qualification includes these Social Fund official error overpayments and underpayments. Although in 2009 Social Fund payments are only 2 per cent of total benefit payments, I note that SAU has not undertaken a Benefit Review exercise of Social Fund for several years.

2.6.39 I recommend that in light of the level of official error a Benefit Review is carried out to estimate the level of customer error and fraud for this benefit. The Department prepares a separate Social Fund White Paper Account which I audit and I will be considering these matters further during my audit of that account.

2.6.40 In general, I acknowledge the considerable effort and resources that the Department has put into reducing the incidence of fraud and error. The Department currently has a number of ongoing programmes in place aimed at counteracting the levels of benefit fraud and error. However, I noted that at the April 2010 meeting of the Department's Error Reduction Board, the proposed Error Reduction Plan for 2010-11 considered the possibility of resource allocation reducing from 2009-10 levels, given likely pressures on future funding at the Northern Ireland level and the continued pressure on public spending. I will consider the impact of this reduction in resources on fraud and error levels during my 2010-11 audit.

Changes in Circumstances

2.6.41 Note 42 of the Department's resource accounts highlights a specific category of DLA case where, as a result of a review of entitlement, the benefit allowance is adjusted because the customers' condition has gradually improved or deteriorated to an extent that it now impacts on their care and/or mobility needs resulting in a change in the DLA award. These cases are categorised as 'benefit correct, change in circumstances'. In these circumstances the legislation governing the administration of DLA determines there are no overpayments or underpayments and the benefit is adjusted from the date of the review. Therefore these cases are omitted from the estimated overpayments and underpayments reported by the Department.

2.6.42 For 2009 the Department estimates that customers are receiving in excess of £40.7 million (2008: £38 million) above the DLA entitlement for this specific category of 'benefit correct, change in circumstances' cases and £20.8 million (2008: £19.4 million) below their DLA entitlement. Results from the most recent DLA benefit review (performed in 2008) show that almost one in five (18.2 per cent) of the cases reviewed contained a change in customer circumstances. I acknowledge that these cases are legally and procedurally correct. However identifying when customers' circumstances change at the earliest opportunity is important for both the Department and the customer. I therefore encourage the Department to continue to look for ways to further reduce the incidence of change in circumstances cases. I asked the Department what is currently being done to manage this. The Department told me that it has continued to deploy dedicated resources to identify and review cases where changes in circumstances are likely to have occurred. During 2009-10 a total of 5,843 cases were reviewed of which 2,343 were adjusted to a total value of £5.37 million. This risk based approach to identifying high risk DLA cases will continue in 2010-11.

Benefit overpayments

2.6.43 I note that total benefit overpayments as disclosed at notes 28.1 and 28.2 (attributable to actual cases) amounted to £38.8 million at 31 March 2010, a 27 per cent increase of £8.3 million from the March 2009 figure of £30.5 million. I asked the Department to comment on this increase. The Department told me this is due to the Department's increased effectiveness in both detecting benefit overpayments arising from fraud and error, and in referring the debt for recovery. For example during 2009-10 the number of overpayments registered increased by 22 per cent from 68.4k for 2008-09 to 83.8k. Recovery of benefit overpayment debt also increased by 24 per cent from £9.2 million during 2008-09 to £11.45 million during 2009-10. However, there are statutory and other limitations in place to ensure benefit overpayment debts are repaid at an affordable rate and to protect debtors from undue hardship. As repayment is generally made over a period of time and can be prescribed, the Department is therefore unable to recover debt at the same rate at which it is identified.

Benefit cases written off

2.6.44 I note that 54,343 benefit cases totalling £17.1 million were written off during 2009-10, compared with 50,400 cases totalling £12.2 million during 2008-09. This equates to an average write off per case of £315 (2008-09 - £242). This high and increasing level of benefit cases written off and the amounts involved is a matter of concern. I asked the Department to provide an explanation. The Department told me that this primarily reflects a change in policy and procedures which is in parity with Great Britain. These policies enable resources to be targeted at debts which are more likely to yield a higher rate of successful recovery. The increase in the number of benefit overpayment debt cases written off during 2009-10 compared to the 2008-09 year is predominantly attributable to the changes in write off policies, (consistent with those of the Department for Work and Pensions in Great Britain), which were originally introduced in 2008-09 now being applied across a full financial year rather than for part of a year. The number of debts written off increased, partly as a result of the implementation of an automated write off facility in line with policy in the Debt Manager Computer system (an IT system, utilised by both the Department for Work and Pensions and the Department); a more effective review of debtor records and specific data cleansing exercises. Again these measures seek to ensure that resources are targeted at debts which are more likely to yield a higher success of recovery and to recover debt where it is cost effective to do so.

Recent developments

Economic downturn

2.6.45 The downturn in the economy since 2008 has had a significant impact on the work of the Department. Between April 2008 and the end of March 2010, the register of unemployed has increased by 130 per cent to 56,658. Jobseekers Allowance (JSA) payments have increased from £95.0 million in 2008-09 to £162.0 million in 2009-10. Despite this significant increase in JSA payments, the 2009 financial accuracy official error target of 99 per cent (of this benefit expenditure being paid correctly) was exceeded with overpayments estimated at £0.4 million and underpayments at £0.2 million. The 2009 Benefit Review exercise found that the overall downward trend in customer fraud and error continued, falling from 2.3 per cent (of expenditure) since the last Review in 2007 to 1.6 per cent in 2009; customer error underpayments also falling from 0.2 per cent of relevant expenditure to 0.1 per cent of relevant expenditure. I note that the time taken for JSA claims to be cleared i.e. from when the Department receives the claim until it is processed, has improved from 11.6 days in 2008-09 to 10.9 days in 2009-10. I welcome that despite the significantly increased workload relating to this benefit and resource pressures, the Department has further improved financial accuracy, reduced the percentages of customer fraud and error and also cleared these claims faster.

Employment and Support Allowance

2.6.46 The Employment and Support Allowance (ESA) replaced Incapacity Benefit and Income Support on the grounds of incapacity, for new claims upon introduction in October 2008. The Department paid £4.6 million in 2008-09 and £52.6 million in 2009-10 on this benefit. Since its introduction, no formal financial accuracy targets have been put in place for this new benefit, but it is anticipated that these targets may be introduced in 2010. I note that the Department's SAU completed an Employment and Support Allowance Financial Accuracy Review for the calendar year 2009 and concluded that estimated overpayments and underpayments due to official error totalled £1.5 million and £0.8 million respectively. This was based on expenditure of £39.4 million and equates to a financial accuracy rate of 94.1 per cent. I asked the Department why these figures were not included in Note 42 (Payment Accuracy) of the departmental resource accounts. The Department told me ESA is a new benefit which has been bedding in since its introduction in October 2008 and the Department has also been establishing the procedures for monitoring and reporting financial accuracy. Consequently, the

Department 2009 measurement of ESA was undertaken very much as a pilot measurement exercise with the aim of producing initial data to determine baselines and, targets for the 2010 year when ESA will be formally reported on.

2.6.47 I recommend the early adoption of financial accuracy targets for this benefit and for the benefit to be subject to the normal financial accuracy monitoring and Benefit Review exercises already in place for most other key benefits.

Benefit Security Review

2.6.48 A Review of Benefit Security was completed in 2009. The Review examined the work of those branches within the Department's Social Security Agency dedicated to measuring and tackling benefit fraud and error. Arising from the review were a number of recommendations including the recruitment and training of compliance officers to help tackle customer fraud and prevent customer error, new processes for handling data matching referrals and closer working between counter fraud and error staff. New procedures are also in place to better integrate the Department's various strands of checking and additional governance arrangements have been introduced to validate the outcomes reported from error reduction activity. The Department are also exploring the potential for securing an in-house lawyer to advise staff dealing with complex frauds.

National Fraud Initiative

2.6.49 The National Fraud Initiative is an exercise to conduct data matching scans to assist in the prevention and detection of fraud. A matching exercise was carried out in September 2008 which identified just over 13,700 cases where occupational pension or income information potentially conflicted with that held on Social Security Agency or Housing Benefit records and which therefore require further examination. Following an initial exercise it was determined that 4,612 required further detailed analysis, of these, 3,370 housing benefit matches have been found to require no adjustment to Housing benefit. Of the remaining 1,242 cases, 633 are being considered for criminal investigation as appropriate; and the remaining 609 are being considered for operational benefit checks and compliance activity as appropriate.

2.6.50 I intend to issue a separate report on the National Fraud Initiative for the whole of the Northern Ireland Public Sector.

Cross Border Counter Fraud Initiatives

2.6.51 The Department's Benefit Investigation Service has a team specifically dedicated to dealing with Cross Border benefit fraud. A Memorandum of Understanding formalises partnerships between the Department for Work and Pensions, the Department of Social and Family Affairs in the Republic of Ireland and the Department for Social Development. The aim of the partnership approach is to focus on combating 'Cross Border' benefit fraud. Officials from the three organisations meet several times a

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year to discuss and review operational arrangements. The Department records information relating to all individuals detected and convicted of 'Cross Border' benefit fraud offences against the Northern Ireland Social Security system. During 2009-10, 12 cases occurred where a 'Cross Border' benefit fraud offence was detected.

Qualified opinion arising from limitation in audit scope

2.6.52 As part of my 2008-09 International Financial Reporting Standards (IFRS) Shadow Accounts audit, I raised a number of issues regarding the application of IFRS to specific costs incurred by the Social Security Agency and in particular the accounting treatment of IT assets and intangible assets developed both internally, and by the Department for Work and Pensions (DWP) which the Agency utilises for the delivery of social security benefits. These issues, which I consider to be material were summarised and reported to the Agency on 22 December 2009. I reported the same issues to the Agency in March 2010 after my 2009-10 interim audit and note that these have not been fully resolved for the 2009-10 financial statements.

2.6.53 The Department advised me that it had been working on the IFRS impacts in respect of intangible assets for some considerable time since the 2008-09 year, and that this issue involves complex and technical matters. The Department had identified issues in relation to the IFRS/intangible assets position and had been focused on developing its own internal assessment and evaluation of the matter. This involved engaging with the Department for Work and Pensions with the aim of ensuring that an appropriate conclusion was reached. The Department's work also included the evaluation of complex technical matters such as determining whether the expenditure involved satisfied the criteria for the recognition and recording of expenditure as intangibles assets controlled by the Department. Subsequently the Department has continued to engage with DWP and has also prepared a paper titled "IFRS application of IAS 38 within the Social Security Agency." This paper was sent to the Accountability and Accountancy Services Division of the Department of Finance and Personnel for their opinion in May 2010. This paper considers important aspects of the issues surrounding the IFRS accounting treatment. However the paper does not address all of the specific issues I raised with the Department but it is a useful starting point for further consideration of these complex matters.

2.6.54 Although the Department engaged with the Department of Finance and Personnel and DWP, the Department was unable to provide me with the required supporting documentation or explanations considered necessary for the purposes of my audit of IT assets and intangible assets. As a result, I was unable to determine whether the Department had applied the correct accounting treatment to IT assets and intangible assets and this has placed a limitation in scope on my audit of these non-current IT and intangible assets and associated IT resource costs. The Department has confirmed that it will pursue this matter in order to fully and appropriately conclude the outstanding issues and it will keep the Audit Office informed of all developments.

Conclusion

2.6.55 I consider that the estimated levels of fraud and error reported are material and I have therefore qualified my audit opinion on the departmental resource accounts on the regularity of benefit expenditure (other than State Pension).

2.6.56 The Department has continued to address the matters which give rise to this longstanding qualification of my opinion and I welcome the efforts being made by the Department to further improve the accuracy of benefit payments. Although there was a £1.3 million increase in the total levels of fraud and error in 2009 compared with 2008, over the last five years there has been a continued decrease in the estimated levels of overpayments as a percentage of benefit expenditure. I acknowledge that, having made significant progress in recent years, it is increasingly more difficult for the Department to make further significant improvements to this same scale. The Department has had continued challenges to overcome this year including efficiencies as a result of the 2008-11 budget settlement, the ongoing delivery of its modernisation programme and the impact of the economic downturn. The Department has reported success in reducing the amount of official error overpayments from £18.4million (0.5 per cent of total benefit expenditure) in 2008 to £16.7 million (0.4 per cent of benefit expenditure) in 2009 and official error underpayments also reduced from £17.2 million (0.5 per cent of benefit expenditure) in 2008 to £16.1 million (0.4 per cent of benefit expenditure) in 2009 (as shown in Tables 2 and 3).

2.6.57 I recognise the difficulties faced by the Department with regard to the complexity of many of the benefits at a time of significant demand and resourcing pressures and also the gradual implementation of more efficient 'Lean' driven processes. I welcome that the Accounting Officer's Statement on Internal Control highlights the significant ongoing problems relating to benefit fraud and error and summarises the robust and evolving error reduction steps the Department has in place. I continue to support the various initiatives that aim to reduce the levels of fraud and error in benefit expenditure and I will continue to monitor the impact on performance.

2.6.58 I have also qualified my opinion with a limitation in scope on my audit of non-current IT and intangible assets and associated resource costs. Challenges remain in terms of addressing the accounting treatment of non-current IT and intangible assets. I recognise the difficulties faced by the Department with regard to the complexity surrounding the accounting treatment but I would

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encourage the Department to seek the appropriate resolution of these issues as a matter of urgency.

Expenditure in Relation to Supporting People Grants

2.6.59 During 2009-10, the Department paid £63 million (2008-09 £64 million) to NIHE to administer the Supporting People programme.

2.6.60 This programme was introduced in 2003 and aims to improve the quality of life of vulnerable people and to enable these vulnerable people to live independently in the community, in all types of accommodation and tenure. There are currently 115 providers delivering 808 schemes assisting approximately 23,000 vulnerable people within Northern Ireland to live independently.

2.6.61 Each year the Department provides NIHE with a letter of approval to pay fixed amounts of Special Needs Management Allowance to the service providers. The service providers operate 34 registered care homes. The payments have not been appropriately monitored by either the Department or NIHE since 2003 and continue to be paid at the same amount without consideration of any change in circumstances. The lack of monitoring of the use of these payments means I cannot be satisfied that they were used for the purposes intended by the Northern Ireland Assembly and therefore I have qualified my audit opinion on the grounds of regularity. In light of the funding streams, I have applied this qualification to the accounts of both NIHE and the Department.

Review of Supporting People

2.6.62 During examination of the 2009-10 department's resource accounts, my staff reviewed the Department's report titled "Evaluation of the Impact of the Supporting People Policy and its Administration." The Department's report and my audit of NIHE have noted a number of issues over the Supporting People programme which I wish to highlight.

2.6.63 The Supporting People programme is administered in accordance with The Housing Support Services (NI) Order 2002. In addition to the above Order I note that NIHE have also used the English based Department of Communities and Local Government (DCLG) guidance and the Department's Positive Steps guidance to administer the Supporting People programme. NIHE did not ask the Department to formally approve the use of the above guidance. I asked the Department to assure me that the guidance used by NIHE is appropriate and that all expenditure under this guidance is eligible and regular. The Department stated that the DCLG guidance is recognised as best practise guidance and the Department will use this guidance to formulate and update their own guidance as recommended in their policy evaluation. Funding dispersed under guidance is considered appropriate.

2.6.64 When Supporting People funding was introduced, providers of Housing Support services under the programme were to be subject to an accreditation process. The process would make sure that all organisations providing Supporting People services have the capability, structure and capacity to continue to deliver quality services during the duration of the funding agreement and as such this is a key risk management tool for Supporting People. However, the Department informed NIHE that Housing Associations who provided housing support services should be pass-ported to receiving Supporting People funding as they were already regulated by the Department. My audit has noted that until recently the Department failed to inform NIHE when Housing Associations had received an unacceptable rating in respect of their financial management or corporate governance arrangements. In my view poor financial management or corporate governance arrangements impact on the ability of Housing Associations to administer public funds.

2.6.65 Later in this report I note that following the completed first round of inspections by the Department's Regulatory and Inspection Unit, 14 Housing Associations received an unacceptable rating with four being issued with formal notice that the housing grant was being withdrawn. Despite the withdrawal of housing grant, NIHE continued to make Supporting People payments to these organisations. These 14 Housing Associations received funding amounting to £460,000 during 2009-10. The Department stated that with the removal of the housing grant, the Housing Association automatic "passport" to Supporting People funding is also removed. A mechanism is in place whereby the Department shares inspection information for those associations in receipt of Supporting People funding with NIHE, who in turn provide information to the Department on the Supporting People funding. It does not necessarily follow that removal of the "passport" automatically leads to the removal of Supporting People funding. Each scheme is examined individually and appropriate deductions made. The £460k that is quoted represents Supporting People funding paid to 3 Housing Associations who had their housing grant removed. All of these are now being taken through the accreditation process.

2.6.66 During 2009-10, £2.27m of Supporting People expenditure was also paid to seven organisations which were not accredited by NIHE or passported by the Department. The seven organisations have been in receipt of Supporting People funding since 2004-05. Whilst I note that there are now only two organisations which remain unaccredited, the accreditation of the other five only took place at the end of this financial year. I also note that an NIHE Internal Audit report on Supporting People gave a Limited classification to one aspect of their review relating to the control objective of "to ensure that the Supporting People controls that management have identified, through the risk management process, are in place and are being complied with". The Department stated that they agree that all providers who receive Supporting

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People funding should be accredited. However the NIHE monitors the Supporting People funding to these schemes through their normal contract management arrangements.

2.6.67 I note from the Department's report and my audit findings there are concerns that some providers have a high proportion of Supporting People funding within their reserves. I am aware that the Department requires NIHE to satisfy itself that the provider has sufficient funds (over and above any restricted grants, such as Supporting People) in their reserves to enable a reasonable likelihood of remaining in business for the foreseeable future.

Supporting People Scheme Reviews

2.6.68 NIHE currently follows the Office of the Deputy Prime Minister (ODPM) guidance on scheme reviews which stipulates that all reviews must be completed within a rolling period of three years from the start of the programme. I note that NIHE did not begin its scheme reviews until 2005-06 with a target agreed by the Department of 120 reviews each year, subsequently reduced to 75 from 2007-08. In England all reviews were completed by 2006, Scotland by 2008 and Wales in 2009. It is disappointing to note that the scheme reviews in Northern Ireland were not completed on a timely basis and the agreed target would have meant a total of ten years to complete all reviews. The Department stated that as part of its policy evaluation the area of scheme reviews has been highlighted and one of the recommendations in its document is that all outstanding reviews are completed as a matter of urgency.

2.6.69 At 1 April 2009 NIHE had only carried out 303 scheme reviews. Of these, the Department quality reviewed 72 discovering that 24 schemes have been assessed with a combination of being not strategically relevant, and/or providing ineligible services. The Department became aware that Supporting People and personal care services provided within schemes were closely aligned and concerns were raised that Supporting People funding may be used to provide care services in addition to housing support. I have asked the Department to comment on what action it took to address these concerns. The Department stated that as a result of the policy evaluation that they have found that there may have been some instances where, because of daily variation in the needs of individual clients, there has been an overlap of Housing Support and Personal Care Services. Although satisfied that Housing Support funding has been used appropriately, the Department has recommended that, because some Housing Support services are inextricably linked with health care services, discussions on the feasibility of one funding stream should be explored with the Department of Health, Social Services and Public Safety (DHSSPS).

2.6.70 I note that NIHE introduced a new Contract Management Process with effect from 1 April 2009 which is a risk based approach to the review of providers. This, with new scheme grouping arrangements, may result in a number of schemes not being individually reviewed. I also note that these arrangements are in place without Departmental approval and without any undertakings to complete the earlier outstanding scheme reviews. The Department stated that one of the recommendations in its document is that all outstanding reviews are completed as a matter of urgency.

Supporting People Programme Audit Findings

2.6.71 As part of the 2009-10 NIHE audit, my staff carried out a number of site visits to organisations in receipt of Supporting People funding. The findings from five of the visits highlighted a number of issues:

- Expenditure which required clarification as to whether or not it was eligible under the Supporting People programme;
- Potential for cross subsidisation in funding between Care and Supporting People funding;
- A number of organisations with consistently low occupation rates over a long period of time (for example, an organisation visited had average occupancy rates for the last five years below 75 per cent and required additional funding from NIHE to keep it afloat);
- Possible inappropriate apportionment of costs on the basis of historical information;
- Lack of transparency by organisations in their audited financial statements to the makeup of reserves and how much relates to Supporting People funding; and
- Evidence that surpluses are not being clawed back by NIHE.

NIHE have provided explanations and responses to each of the issues raised and take the view that their management of the Supporting People programme addresses such issues on an ongoing basis.

Other matters with regard to Supporting People

2.6.72 The Departmental report highlights the potential for transferring a substantial portion of the Supporting People programme to the Department of Health, Social Services and Public Safety and also notes that there are outstanding issues to be addressed between NIHE and the Department. I would encourage the Department and NIHE to take forward the 13 recommendations in the report and address the outstanding issues as soon as possible for the benefit of the Supporting People programme.

2.6.73 I also note from the report that NIHE are undergoing a modernisation of their Supporting People services and part of this modernisation is to ensure that the administration arrangements to support future programme delivery is fit for purpose. I consider this essential and recommend that this modernisation is completed as quickly as possible. In

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response to this, the Department stated that the programme referred to is a NIHE modernisation of services programme, which the Department supports.

Conclusion

2.6.74 I have qualified my audit opinion on the area of Special Needs Management Allowance (SNMA) expenditure but I am also concerned that there are significant problems within the Supporting People programme in Northern Ireland. Of particular concern is the number of issues including eligibility and the potential for cross subsidisation.

2.6.75 I will continue to monitor this area closely and in particular the timely and full implementation of the recommendations arising from the Departmental Report and the recommendations arising from my audit of the Supporting People programme.

Governance arrangements for the administration of the Social Housing Development Programme

2.6.76 During 2009-10, NIHE paid £172.3 million (2008-09 £144.3 million) in grants under the Social Housing Development Programme to Housing Associations on behalf of the Department. Responsibility for this programme passed from the Department to NIHE on 1st April 2007. There are currently 33 registered Housing Associations in Northern Ireland providing social housing for rent.

2.6.77 I previously qualified my departmental resource account audit opinion on this area from 2001-02 to 2003-04 on the basis of inadequate control and monitoring of expenditure within Housing Associations. I lifted my audit qualification in 2004-05 as the previous recommendations for improvements in control and monitoring by the Department and in Housing Associations were being realised.

2.6.78 In my 2007-08 General Report (NIA 115/08-09) I published a review of the Department's Regulatory and Inspection Unit (the Unit) within which I commented upon the need to complete the programme of inspections, the length of time taken to produce and deliver reports and the need for more prominence to areas of good practice. My staff have recently undertaken a further review of the corporate governance arrangements for the management and control of Housing Associations by the Department and NIHE. This review titled, "Governance arrangements for the administration of the Social Housing Development Programme" is published in my General Report 2009 and contains nineteen recommendations.

Key findings from the Governance review

2.6.79 The Unit was formally launched in November 2004. Since then it has reviewed all registered Housing Associations in Northern Ireland. This first round of reviews was completed in 2009-10. The reviews and associated reports by the Unit cover four areas,

Figure 11:

	Number	Percentage
Total Number of Housing Associations inspected	33	
Number of Housing Associations that failed the Inspection overall	14	42%
Number of Housing Associations that failed area of Finance	7	21%
Number of Housing Associations that failed area of Governance	12	36%
Number of Housing Associations that failed area of Property Development	10	30%
Number of Housing Associations that failed area of Property Management	21	64%

namely, finance, governance, property development and property management. In Figure 11 above, I note the results of the individual areas and the overall assessment by the Unit.

2.6.80 Over the five year cycle the Unit awarded overall 'unacceptable' ratings to 14 (out of 33) housing associations i.e. 42 per cent of those inspected. I am concerned with the high proportion of housing associations that have received unacceptable ratings. In particular I am concerned at the number of housing associations that failed in the areas of Finance and Governance. The Department told me it has also been concerned at the level of poor performance identified through the Inspection process. As a result of this the Governance and Inspection Unit has put in place a number of measures to drive forward improvements and monitor performance. These measures include, quarterly updates on Action Plans following an Unacceptable inspection, a Follow-up Inspection completed within 12 months of the issue of the final report to physically confirm the extent and effectiveness of the implementation of previous recommendations, and in addition a Monitoring section has been established which is responsible for reviewing board meetings and financial performance to highlight any developing issues.

2.6.81 It is encouraging that the Unit is now fully operational and has enhanced the oversight and governance regime over Housing Associations through its inspection process. There is evidence from their reports that it has been proactive in ensuring good practices are being promoted in and applied by Housing Associations.

2.6.82 I am however concerned to note the level of failing Housing Associations and the apparent lack of remedial action to rectify the issues being identified. The Department has told me that in addition to those measures detailed at paragraph 3.22, the Department has also identified a series of actions to be considered where the inspection process

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has determined that there is little evidence of improvement. These actions consist of advice to the Association with an Unacceptable rating that there is a need for a change at senior management and/or board level, or, a need to merge with another successful Regulated Housing Association. If an Unacceptable rated Housing Association is not prepared to consider either of these two options, the Department is prepared to go to Inquiry to seek de-registration of the Association.

Conclusion

2.6.83 I have not qualified my audit opinion on this area of expenditure but I am concerned that there are significant problems within the registered housing association sector in Northern Ireland. Of particular concern is the high level of underachievement in finance and governance.

2.6.84 I will continue to monitor this area and in particular the timely and full implementation of the recommendations arising from the work of the Regulatory and Inspection Unit and the implementation of the recommendations from my review of the governance arrangements.

2.7 Department for Social Development - Child Maintenance and Enforcement Division

Client Funds Account 2009-10

2.7.1 The Child Maintenance and Enforcement Division (CMED) is a division within the Department for Social Development (the Department). CMED was established on 1st April 2008, replacing the former Child Support Agency and its main purpose is to promote and secure effective Child Maintenance arrangements for children who live apart from one or both parents.

2.7.2 The Department is required under an Accounts Direction from the Department of Finance and Personnel (DFP) to prepare a Client Funds account, which reports the receipts and payments, and the cash balances of the Client Funds. The Direction also requires the Department to provide a summary of the maintenance assessment balances at the beginning and end of the year and its assessment of the extent to which any outstanding maintenance arrears are likely to be collected.

2.7.3 This report provides a summary of the significant matters arising from my audit of the 2009-10 CMED Client Funds Account and the basis for the qualification of my opinion. The opinion on this Account has been qualified since the inception of child support in April 1993.

Qualified Audit Opinion

2.7.4 I am required to examine and certify the CMED Client Funds Account and report the results to the Northern Ireland Assembly. I am required to obtain sufficient evidence to satisfy myself that, in all material respects:

- the account properly presents the receipts and payments and Statement of Balances of the Department for Social Development's Child Maintenance and Enforcement Division for the year then ended;
- Note 6.1 to the account presents a true and fair view of the outstanding maintenance arrears as at 31 March 2010;
- the account has been properly prepared in accordance with the Government Resources and Accounts Act (Northern Ireland) 2001 and Department of Finance and Personnel directions made thereunder; and
- the financial transactions conform to the authorities[13] that govern them, the 'regularity' opinion.

2.7.5 In 2009-10 the Department collected £17.1 million from non-resident parents (2008-09 £16.0 million) and made payments of £15.2 million (2008-09 £12.8 million) to parents with care. In addition, £1.1 million (2008-09 £2.5 million) was transferred to the Department's Social Security Agency where parents with care were in receipt of benefit.

2.7.6 As the Client Funds account is not prepared on an accruals basis the outstanding maintenance arrears figures in Note 6.1 do not impact on other disclosures within the account. Consequently the limitation of my audit opinion extends to Note 6.1 only. In respect solely of the limitation on my work relating to the outstanding maintenance arrears balances:

- I was unable to determine whether the Department maintained adequate accounting records to support the level of outstanding maintenance arrears totalling £80.7million;
- I was unable to determine if Note 6.1 is in agreement with the accounting records; and
- I have not obtained all the information and explanations that I require for my audit;

I have also qualified my opinion on regularity because my examination of maintenance assessments identified cases that have been calculated incorrectly. In my opinion, except for the maintenance assessments calculated in error, in all material respects the financial transactions conform to the authorities which govern them.

I will explain these issues further in the following paragraphs 2.7.7 to 2.7.16.

13 Child Support (Northern Ireland) Order 1991;Child Support (Northern Ireland) Order 1995; Child Support, Pensions and Social Security Act (Northern Ireland) 2000; Child Maintenance Act (Northern Ireland) 2008

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Absence of adequate accounting records and adequate supporting documentation

2.7.7 The Department maintains the CMED Client Funds accounting records on the Child Support Computer System (CSCS) and on the Child Support 2 (CS2) system. Both of these systems have a long history of problems and are unable to directly generate the information needed to prepare the Account. The outstanding maintenance arrears at 31 March 2010, disclosed in Note 6.1 to the Account, is derived from the total outstanding maintenance arrears balances recorded on these two systems, in conjunction with a series of complex manual workarounds. Currently the outstanding maintenance arrears cannot be broken down on an individual case by case basis. In the absence of a satisfactory audit trail, my examination of the outstanding maintenance arrears balances was severely limited, therefore I conclude that there is a significant uncertainty over the accuracy and completeness of the outstanding maintenance arrears balances of £80.7million reported in the Account. Consequently I have qualified my audit opinion on the basis that the scope of my audit was limited in this regard.

Accuracy of maintenance assessments

2.7.8 The accuracy of the calculation of a maintenance assessment for child support is a key element in the process as the assessment forms the basis of the payments made by non-resident parents to persons with care and also the calculation of the amount due where maintenance arrears builds up. My staff's audit of outstanding maintenance arrears balances and maintenance assessments since 1993 has identified a significant number of errors. The Department is unable to demonstrate to me that other assessments made in previous years and recorded as a balance due, have been reviewed and corrected. I have therefore concluded that the level of error within the system is still material. In 2009-10 my staff tested a small sample of maintenance arrears balances as a means of assessing the percentage rate of error in the sample without estimating the value of error in the whole population. My staff examined 30 cases and found 21 cases (70 per cent) with errors (2008-09 43 per cent) due largely to errors in maintenance calculations, but also due to errors in records caused by IT issues and missing case papers.

2.7.9 Examples of errors from the 30 cases examined by my staff include:

- maintenance arrears were understated by almost £23,000 as CMED did not initiate a schedule for the collection of maintenance payments from a Non Resident Parent in November 2005. As a result of the schedule not being in place, maintenance charges failed to accumulate on the CS2 system. This could result in a special payment being made to the Parent with Care from the public purse;
- maintenance arrears were undercharged by £19,000 due to

CMED not setting a correct effective date for the maintenance assessment because the Non Resident Parent was never advised of CMED's intention to reassess the case;

- maintenance arrears owing were overstated by over £10,000 as a result of CMED failing to take into account shared care arrangements; and

- there were 9 cases which had missing or no documentation to support the maintenance assessment.

2.7.10 Testing carried out by the Department's CMED Case Monitoring Team (CMT) indicated a cash value accuracy of 96.8 per cent for 2009-10 (95.4 per cent in 2008-09). Testing is focused on decisions taken in year in order to provide an assurance of case value accuracy for the year. Due to inherent weaknesses in both CSCS and CS2 computer systems, the Case Monitoring Team is unable to obtain system generated lists of cases from which to make an appropriate selection for monitoring. New rules and old rules cases on CS2 are selected from clerical returns and a random number selection applied to ensure that decisions selected are evenly distributed throughout the year. In recognising the improved accuracy of current work, it will take a number of years for improvements to be reflected in the whole caseload.

2.7.11 Of the 21 errors found in the 30 cases examined by my staff, 15 of these errors related to the last, i.e. most recent, assessment on those cases. In Figure 12 I have noted the assessment errors in the financial year the assessment was carried out:

Figure 12:

Financial year of most recent assessment	Number of errors
94-95	1
01-02	2
04-05	1
05-06	4
06-07	1
07-08	1
08-09	3
09-10	2

2.7.12 It is therefore my opinion that the level of error within assessments continues to be unacceptable. I asked the Department to comment on these levels of error. The Department told me that it continues to focus on the accuracy of current work in order to provide management with timely, relevant and independent feedback so that learning and improvement can be progressed. The Department also explained that at key stages of a case, for example prior to referral for enforcement action, a full review of the maintenance assessment and arrears balance is undertaken. The Department also told me that changes to assessments are driven by client contact, primarily in respect of changes in circumstances. Where client contact is made, assessments are brought up to date.

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Outstanding Maintenance arrears levels

2.7.13 The Department is required to disclose the balances outstanding from Non Resident Parents in respect of maintenance assessments. Where a non-resident parent does not make payments in accordance with the maintenance assessment and the Department is responsible for collecting those payments, any missed, or shortfall in, payments will be recorded as maintenance arrears. To date the Department has had no legislative powers to write off outstanding maintenance arrears. Maintenance arrears outstanding have accumulated since the inception of child support in 1993. In Note 6.1, the Department reports gross maintenance arrears outstanding of £80.7 million as at 31 March 2010, (£80.9 million at 31 March 2009). The gross maintenance arrears outstanding decreased by £0.2 million between 31 March 2009 and 31 March 2010 compared to an increase of £3.7 million between 31 March 2008 and 31 March 2009. Note 6.1 also reports that the Department's current assessment is that £35.0 million (43.4 per cent) is likely to be collectable (2008-09 £33.3 million; 41.2 per cent) from Non Resident Parents.

2.7.14 Note 6.1 shows a decrease of £0.2m (0.26 per cent) in the overall outstanding maintenance arrears in 2009-10, I welcome the decrease. However, the new CS2 system comprises old and new rules cases and it is disappointing to note that the outstanding maintenance arrears within this system have increased by £0.9 million for old rules and £1.0 million for new rules. The Department told me that prior to the Operational Improvement Project in 2006-07, there had been an increase of £12.4 million in outstanding maintenance arrears in 2006-07. This compares to a decrease of £0.2 million during 2009-10. This improved performance has been achieved against a difficult economic backdrop and is reflected in both systems. Outstanding maintenance arrears on CS2 increased by £13 million in 2006-07 compared to £1.9 million in 2009-10. For CSCS outstanding maintenance arrears decreased by £0.6 million in 2006-07 and by £2.2 million in 2009-10. The Department also highlighted that in addition to the £17.1 million collected in 2009-10 (2008-09 £16 million) it had also secured maintenance arrangements of £7.6million (2008-09 to £6.8 million) and told me that it would continue to build on the success of the Operational Improvement Project through its further three year improvement programme known as 'Fit for the Future'. This programme maintains a strong focus on accuracy and early assessment to ensure that cases do not fall into arrears in the first place.

2.7.15 The outstanding maintenance arrears balances comprise almost 42,498 individual cases, some dating back to 1993. The Department has estimated that in 2009-10 £45.7 million (2008-09 £47.6 million) is deemed probably and possibly uncollectable.

2.7.16 In my report last year I expressed disappointment at the low collection target

(£2.5million) set by the Department stating that it was not sufficiently challenging. For 2009-10 the target was set at £2.8 million and the amount of maintenance arrears collected was £3.01 million. For 2010-11 the target remains at £2.8million. In my opinion, the target level continues to fall well short of that which I would consider to be challenging. With this target it will take the Department over 12 years to recover the current level of outstanding collectable maintenance arrears. The Department told me that the arrears target for 2010-11 was both realistic and challenging and took into account the removal of compulsion on benefit recipients and the reality of the current economic situation, particularly the impact of short-time working, job losses and lower average salaries. The Department also highlighted the fact that the outstanding maintenance arrears balance represents payments that non resident parents have failed to make for their children and stressed the importance of getting the message across that non payment of Child Maintenance is not acceptable. The Department also told me that it would be developing its extended remit to promote the financial responsibility that parents have for their children alongside the delivery of the statutory maintenance service.

2.7.17 At 31st March 2010, the Statement of Balances of £831,000 comprises cleared funds awaiting distribution totalling £636,000. I have sought a breakdown of these amounts and due to the inherent IT system weaknesses the Department is unable to provide me with full supporting documentation relating to some elements of the cleared funds awaiting distribution. I would encourage the Department to continue to seek a full explanation for all cleared funds awaiting distribution balances.

Other Developments

2.7.18 I note that the Great Britain Client Funds Account for 2008-09 has not been signed by Child Maintenance and Enforcement Commission (CMEC) and certified by National Audit Office (NAO). I understand that CMEC initiated a review of the accounting records deliverable from the current CSCS and CS2 systems. I asked the Department what implications this would have for NI and the Department told me that it would continue to work closely with CMEC to ensure that any additional reporting capability would be available to NI. The Department also told me that updates already provided to the NIAO would continue and that NIAO would be kept fully informed of developments.

2.7.19 The NI Client Funds IT system is a part of the CMEC IT systems and therefore is wholly dependent on improvements initiated by CMEC in its information technology services. I note the Department for Work and Pensions Risk and Assurance Division's 2009-10 CMEC Annual Assurance Report records a limited assurance rating against the CMEC IT systems. The CMED Accounting Officer has drawn attention to this report and assurance rating in her Statement on Internal Control.

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2.7.20 I have continued to monitor the costs of collection for NI Client Funds because of concerns that the rate of return is low. However the Department believes that the collection costs are comparable with those of CMEC once the impact of differing earnings levels, the proportion of Non Resident Parents on benefit, or with Nil assessments and with a more complete understanding of caseload and geographical variances. For 2009-10 the Department has told me that the target has been achieved with an actual cost of collection of 60 pence (2008-09: 72 pence) for every £1 collected against a target of 70 pence. I note that the Department has set a target to achieve a cost of collection of 70 pence for every £1 collected in 2010-11. It is disappointing to note again that the Department has set a target which it has already achieved. The Department told me that in setting the cost of collection target for 2010-11 it had taken into consideration prior year performance, potential system enhancements, the impact of the economic downturn on average salaries, the increase in the number of non resident parents in receipt of benefit and increased salary costs across the Northern Ireland Civil Service. While the Department told me that it was pleased with the rate achieved for 2009-10 it recognised that much of the remaining outstanding maintenance arrears were old and would be very difficult to collect and that success in providing high quality information and support that enabled separated parents to make their own arrangements could also impact on the cost of collection. The Department also told me that the importance of value for money and efficiency would continue to be a key consideration in facing the challenges of the current economic climate.

2.7.21 CMED has adopted a three year programme of improvement work known as Fit for the Future developed by CMEC, to succeed the Operational Improvement Project (OIP). Activities resulting from the Fit for the Future Plan and the various programmes of work will be implemented within CMED. I have asked the Department to comment on the outcomes from the Operational Improvement Project. The Department told me that the benefits realised from the Operational Improvement Project over its three year period included an additional £5.2 million of regular child maintenance collected or arranged, an additional £2.3 million of child maintenance arrears collected and a dramatic fall in the number of new applications awaiting action. Other benefits included a reduction in the time taken to deal with complaints and a significant improvement in telephony performance and the speed of processing cases.

2.7.22 The Child Maintenance Act (Northern Ireland) 2008 provides for the introduction of a redesigned scheme in 2011 with more simplified rules for the calculation of maintenance. The redesigned scheme will require the development of a new IT system to support it. I have asked the Department to comment on the progress towards the redesigned scheme and development of a new IT system. The Department told me that the IT system, organisational structures and processes to support the redesigned scheme are being developed by CMEC, and that CMED has an active role in the development process to ensure that NI interests are represented.

Conclusion

2.7.23 I have limited my audit opinion solely in respect of my work relating to the outstanding maintenance arrears balances in Note 6.1 to the Account, because:

- I was unable to determine whether the Department maintained adequate accounting records to support the level of outstanding maintenance arrears balances totalling £80.7 million;
- I was unable to determine if Note 6.1 is in agreement with the accounting records; and
- I have not obtained all the information and explanations that I require for my audit.

I have also qualified my audit opinion on regularity because my examination of maintenance assessments identified cases that have been calculated incorrectly. In my opinion, except for the maintenance assessments calculated in error, in all material respects the financial transactions conform to the authorities which govern them.

2.7.24 I conclude that fundamental challenges remain in terms of:

- the level of error within outstanding maintenance arrears balances; and
- the levels of accuracy in the maintenance assessment calculations where errors have been noted for many years and continue to be noted in recent assessments.

I welcome the significant efforts by the Department to address the long-standing problems and I will continue to monitor the impact on performance.

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2.8 Department of Agriculture and Rural Development Resource Account 2009-10

2.8.1 The report explains the basis of my qualified audit opinion on the 2009-10 departmental resource accounts for the Department of Agriculture and Rural Development (the Department). There are three qualifications of my audit opinion;

- the excess vote caused by the net cash requirement being exceeded;
- the excess vote caused by the net resource outturn being exceeded; and
- the irregularity of amounts due to be paid to the EU in respect of financial corrections. These represent a loss of public funds falling outside the Northern Ireland Assembly's (the Assembly) intentions in relation to the proper administration of European funding.

2.8.2 As part of my audit of the Department's resource account, I am required to satisfy myself that, in all material respects, the expenditure and income shown in the resource account have been applied to the purposes intended by the Assembly and conform to the authorities which govern them; that is, they are `regular'.

2.8.3 I have also included my views on the Department's financial management processes which I have observed during my audit of the 2009-10 departmental resource accounts.

Qualified opinion arising from the Excess Votes

Explanation and description of an 'excess'

2.8.4 The Assembly authorises and sets limits on expenditure on two bases - `resources' and `cash'. Such amounts are set out in the Supply Estimates for which approval and authority is given by the Assembly in the annual Budget Orders.

2.8.5 The cash limit is reflected in a single `Net Cash Requirement (NCR)' for the Department. This represents the maximum amount of cash that may be provided to the Department from the Consolidated Fund to meet its funding requirements.

2.8.6 The resource limit is reflected in one estimate of 'Net Resource Outturn' for the Department. This represents the accruals based limit voted by the Northern Ireland Assembly.

Excess Cash Vote

2.8.7 The Statement of Parliamentary Supply included within the Department's resource account for 2009-10 shows that the NCR outturn was £248,491,781.13 which is £23,278,781.13 or 10.3% greater than the Estimate NCR of £225,213,000.00

2.8.8 In 2009-10 the Department spent more cash than the Assembly had authorised. In so doing, the Department breached the Assembly control over its expenditure and has therefore incurred an 'excess' vote.

The Department will seek to regularise this excess through a vote in the Assembly in due course. As monies have been spent without the necessary Assembly approval I have qualified my opinion in this respect.

The Department's explanation for the excess cash vote

2.8.9 On 15 March 2010, the Department breached its Net Cash Requirement (NCR) for 2009-10.The Department has advised that it inadvertently requested insufficient cash to deliver the Departmental Budget because of a number of administrative errors.

2.8.10 The Department told me that the reasons for the excess cash requirement were:

- In preparation for the Spring Supplementary Estimates (SSEs), the Department of Finance and Personnel (DFP) issued departments with draft SSE templates populated with indicative figures to assist them in preparation of their Estimates. During preparation, an indicative figure was placed in an incorrect row. The error in the draft template was not detected by the Department.

- The Department used the figure work supplied by DFP to post a reduced cash requirement without verifying its own internal in-year changes.

- This was compounded by a second clerical error in the Increase/Decrease in Creditors line. Here, the Department erroneously requested a reduction in the cash requirement which had the result of reducing the Department's overall cash requirement by £90 million.

Action taken by the Department to help prevent a recurrence

2.8.11 When asked what it had done to ensure this situation does not recur, the Department informed me that it recognised that there had been internal control failures and it has now taken steps in agreement with DFP to strengthen its procedures in this area. The Department also told me it is monitoring and reporting cash draw-downs more strictly, is working to improve cash flow forecasting and has also strengthened its estimates preparation and quality review processes.

Resource Expenditure Excess Vote

2.8.12 The departmental resource accounts for 2009-10 shows the Net Resource Outturn was £289,846,142.57 which was 5.1 per cent greater than the estimate of £275,706,000.

2.8.13 In 2009-10 the Department breached the expenditure based limit the Assembly had authorised. In so doing the Department breached the Assembly control over its expenditure and incurred an excess vote. As expenditure has been committed without the necessary Assembly approval I have qualified my audit opinion in this respect.

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The Department's explanation for the resource expenditure excess vote

2.8.14 As explained above the Net Resource Outturn is an expenditure based limit placed on the Department by a vote in the Northern Ireland Assembly. As it is an expenditure based limit it includes not just cash paid but resources committed to meet outstanding liabilities. In this case the resource excess for the Department was due to the inclusion of certain liabilities for EU financial corrections which are further explained below. The Department had not expected these financial liabilities to materialise in the 2009-10 financial year and had therefore not included them in its 2009/10 Estimates. This resulted in a resource overspend in the 2009-10 Resource Accounts.

2.8.15 The Department told me that the European Commission's (the Commission) conformity clearance of accounts process which may give rise to disallowance decisions is long and the timing is uncertain. The Department explained that the process begins with an audit by the Commission and proceeds through a process of audit report, a bilateral between a Member State and the Commission to seek agreement on the corrective measures required, the gravity of the infringement and the financial damage caused to the EU Budget; a formal communication of the Commission draft conclusions and the proposed financial correction; an opportunity for a Conciliation Body to reconcile the positions of the Member State and the Commission and produce a report; and finally the Commission notifying the Member State of its final conclusions. The Department has noted that although the Commission process is well established, responsibility for dealing with the financial consequences of disallowance only transferred from the Department of Environment, Food and Rural Affairs to the Department under devolution, and therefore this is the first occasion that the Department has needed to deal with the issue. The Department has pointed out that the position with respect to the potential disallowance on the 2007 and 2008 scheme years eligibility audits only became clear after 31 March 2010, and under accounting rules, the Department decided to accrue the disallowance in order that the Resource Accounts give a true and fair view. The impact of including this accrual has triggered the Excess Vote as the Department did not have the appropriate Estimate cover.

Summary and Conclusions

2.8.16 In forming my opinion on the Department's 2009-10 resource accounts, I am required to confirm whether, in all material aspects, the expenditure and income have been applied to the purposes intended by the Assembly and the financial statements conform to the authorities which govern them. On the basis of my findings above, I conclude that the outturn net cash requirement of £248,491,781.13 was in excess of the £225,213,000.00 authorised by the Assembly and the net resource outturn of £289,846,142.57 was in excess of the estimated net resource outturn of £275,706,000.00.

The excesses of £23,278,781.13 cash and £14,140,142.57 resource are therefore irregular and will require `Excess Votes' to be approved by the Assembly. My audit opinion has been qualified in respect of these excess votes.

Qualification on the regularity of amounts due to be paid to the EU in respect of financial corrections

European Agricultural Funds – EU Financial Corrections

2.8.17 Northern Ireland continues to benefit from support through the European Agricultural Funds. The Northern Ireland farming community benefited from Common Agricultural Policy subsidies by the EU to the value of £331 million in 2009-10 (£275 million 2008-09). As part of the European Commission's control over the administration of funding, the Directorate General of Agriculture and Rural Development conducts periodic audits to ascertain whether the Paying Agency (in this case the Department) is complying with the EC regulations.

Financial Corrections

2.8.18 The Department has advised me that since 2005 there have been no fewer than six audits on the Department as paying agency for community funding, five by the European Commission and one by the European Court of Auditors. The first audit in 2006 covered EAGGF, EAGF and EAFRD payments for the scheme years 2004, 2005 and 2006. Subsequent audits covered EAGF and EAFRD payments from 2007 onwards. As a consequence of these audits the Commission announced in October 2008, January 2010 and February 2010 three potential financial corrections in respect of the administration of the European Agricultural Funds. One of the proposed corrections was subsequently reduced after consideration (see paragraph 2.8.24 below) leaving an overall liability of approximately €72 million (£64[14] million).

2.8.19 Where it is not possible or practicable to quantify financial corrections on the basis of information contained in individual project files, the Commission determines corrections on the basis of extrapolations or at flat rates.

2.8.20 The Commission imposes flat rate corrections of 2 per cent, 5 per cent, 10 per cent, 25 per cent or 100 per cent depending on the seriousness of the deficiency in the management and control system or the individual breach and the financial implications of the irregularity. When a financial correction is proposed the authority (in this case the Department) may ask the Commission to refer the matter to the Conciliation Body.

2.8.21 The Commission advised that these financial corrections were being applied to the Department due to weaknesses in;

- the Mapping Systems used to record and determine the area of land eligible for payment of grant aid,

14 Translated at 31 March 2010 currency rates

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- the procedures used by Department inspectors to carry out spot checks which did not ensure ineligible land was excluded from claims for payment of grant aid; and
- the processes for implementing recovery of overpayments of grant aid.

2.8.22 As a consequence of these weaknesses the Commission imposed 5% flat rate financial corrections. The Commission Guidelines indicate 'when all the key elements of the system function, but not with the consistency, frequency, or depth required by the regulations, then a correction of 5 per cent is justified'.

2.8.23 In respect of the first notified financial correction covering scheme years 2004-2006, the Department did not agree with the conclusions of the Commission and did not accept that there were any serious deficiencies in the control systems required in Community rules which gave grounds for the level of financial correction proposed. In its submission to the Conciliation Body the Department strongly disputed the view of the EU Directorate General for Agriculture and Rural Development that a flat rate correction and in particular one of a magnitude of 5 per cent was justified.

2.8.24 After considering the views of the Commission in response to arguments presented by the Department in writing and at a meeting, the Conciliation Body invited the Commission to reconsider certain points in April 2009. The Commission confirmed in January 2010 that the Conciliation process had not introduced new facts that would lead the Commission to change its view and it maintained its previous position. However it did re-examine the scope of the financial correction as recommended by the Conciliation Body, and excluded certain types of area aid that, by the nature of the crops, were unlikely to be affected by issues such as scrub encroachment identified by the Commission. This modified the scale of the financial correction marginally reducing it from approximately €35.8 million to €35.2 million (£29.7 million).

2.8.25 The last stage in the process is the decision by the Commission, made on 15th July 2010, after which it published a list of financial corrections and summaries of the reasons for several Member States, covering several years. The financial correction will be deducted from a subsequent claim by the UK Co-ordination body. The Department has therefore included a liability in its 2009-10 resource accounts to make good this shortfall in EU Funding.

2.8.26 The second financial correction covering the same issues in scheme years 2007 and 2008 was notified to the Department on 4th January 2010. It identified an additional weakness in cases where two farmers claim under different EU schemes for one parcel of land. A third financial correction, proposing a 10% correction on a much smaller quantum, was also received in February 2010 for scheme years 2005, 2006 and 2007 in relation to the way payment entitlements were initially awarded to applicants in 2005, and challenging the scope allowed to scheme applicants to declare themselves as eligible farmers. Once again the Department was invited to enter the conciliation process leading to a further review of the evidence and concluding with a hearing of the Departments' case on 9th June 2010. The Conciliation Body issued its reports to the Commission on 21st June and 19th July 2010.

2.8.27 Although the Commission Directorate General for Agriculture and Rural Development have still to provide their conclusions the Department has advised me that, in the absence of new, compelling evidence, the Commission is unlikely to reduce the proposed financial reductions or amendments to the amount or scope of the second and third financial corrections. As a consequence the Department has decided to include a liability in its 2009-10 resource accounts for the full extent of the 2007 and 2008 scheme year financial corrections proposed.

2.8.28 The Department has told me that, in response to the disallowances and to ensure greater compliance with the Commission's requirements it has taken a range of actions which include the following:

- A legal challenge to the Commission's decision to disallow being taken to the European Court of Justice.
- Substantial investment in a new mapping system which is being developed in partnership with Land and Property Services.
- Improving the quality of on-farm inspections by providing better training for inspectors, increasing the resources available for inspection and issuing new guidance for inspectors.

Summary and Conclusions

2.8.29 I have qualified my audit opinion on the Department's 2009-10 resource accounts on the grounds of regularity. The liability of £64 million to make good the shortfall in EU Funding represents a loss to public funds which falls outside the Assembly's intentions in relation to the proper administration of EU funding. I have therefore concluded that expenditure has not been applied for the purposes intended by the Assembly and is not in conformity with the authorities which govern it.

2.8.30 The department disagrees with this opinion and its views are outlined within the Directors' Report in the Annual Report included with the departmental resource accounts. However, my view remains that the losses are irregular as funds have not been applied for the purposes intended.

Financial Management in the Department

2.8.31 My audit of this year's departmental resource accounts has highlighted issues regarding the quality of financial management within the Department some of which have resulted in the qualifications outlined above. There is no doubt the Department will face significant

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challenges in these times of financial constraint and, in my view, having good financial management systems will therefore be even more important to ensure the effective and efficient delivery of services.

2.8.32 The cash shortfall the Department faced this year which is outlined above has been explained as having arisen as a result of a clerical error. However this has caused embarrassment for the Department. Cash management is a key element for all organisations both private and public sector and therefore needs careful attention. I note that the Department has identified the internal control weaknesses and has set in place corrective actions, being the monitoring and reporting of cash drawdowns, checking and quality reviewing of submissions to DFP by senior management and training of staff in the Budgeting and Estimating processes.

2.8.33 In line with DFP guidance, the Department is expected to submit draft Annual Report and Accounts to me by 1st June, in order that the schedules may be audited for laying in the Northern Ireland Assembly before the Summer recess (this year 2nd July). Whilst the Department submitted an advanced version of the draft Annual Report and Accounts on 12th June, the formal signed version was not submitted until 28th June. Therefore the Department was unable to meet the Summer recess deadline. The Department has told me that the the excess vote and the accounting treatment of the 2007 and 2008 financial correction contributed to the deadline being missed and in addition this was the first time the Department used the new Account NI accounting system and this contributed to some delays in the production of the accounts.

2.8.34 Following completion of the audit of the Department's interim accounts, earlier in the year, my staff had made recommendations with the objective of assisting the Department in producing working papers and accounts of sufficient quality to enable the audit to be carried out more speedily and effectively. Although my staff noted some improvement in the quality of the working papers the Department needs to continually review and revise the accounts production process to ensure that there are effective resources, milestones and processes in place so that the timescales and quality of the submissions continues to improve.

2.8.35 I intend to monitor the steps taken by the Department to improve its financial management arrangements and may take the opportunity to report on this again.

2.9 Teachers' Superannuation Scheme Resource Accounts

2.9.1 In 2009-10, the Teachers' Superannuation Scheme expended more resource than the Northern Ireland Assembly (the Assembly) had authorised. By so doing, the Scheme breached the Assembly's control over its expenditure and incurred what is termed an 'excess' for which further Assembly approval is required. I have qualified my opinion on the Teachers' Superannuation Scheme 2009-10 resource accounts in this regard.

2.9.2 The purpose of this report is to explain the reasons for this qualification and to provide information on the extent and nature of the breach to inform the Assembly's further consideration.

My responsibilities with regard to the breach of regularity

2.9.3 As part of my audit of the Teachers' Superannuation Scheme's financial statements, I am required to satisfy myself that, in all material respects, the expenditure and income shown in the resource accounts have been applied to the purposes intended by the Assembly and the financial transactions conform to the authorities which govern them; that is, they are 'regular'. In doing so, I have had regard to the Supply limits set on expenditure by the Assembly.

Background to the Excess

2.9.4 The Assembly authorises and sets limits on expenditure on two bases – 'resources' and 'cash'. Such amounts are set out in the Supply Estimates for which approval and authority is given in the annual Budget Acts Northern Ireland.

2.9.5 In the case of the Teachers' Superannuation resource accounts there is one Request for Resources (RfR), the purpose of which is to provide for the payment of pensions, lump sums and premature retirement compensation to persons covered by the Teachers' Superannuation Scheme. The total expenditure on any RfR must not exceed the amount granted by the Assembly.

Limits

2.9.6 The resource limit for the Scheme was set out in the Northern Ireland Main Supply Estimates for 2009-10, as amended by the Northern Ireland Spring Supplementary Estimates. The limit on the RfR was set at £507,668,000 and subsequently amended to £467,774,000 for 2009-10. This limit was authorised in the Budget Act (Northern Ireland) 2009, the Budget (No.2) Act (Northern Ireland) 2009 and the Budget Act (Northern Ireland) 2010. The breach reported below is against this limit.

Breach of Resource limit

2.9.7 The Statement of Parliamentary Supply to the Teachers' Superannuation Scheme 2009-10 resource accounts shows that the RfR was £471,470,852.13 which is £3,696,852.13 or 0.79 per cent in excess of the Estimate RfR of £467,774,000 authorised. It is proposed

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to ask the Assembly to authorise a further grant of supply from the Consolidated Fund of £3,696,852.13 by way of an Excess Vote.

Details and Causes

2.9.8 As explained in the footnote to the Statement of Parliamentary Supply, (page 20) of the Teachers' Superannuation Scheme 2009-10 resource accounts and the Statement on Internal Control, the Excess arose mainly because of the Department's failure to operate adequate internal controls to manage effectively the estimating process. The biannual exercise for updating the estimates for the Teachers' Superannuation Scheme involves intricate interactions between a number of stakeholders within and external to the Department. The process for agreeing the updates to the figure-work is currently not fully documented which has given rise to ambiguity regarding relevant responsibilities for confirming the estimate figures.

Action to be taken by the Department to help prevent a recurrence

2.9.9 Following identification of the Excess Vote by the Finance Directorate, the Department instigated an immediate review of their estimate processes in order to ensure that sufficient controls were put in place to avoid any possible future excesses. The review was carried out by the Department's Internal Audit Service and a series of recommendations for enhancements to the internal controls were made. These included:

- The development of an agreed process map for the Annual Managed Expenditure and Estimates exercises which should be agreed by the various stakeholders.

- The development of documented procedures to assist staff fulfil their respective responsibilities. Internal Audit has recommended checks for inclusion in these procedures.

- All information providers to sign off Annual Managed Expenditure returns confirming their accuracy and completeness. Sign off should be by the respective team leader or equivalent and the Financial Planning and European Team, who prepare the Annual Managed Expenditure, should check the returns received are properly signed off.

- Prior to the submission of the Teachers' Superannuation Scheme Estimates to the Department of Finance and Personnel, they should be signed off by the team leader or equivalent of Financial Governance and Accountability Team and Teachers' Pay and Pensions Team; in the case of Annual Managed Expenditure, sign off should be by the team leader or equivalent of Financial Planning and European Team and for Spring Supplementary Estimates the team leader or equivalent of the In-Year Monitoring Team. This will provide the opportunity to take into account any changes that have arisen since the Annual Managed Expenditure return was submitted to the Department of Finance and Personnel in December.

- The Financial Planning and European Team management should ensure an independent management check is performed over the accuracy and completeness of the figures entered on the Department of Finance and Personnel template for the Estimates and evidence of this check should be recorded for audit trail purposes.

2.9.10 The Department has advised me that the enhancements to internal control will be implemented as appropriate and these will be kept under review.

Summary and conclusions

2.9.11 In forming my opinion on the Teachers' Superannuation Scheme 2009-10 financial statements, I am required to confirm whether, in all material respects, the expenditure and income have been applied to the purposes intended by the Assembly and the financial transactions conform to the authorities which govern them. On the basis of my findings above, I concluded that net resource outturn of £471,470,852.13 was in excess of the £467,774,000 authorised by the Assembly resulting in an excess of £3,696,852.13, and that it was therefore irregular. My audit opinion has been qualified in this respect.

Section Three:
General Matters

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3.1 Procurement of the Badger Population Survey

Background

3.1.1 The Department of Agriculture and Rural Development ("The Department") formed a Badger Stakeholder Group ("the Group") in 2004, as part of a range of initiatives to help reduce bovine tuberculosis levels in Northern Ireland.

3.1.2 The Group recognised that having up to date information on badger distribution and a current population estimate was essential baseline data, necessary to inform any future bovine tuberculosis research or management strategies involving badgers. In January 2007, it was agreed that a Working Group should be established to develop a detailed proposal of the way forward.

3.1.3 The Working Group met once, in March 2007, and produced a report, "Recommendation for a Badger Survey" which concluded that the survey should mirror the only other Northern Ireland badger population survey that was conducted in the early 1990's. At that time the Department received an estimate that the potential cost for the contract would be £120,000 to £130,000 and the survey was to be procured by open tender competition. In June 2007, the Department requested Central Procurement Directorate (CPD) run an open competition for the survey. Four tenders were received before the closing date of 30th August 2007.

3.1.4 A Procurement Officer from CPD facilitated the evaluation panel and completed the official record of the meeting. The panel recommended that the contract should be awarded to Quercus, School of Biological Sciences, Queens University Belfast (QUB), in partnership with Central Science Laboratory (CSL), a government agency of Department of the Environment, Food, and Rural Affairs (hereafter referred to as "Quercus/CSL").

3.1.5 On 9th September 2008, the Quercus/CSL report, "Badger Survey of Northern Ireland 2007/08" was published on the Departments website.

Reason For Investigation

3.1.6 In November 2007, my office received information from a Member of the Legislative Assembly (MLA) in relation to concerns about how the badger population survey was procured. The MLA had received information regarding the procurement of the survey from two ecologists sub-contracted by one of the unsuccessful bidders for the contract.

3.1.7 The following allegations were made:

- **Conflict of Interest**
  The Acting Manager of Quercus was a member of the Badger Stakeholder Group and advised on the development of the current tender. He also submitted a winning application to the same tender.

- **Vested Interest**
  An advisor to the Badger Stakeholder Group, who sat on the tender selection panel, also sat on the governing management committee of the winning applicant.

- **Unfair Competitive Advantage**
  Due to its Acting Manager's position within the Group, the successful applicant had:-
  - Prior knowledge of tender nature and timing
  - Access to the Group's information not readily available to other applicants; and
  - Position to influence panel

- Poor Scientific Rationale of Methodological Choice of the Panel

It was alleged that the successful tenderers proposed methodology for carrying out the survey was outdated, could result in unreliable abundance estimates and may have been limited. Furthermore, it was alleged that the methodology selected, which utilised data from outside Northern Ireland, may not produce a reliable, relevant estimate for local conditions.

3.1.8 My office performed a preliminary review of the Department's records in May 2008. After receiving the preliminary findings from the review, the Department commissioned its Internal Audit unit to perform a review of the tender process in June 2008. In August 2009 a copy of the Internal Audit report, dated July 2009, was sent to the two people who had made the original allegation. In completing this report I relied upon the findings reported within the Internal Audit Report and my earlier preliminary review, I have used these findings to form my conclusions which are included at paragraph 3.1.10 below.

Findings

3.1.9 The Department's Internal Audit Unit carried out the investigation into the tender process and below is a summary of the findings contained in its report.

- **Conflict of Interest – The Acting Manager of Querus and his role in the procurement process**
  The need for a badger stakeholder survey was identified by the Badger Stakeholder Group at a meeting which took place in January 2007. The Acting Manager of Quercus, as a scientific advisor within the Badger Stakeholder Group, attended the January 2007 meeting and responded to questions from members on the need for a survey. The Department pointed out that although the Acting Manager of Quercus attended a meeting of the Working Group where there were initial discussions in relation to the Badger Population Survey all contact was broken between the Department and the Acting Manager of Quercus when it was recognised that the survey would be going out to tender. However the Internal Audit report found that the 'Acting Manager had a key and influential role in both groups'.

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In May 2007, the Department sought advice from CPD on how to manage a potential conflict of interest involving the Acting Manager of Quercus due to his involvement in developing the protocol. Neither CPD nor the Department hold any formal documentation confirming the advice provided by CPD. The report indicates that the Department's interpretation of CPD's advice was to tender for the survey without an outline protocol and therefore to allow prospective tenderers to suggest their own methods. Senior management within CPD felt their advice must have been misinterpreted and they would have advised that methodologies should be left open to allow tenderers to provide the most economically advantageous method but that if the Department had a preferred protocol then this should have been included within the tender specification.

A "Conflict of Interest Declaration" was completed by all four tenderers. None of the four tenderers declared any conflict of interest. The Quercus/CSL tender made the following declaration 'that there would be no conflict or perceived conflict of interest in relation to the personnel or type of work involved in this contract'. Neither the Department nor the evaluation panel challenged the Quercus/CSL "Conflict of Interest Declaration" statement, on the grounds of the Quercus Acting Manager's role as a member of the Badger Stakeholder Group. The report notes that two Departmental employees, on the evaluation panel, were in a position to challenge the statement. The Department has asked me to note that a procurement officer from CPD facilitated the evaluation panel and completed the official record of the meeting.

- **Vested Interest / Conflict of Interest – Environment and Heritage Service (EHS) Official**
  At the time of the tender, Quercus was governed by a management committee chaired by a project director and consisting of representatives from Queens University Belfast (QUB) and EHS.

  An EHS official, who was on the Quercus management committee, was on the evaluation panel for the badger population survey and was also a member of the Badger Stakeholder Group. The Department has asked me to point out that the EHS official was not present at the January 2007 meeting of the Badger Stakeholder Group where the population survey was discussed and was not a member of the Working Group. In addition the Department wish to add that the EHS official had no executive management role in Quercus, was not paid by Quercus and was not present at any of the meetings where the survey was discussed.

  Each member of the evaluation panel completed a "Conflict of Interest Declaration" when the panel was first formed and again when they were informed of the tenders to be evaluated. The EHS official did not declare a conflict on any occasion. The Internal Audit report notes that the official stated he had no involvement in the development of the Quercus/CSL tender.

- **Unfair Competitive Advantage**
  - Prior knowledge of tender:
    The internal audit report notes that as a member of the Badger Stakeholder Group and Working Group, the Acting Manager of Quercus had prior knowledge of the survey before the tender competition was opened. The tender was published on 27th July 2007 and closed on 30th August 2007. This gave all other tenderers one month to prepare a tender.

  - Access to Group's information not readily available to other applicants:
    The internal audit report concludes that as a member of the Badger Stakeholder Group and Working Group, the Acting Manager of Quercus was privy to information and the report "Recommendation for a Badger Survey". The report also indicated that the Quercus tender contained quotations from the report which addressed the Department's specific requirements. The Department has asked me to note that the Acting Manager of Quercus did not develop the terms of reference for the badger population survey nor did he have any role in the evaluation of tenders.

  - Position to influence panel:
    The internal audit report's findings state that the Acting Manager of Quercus had an influential role in the Badger Stakeholder Group and Working Group and consequently, in the development of the proposed protocol for the survey. This status was due to his professional credentials and experience in the field (all the research on the ecology of badgers in NI has been supervised by the Acting Manager of Quercus and the only other NI badger population survey was supervised by him at QUB). Once again the Department has asked me to point out that all contact was broken with the Acting Manager when the Department became aware that the survey would be going to tender and also that he had no role in developing the terms of reference or on the evaluation panel.

- **Poor Scientific Rationale of Methodological Choice of the Panel**
  I am unable to provide a scientifically informed opinion on the strengths and weaknesses of the methodologies proposed within the four tenders.

  I understand that two methodologies were proposed by the bidders, these were:

  - Distance Sampling – proposed by the unsuccessful bidder connected to the two ecologists who made the allegations; and

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- Sett Survey – proposed by the other three bidders.

Sett survey was the methodology that had been used in the previous badger population survey and which was recommended by the Badger Stakeholder Working Group.

Internal audit noted that although the tender evaluation records contained a significant amount of detail there was no overall comparative summary record or a record maintained of how each tender did or did not address the tender specifications. The Department has asked me to include that when interviewed by internal audit, all panel members confirmed that there was a full evaluation of all the tenders and consideration of the different proposed methodologies and that each member confirmed that the Quercus/CSL bid was the strongest and they were content with the appointment decision.

- **Cost**
The Department had received an estimate that the potential cost for the contract would be £120,000 to £130,000. No economic appraisal/business case was prepared to support the survey. The Department has noted that a business case was subsequently prepared and agreed retrospectively.

Quercus/CSL was the most expensive tender at £189,388 (excluding VAT).

Conclusions

3.1.10 On the basis of the above summation of the findings from the Internal Audit Report and my preliminary review of the procurement of the badger population survey I have reached the following conclusions.

Conflict of Interest

3.1.11 It is my view that there was a clear conflict of interest in the award of the contract where one tenderer was privy to information on the preferred methodology required. Although it was an explicit requirement of the tender to make a declaration of interest Quercus /CSL failed to declare the role of the Acting Manager of Quercus on the Badger Stakeholder Group.

Procurement Process

3.1.12 In my view there were significant flaws in the execution of this procurement process. It is clear that the Department had, at the outset, a preferred methodology for carrying out the survey which was not communicated directly to the tenderers. I also note that the Department did not prepare an economic appraisal/ business case to justify the survey, assess options or identifiy projected costs. It is also a concern that the documentation supporting the procurement decisions made by the evaluation panel were not as comprehensive as they could have been. The evaluation panel's consideration of the conflicts of interest declarations in respect of both the tenders received and within the panel were insufficient. This raises questions as to the adequacy of training provided to panel members on the recognition and handling of potential/actual conflicts of interest.

Lessons learned

3.1.13 The guidance on conflicts of interest, particularly regarding procurement processes, should be clear, unambiguous and widely promulgated.

3.1.14 Conflicts of interest declarations should be completed at each stage of the procurement process by all parties involved. The requested declarations should be comprehensively stated so as to ensure a clear understanding.

3.1.15 Evaluation panels for procurement exercises should be suitably experienced and fully trained in procurement guidelines, particularly in handling conflicts of interest. Evaluation panels should also ensure there is sufficient knowledge and experience of the subject matter being assessed to allow it to make an informed decision.

3.1.16 Public bodies should fully comply with procurement practice in the preparation of comprehensive economic appraisals / business cases.

3.1.17 Decisions on procurement exercises should be fully documented and unambiguous.

3.2 Laying of Charities Annual Reports by the Department for Social Development

Introduction

3.2.1 The Charities Act (Northern Ireland) 1964, requires the Department for Social Development to prepare a Charities Annual Report of the proceedings of the Department under the Act and to lay the Annual Report before each House of Parliament or the Northern Ireland Assembly. This legislation has been supplemented by the Administration of the Charities (Northern Ireland) Order 1987 and will be replaced by the Charities (NI) Act 2008, once fully enacted.

3.2.2 The Charities Annual Report comprises the administration of the Charities Act (Northern Ireland) 1964, the administration of the Charities (Northern Ireland) Order 1987 and Appendices for Cy Pres Schemes made by the Department, the Charitable Donations and Bequest Account (CDB) and the Central Investment Fund for Charities Account (CIFC).

Laying of Annual Reports

3.2.3 In January 2010 my staff identified that the Department had not prepared or laid, before each House of Parliament or the Northern Ireland Assembly, a Charities Annual Report since 2001. We drew this matter to the attention of the Department. Subsequently the Department laid Annual Reports for the years 2004 to 2008 in the Assembly on 15 October 2010.

Annual Reports were not laid for the years 2002 and 2003. The Department advised me this was because completed reports for these years were held on file and it was assumed that these had previously been laid.

3.2.4 My staff reviewed the content of the Annual Reports which had been laid and identified a number of errors. This resulted in the Annual Reports for 2004 to 2008 being retrieved from the Assembly to enable corrections to be made. The errors included:

- omission of CDB accounts;
- omission of my audit certificates for CIFC accounts; and
- the wrong years of account being referred to.

3.2.5 I asked the Department why these Annual Reports had been incorrectly laid. The Department told me the wrong version of accounts was laid. Also a page from the Investment Accounts in the Charities, Donations and Bequests Accounts was incorrectly included. The final version was not shared between the two relevant areas within the Department before it was laid in the assembly in order to correct this.

Conclusion

3.2.6 I am disappointed to note the Department failed to comply with legislative requirements since 2001 and this led to a gap in accountability. I am concerned that in correcting this failure the Department did not correctly lay the Annual Reports in accordance with the legislation.

3.2.7 I recommend that the Department reviews its practices and procedures for laying Annual Reports to ensure that the appropriate controls and governance are in place to comply fully with the legislative requirements. The Department should ensure that all future Charities Annual Reports are properly prepared, reviewed and correctly laid before the Northern Ireland Assembly.

3.2.8 I will monitor the Department's progress with this matter.

NIAO Reports 2009-2010

Title	HC/NIA No.	Date Published
Absenteeism in Northern Ireland Councils 2007-08	–	9 January 2009
Obesity and Type 2 Diabetes in Northern Ireland	NIA 73/08-09	14 January 2009
Public Service Agreements – Measuring Performance	NIA 79/08-09	11 February 2009
Review of Assistance to Valence Technology: A Case Study on Inward Investment	NIA 86/08-09	25 February 2009
The Control of Bovine Tuberculosis in Northern Ireland	NIA 92/08-09	18 March 2009
Review of Financial Management in the Further Education Sector in Northern Ireland from 1998 to 2007/ Governance Examination of Fermanagh College of Further and Higher Education	NIA 98/08-09	25 March 2009
The Investigation of Suspected Contractor Fraud	NIA103/08-09	29 April 2009
The Management of Social Housing Rent Collection and Arrears	NIA 104/08-09	6 May 2009
Review of New Deal 25+	NIA111/08-09	13 May 2009
Financial Auditing and Reporting 2007-08	NIA 115/08-09	20 May 2009
General Report on the Health and Social Care Sector in Northern Ireland 2008	NIA 132/08-09	10 June 2009
The Administration and Management of the Disability Living Allowance Reconsideration and Appeals Process	NIA 116/08-09	17 June 2009
The Pre-School Education Expansion Programme	NIA 133/08-09	19 June 2009
Bringing the SS Nomadic to Belfast – The Acquisition and Restoration of the SS Nomadic	NIA 165/08-09	24 June 2009
The Exercise by Local Government Auditors of their functions	–	30 June 2009
A Review of the Gateway Process/The Management of Personal Injury Claims	NIA 175/08-09	8 July 2009
Resettlement of long-stay patients from learning disability hospitals	–	7 October 2009
Improving the Strategic Roads Network - The M1/ Westlink and M2 Improvement Schemes	–	4 November 2009
The Performance of the Planning Service	–	25 November 2009
Improving Adult Literacy and Numeracy	–	9 December 2009
Absenteeism in Northern Ireland Councils 2008-2009	–	11 December 2009

NIAO Reports 2009-2010

Title	HC/NIA No.	Date Published
Campsie Office Accommodation/ Synergy e-Business Incubator (SeBI)	–	24 March 2010
The Management of Substitution Cover for Teachers: Follow-up Report	–	26 May 2010
Managing the Performance of NI Water	–	16 June 2010
Schools' Views of their Education and Library Board 2009	–	28 June 2010
General Report by the Comptroller and Auditor General 2009	–	7 July 2010
School Design and Delivery	–	25 August 2010
CORE: A Case Study in the management and control of a local economic development initiative	–	27 October 2010
Absenteeism in Northern Ireland Councils 2009-10	–	26 November 2010
Arrangements for Ensuring the Quality of Care in Homes for Older People	–	8 December 2010
National Fraud Initiative 2008-09	–	15 December 2010

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