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Northern Ireland Audit Office

Financial Auditing and Reporting: General Report by the Comptroller and Auditor General for Northern Ireland – 2014

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
9 December 2014

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Published 9 December 2014

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K J Donnelly
Comptroller and Auditor General

Northern Ireland Audit Office
9 December 2014

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

AFBI	Agri-Food and Biosciences Institute
ALB	Arm's Length Body
ALP	Advance Land Purchase
ATLAS	Automated Transfer of Local Authority Systems
C&AG	Comptroller and Auditor General
CAP	Common Agriculture Policy
CAU	Corporate Assurance Unit
CMS	Child Maintenance Service
CPD	Central Procurement Directorate
CTSA	Corporation Tax Self Assessment
DARD	Department of Agriculture and Rural Development
DCAL	Department of Culture, Arts and Leisure
DE	Department of Education
DEFRA	Department of Environment, Food and Rural Affairs
DEL	Department for Employment and Learning
DETI	Department of Enterprise, Trade and Investment
DFP	Department of Finance and Personnel
DHSSPS	Department of Health, Social Services and Public Safety
DOE	Department of the Environment
DSD	Department for Social Development

DWP	Department of Work and Pensions
ELB	Education and Library Board
ESA	Employment Support Allowance
EU	European Union
GPC	Government Procurement Card
GTCNI	General Teaching Council for Northern Ireland
HMRC	Her Majesty's Revenue and Customs
IB	Incapacity Benefit
IS	Income Support
LPS	Land and Property Services
NAO	National Audit Office
NDPB	Non Departmental Public Body
NI	Northern Ireland
NIAO	Northern Ireland Audit Office
NICF	Northern Ireland Consolidated Fund
NIHE	Northern Ireland Housing Executive
NILA	NI Library Authority
NILGOSC	Northern Ireland Local Government Officers' Superannuation Committee
NIFRS	Northern Ireland Fire and Rescue Service
NSMC	North/South Ministerial Council

Abbreviations

OFMDFM	Office of the First Minister and Deputy First Minister
OGC	Office of Government Commerce
PAC	Public Accounts Committee
PPL	Project Price List
PPSNI	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland
RfR	Request for Resources
SAU	Standards Assurance Unit
SIU	Scheme Inspection Unit
SSA	Social Security Agency
SSE	Spring Supplementary Estimate
UK	United Kingdom
YJA	Youth Justice Agency

Foreword

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 (NIAO). It deals primarily with the 2013-14 accounts of central government bodies but also considers a number of legacy accounts from previous accounting periods. 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 primary aim of the NIAO's financial audit service is to provide objective information, advice and assurance to the Northern Ireland Assembly on how public funds have been used. In addition, we strive to assist audited bodies to improve their financial management processes, governance and propriety in the conduct of public business. This is achieved through our mainstream financial audit work, attendance at audit committees and production of good practice guides.

Our statutory independence from Government affords us the opportunity to critically evaluate the performance of public bodies in an unbiased manner. Meanwhile, our close partnership with the Public Accounts Committee (PAC) enables us to assist them in holding public bodies to account.

This General Report prompts a timely focus on the qualified opinions and reports issued on departmental resource accounts and other accounts for 2013-14. This will enable the 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. Many of the qualified audit opinions this year result from failures to comply with instructions from governing authorities, including the Department of Finance and Personnel (DFP) and the European Union (EU). However, this year there were three instances where Departments have been unable to contain expenditure within statutory limits voted and approved by the Assembly. This results in an excess vote position and an automatic qualification of my regularity opinion.

I have also included short reports on the use of the Government Procurement Card, corporation tax, North-South bodies, excess votes and farm inspections.

In conducting financial audit work I am always mindful of the need to provide "added value" to audited bodies. Our oversight of public bodies affords us a unique position to identify examples of good practice and promulgate these throughout the public sector. It is reassuring that audited bodies implemented a significant number of changes as a result of recommendations arising from our financial audit work.

The need for effective, efficient and independent audit scrutiny of public sector bodies is becoming more essential as the competing demands on public sector resources continue to grow. The experience and knowledge of my staff within the Northern Ireland Audit Office ensures that they are fully equipped to meet the challenge of providing this vital service. I would like to thank them for their continued professionalism in this work. I am also very grateful to the staff in the Northern Ireland Civil Service and the other public bodies audited for their continuing cooperation.

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December 2014

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

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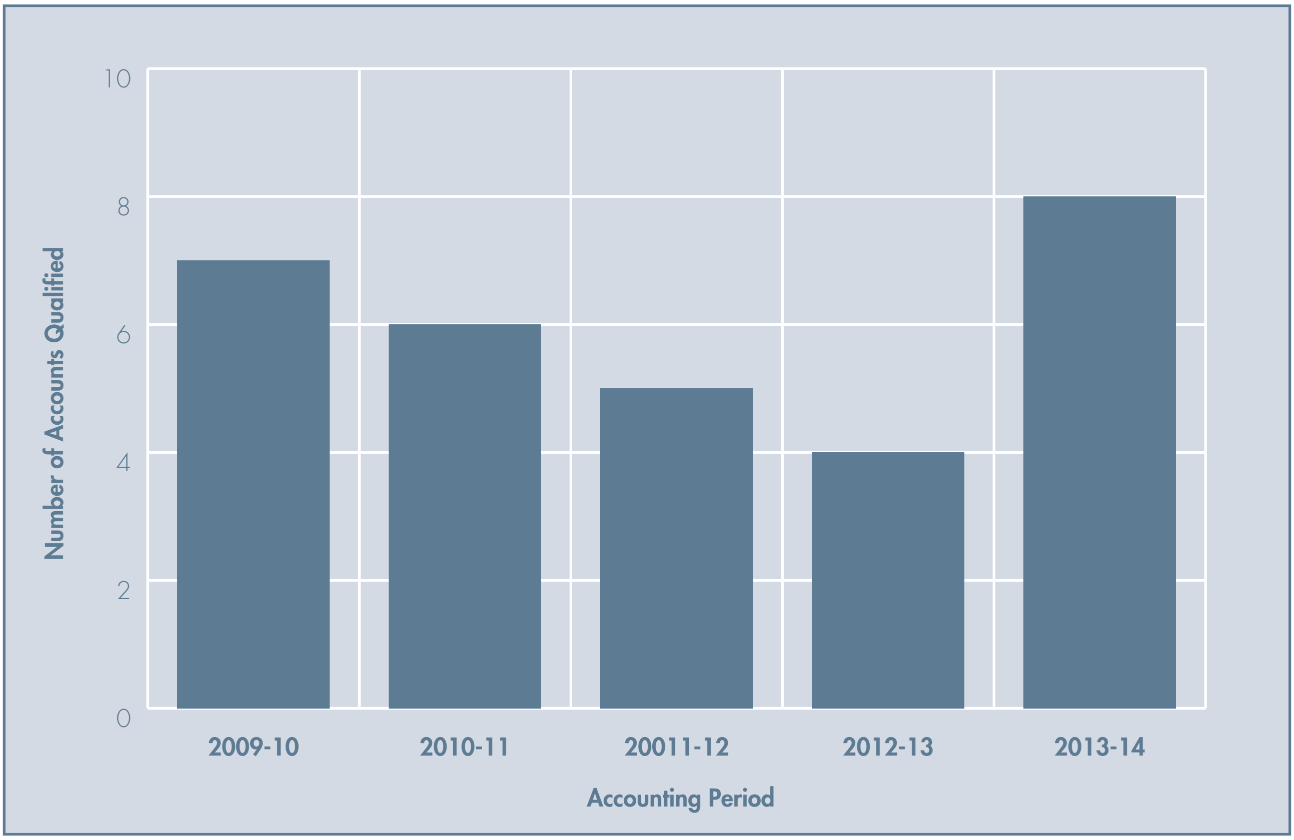
Financial Audit: Qualified Opinions and Reports on Accounts

Qualified Opinions – Departmental Resource Accounts

1.1 Since the introduction of resource accounts there has been a general decline in the number of accounts qualified, however this year we have seen a small rise. **Figure 1** illustrates the number of resource accounts qualified for the five year period 2009-10 to 2013-14. In the 2013-14 accounting period, eight of the nineteen resource accounts were qualified (42 per cent compared to 21 per cent in 2012-13). The reasons for the qualifications were benefit fraud and error; a failure of departments to obtain necessary DFP approvals; and EU fines incurred as a result of failure to comply with EU regulations. In 2013-14 we also saw three resource accounts qualified due to an excess vote[1]. Further information on these can be found at Paragraphs 3.34 – 3.47.

1.2 **Figure 2** contains brief details of the eight resource accounts which received qualified audit opinions for the 2013-14 financial year. My full reports are published separately and laid in the Northern Ireland Assembly. I have decided to reproduce two reports in full and these are attached at Annex 1 and 2.

Figure 1: Number of Resource Accounts Qualified for Accounting Periods 2009-10 to 2013-14



1 The Assembly authorises and sets limits on public expenditure in the annual Budget Acts on two bases, resources and cash. An excess vote occurs where a Department's expenditure exceeds either one or both of these authorised limits. Such an overspend is automatically deemed irregular and attracts a qualified audit opinion.

Figure 2: Qualified Resource Accounts

Department	Nature of the Qualification
Department for Social Development 2013-14	The audit opinion has been qualified for a considerable number of years and is qualified again this year because of significant levels of fraud and error in benefit expenditure. The total expenditure on benefits by the Department for Social Development (DSD) in 2013 was £5.5 billion (£5.3 billion, 2012-13) and of this, DSD estimated overpayments due to fraud and error of £71.9 million (1.3%) compared to £68.7 million (1.3%) in 2012. In addition, underpayments due to official error increased slightly to £20.8 million (0.4%) from £18.0 million (0.3%) in 2012. From an overall Departmental point of view the estimated levels of overpayments and underpayments due to fraud and error were 1.7% this year. This is lower than the same figure in the Department for Work and Pensions of 3% for the year to 31 March 2013. I also provided an update on governance arrangements in the housing association sector and was pleased to note that in general there has been considerable improvement across the sector in the last few years. However, I did highlight two important issues: • DSD, (via NIHE), has in the past provided grants to housing associations to allow them to purchase land to build on, in order to provide social housing. I noted two cases where grants had been paid several years ago but where social housing had not yet been built. In one of these cases there are now arrangements for repayment but in the other, DSD has not yet asked for the grant to be repaid despite it having been made over six years previously. • In one housing association concerns about a potential conflict of interest were raised by a member of the public. I asked DSD to investigate these concerns in October 2013 but as yet it has been unable to obtain answers to what I consider to be reasonable and straightforward questions. I am continuing to encourage DSD to resolve this issue as soon as possible. My full report can be found at Annex 1.

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

Figure 2: Qualified Resource Accounts

Department	Nature of the Qualification
Department of Agriculture and Rural Development 2013-14	The audit opinion on the Department of Agriculture and Rural Development's (DARD) Accounts was again qualified. During the 2013-14 financial year, DARD accrued £10.3 million in its resource accounts to make good the shortfall in EU funding due to be repaid to the EU in respect of financial corrections. The audit opinion was also qualified in 2012-13 when £12 million was accrued to make good the shortfall. This 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 does not conform with the authorities which govern it. http://www.dardni.gov.uk/dard-resource-accounts-2013-14.pdf
Department of Education 2013-14	The audit opinion on the Department of Education (DE) accounts was qualified because DE exceeded the resource limit authorised by the Assembly in respect of the Non Budget Section in Request for Resource A (RfR A). In doing so, DE breached the Assembly's control over its expenditure and therefore incurred an excess vote of £6.275 million. In 2011-12 and 2012-13, my audit opinion in respect of regularity on the DE's Accounts was qualified, as pay increments for non-teaching staff in voluntary grammar schools and grant maintained integrated schools had not been approved by the DE or DFP. No new increments were paid in 2013-14. However, the salary increments in the period since 2006-07 which are still being paid, and which amount to £12 million in 2013-14, continue to be irregular. Whilst this expenditure was irregular in 2013-14, the audit opinion has not been qualified on this issue as DE has taken the necessary steps to resolve this issue and has received approval for the pay increments after the financial year end. http://www.deni.gov.uk/2013-14_de_annual_report_and_accounts.pdf

Figure 2: Qualified Resource Accounts

Department	Nature of the Qualification
Department of Culture, Arts and Leisure 2013-14	The audit opinion on the Department of Culture, Arts and Leisure's (DCAL) accounts was qualified for the third consecutive year due to a failure by DCAL to provide adequate evidence of legal ownership of certain non-current assets. As a result, DCAL was unable to provide me with sufficient appropriate audit evidence to support: • land and buildings valued at £1.58 million; and • other land and buildings which may be owned by DCAL but which are not included in the financial statements. DCAL also received a qualified audit opinion in respect of grants amounting to £8.47 million in 2013-14. The irregular expenditure arose as a result of failure by DCAL to submit Annual Business Plans for the Ulster Scots Language Body and Waterways Ireland to DFP in sufficient time to allow approval prior to the commencement of the financial year to which plans relate. As business plans did not receive the required approval, there was no authority for this expenditure. I have therefore concluded that the expenditure is not in conformity with the authorities which govern it and qualified my audit opinion on regularity in this respect. See paragraph 3.1 for details. http://www.dcalni.gov.uk/dcal_annual_report_31.3.14.pdf
Office of the First Minister and Deputy First Minister 2013-14	The audit opinion on the Office of the First Minister and Deputy First Minister (OFMDFM) accounts was qualified because of irregular expenditure totalling £4.31 million in 2013-14, incurred on the Ebrington Parade Ground project. This project has been ongoing since 2010-11 and is administered by Ilex Urban Regeneration Company Limited. Ilex did not request the required approval in 2010-11 from DFP for changes to the parade ground and as a result DFP approval for this project was withdrawn. http://www.ofmdfmni.gov.uk/ofmdfm-annual-report-accounts-2013-2014.pdf

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

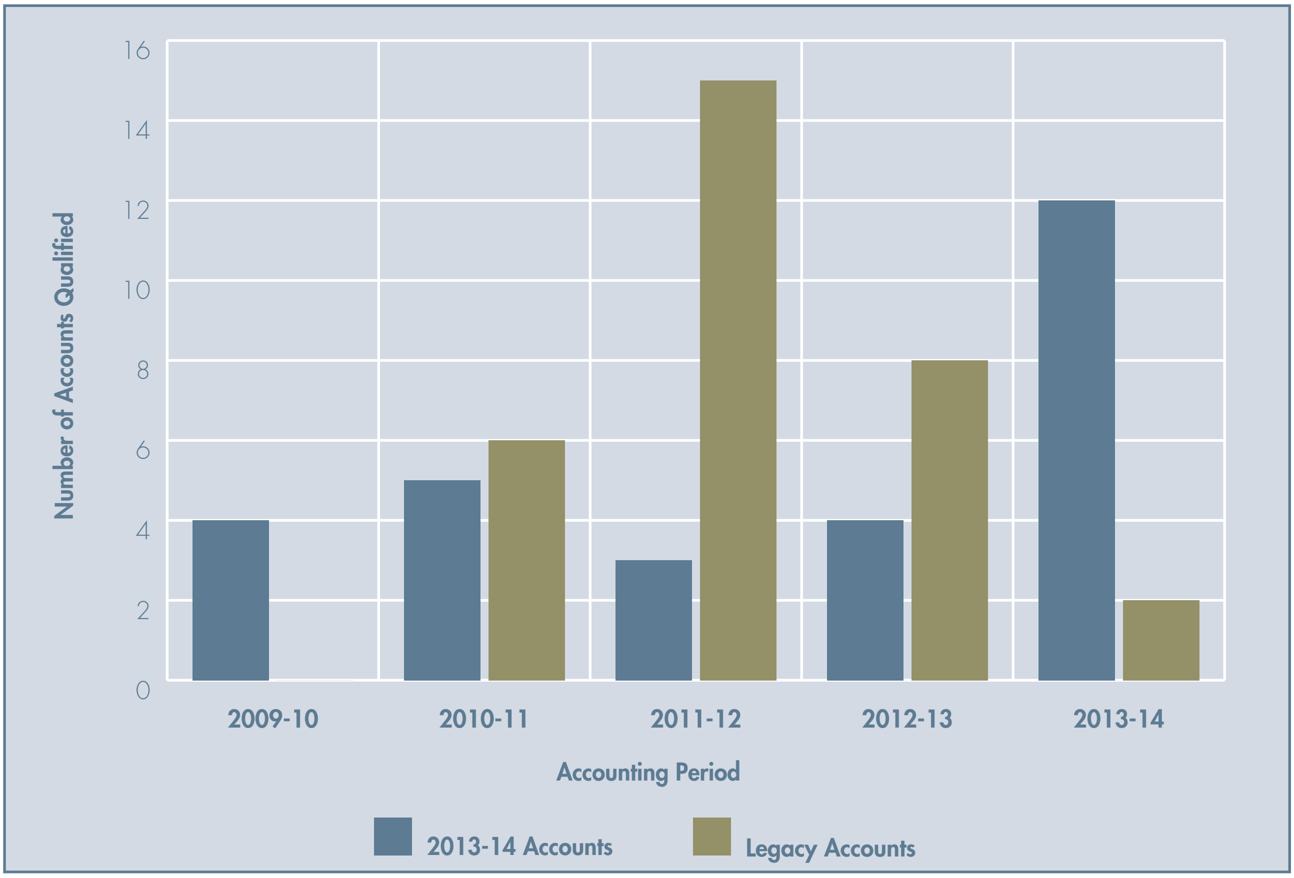
Figure 2: Qualified Resource Accounts

Department	Nature of the Qualification
Public Prosecution Service for Northern Ireland 2013-14	The audit opinion on the Public Prosecution Service for Northern Ireland (PPSNI) accounts was qualified because PPSNI spent more resources than the Assembly had authorised. In doing so, PPS breached the Assembly's control over its expenditure and therefore incurred an excess vote of £6.032 million. www.ppsni.gov.uk/Annual-Reports—5077.html
Department for Employment and Learning 2013-14	The audit opinion on the Department for Employment and Learning (DEL) accounts was qualified because pay progression increments had been made to staff in the further education colleges without receiving the required approval from DFP. Despite the payments being made in line with contractual obligations, the absence of DFP approval represents a breach of controls and has resulted in the payments being deemed irregular by DFP. The value of payments that did not receive approval in the 2013-14 financial year was £2.6 million. This qualification also extends to the six further education colleges. http://www.delni.gov.uk/index/about-the-dept/del-resource-accounts.htm
Department of Health, Social Services and Public Safety 2013-14	The audit opinion on the Department of Health, Social Services and Public Safety (DHSSPS) accounts was qualified because DHSSPS spent more than its estimated net resource limit for providing an effective fire fighting, rescue and fire safety environment. This resulted in an excess vote of £1.17 million. http://www.dhsspsni.gov.uk/dra2013-14.pdf

Qualified Opinions – Arm's Length Bodies

1.3 Since the last General Report I have qualified 14 sets of accounts of Arm's Length Bodies (ALBs) sponsored by central government departments. Eleven were in respect of the 2013-14 accounting period while the remaining three related to previous accounting periods. The first of these, the NI Library Authority (NILA) had a target certification date of October 2013, which was outside the scope of my previous report. The two remaining accounts, both in respect of the Statement of Rate Levy, were originally planned to be certified within the scope of my previous report. These two accounts required further investigation and further evidence was provided by Land & Property Services (LPS). After auditing the additional evidence provided, I was able to reflect the progress it had made in addressing a number of issues. **Figure 3** illustrates the number of ALBs' accounts qualified for the five year period 2009-10 to 2013-14.

Figure 3: Number of Arm's Length Bodies' accounts qualified for Accounting Periods 2009-10 to 2013-14



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

1.4 Details of the twelve 2013-14 ALB accounts qualified are outlined at **Figure 4**.

Figure 4: Qualified Accounts – Arm's Length Bodies

Name of Public Body	Nature of the Qualification
Northern Ireland Housing Executive 2013-14	The audit opinion on the Northern Ireland Housing Executive (NIHE) accounts has been qualified for three reasons: • As has been the case for a number of years, the audit opinion on the NIHE has again been qualified because of significant levels of fraud and error in housing benefit expenditure. Total housing benefit expenditure in 2013 was £659 million (£612 million in 2012), and of this DSD Standards Assurance Unit estimated overpayments due to error and fraud of £21.1 million (3.2%) compared to £20.8 million in 2012. Underpayments due to official error were estimated to be £4.8 million (0.7%) compared to £4.7 million (0.8%) in 2012. • For a number of years, significant issues have arisen in respect of the contract management of response and planned maintenance which have resulted in the audit opinion being qualified: ➢ In respect of response maintenance the qualification has continued again this year. However, there has been a significant improvement in the management of response maintenance contracts (on which the NIHE spent £41 million in 2013-14). However, there is still more to be done to bed in these improvements and this will be reviewed again next year. ➢ The audit opinion on planned maintenance (on which the NIHE spent £86 million in 2013-14) has also continued to be qualified. There continue to be significant weaknesses and the NIHE's own assurance procedures in this area need to be improved further. It is recognised, however, that the NIHE has plans in place to attempt to address the concerns in this area.

Figure 4: Qualified Accounts – Arm's Length Bodies

Name of Public Body	Nature of the Qualification
	• In 2013-14 there has been some debate with HMRC as to how much of the NIHE's activities are liable to corporation tax. In the past, only interest has been considered liable to tax, but in the current year HMRC has sought to widen this to much more of the NIHE's activities. The NIHE set aside an additional £11.5 million to meet this new liability but at the time of audit it was considered that the actual liability that will be incurred was too uncertain to provide an audit opinion on. My full report can be found at Annex 2.
Northern Ireland Social Security Agency 2013-14	The audit opinion on the Social Security Agency (SSA) accounts has been qualified for a considerable number of years and is qualified again this year because of material levels of fraud and error in benefit expenditure. I have not qualified my audit opinion on the regularity of State Pension payments because they have been estimated to have a low incidence of error and no reported customer fraud. I was encouraged, however, by the initiatives taken by the Agency in counteracting fraud and error, in sustaining an estimated level of overpayments due to fraud and error (0.9%) for the third successive year. This is considerably lower than that achieved by the Department of Work and Pensions in Great Britain (1.5%). Nevertheless the level of estimated fraud and error remains significant – out of total benefit expenditure of £4.8 billion (2012 - £4.7 billion), overpayments due to fraud and error are estimated at £45.6 million (0.9%), compared to £42.7 million (0.9%) in the previous year. Underpayments arising from errors made by the Agency were estimated at £19.3 million (0.4%), compared to £12.8 million (0.3%) in the previous year. http://www.dsdni.gov.uk/ssa-annual-report-2013-14.pdf

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Financial Audit: Qualified Opinions and Reports on Accounts

Figure 4: Qualified Accounts – Arm's Length Bodies

Name of Public Body	Nature of the Qualification
Child Maintenance Service Client Funds 2013-14	The audit opinion on the Child Maintenance Service (CMS) Client Funds accounts was qualified in respect of two issues: • The DSD is required to calculate maintenance assessments in accordance with the relevant legislation. I qualified my regularity opinion as my examination of maintenance assessments identified cases that have been calculated incorrectly. I considered the extent of estimated levels of error in maintenance assessments to be material. • There was a lack of evidence to substantiate £78.8 million (£81.5 million, 2012-13) of outstanding maintenance arrears. http://www.dsdni.gov.uk/dsd-resource-accounts-2014.pdf
Police Service of Northern Ireland 2013-14	The audit opinion on the Police Service of Northern Ireland (PSNI) accounts was qualified as the PSNI have been unable to provide me with the information and evidence I require to form an opinion on the regularity of transactions associated with an unspecified number of transport contracts under police investigation or the full value of the transactions incurred as a result of these contracts. http://www.psni.police.uk/main_account_2014.pdf
Youth Justice Agency 2013-14	The audit opinion on the Youth Justice Agency (YJA) of Northern Ireland accounts was qualified because of an issue in relation to the eligibility of the admittance and membership of the YJA and its employees to the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) scheme. As a result, the YJA account has received qualified audit opinions on both the regularity and true and fair audit opinions in 2013-14. The total expenditure on pension contributions to the NILGOSC Scheme is £1.9 million in 2013-14. The YJA is currently reviewing its legal position in relation to the scheme and the potential impact of discontinuing its membership of the scheme. Without resolution of the legal position on eligibility to the scheme, I have been unable to obtain sufficient evidence that the actuarial gain of £4.2 million, the employer current service cost of £1.5 million, the Provision for Pension Liabilities of £6.3 million and the related disclosures at Note 11 of the financial statements, are fairly stated. http://www.youthjusticeagencyni.gov.uk/document_uploads/YJA_Annual_Report_%26_Accounts_2013-2014.pdf

Figure 4: Qualified Accounts – Arm's Length Bodies

Name of Public Body	Nature of the Qualification
Belfast Metropolitan College 2012-13 Northern Regional College 2012-13 North West Regional College 2012-13 South Eastern Regional College 2012- 13 Southern Regional College 2012-13 South West Regional College 2012-13	As noted in **Figure 2**, I qualified my audit opinion on DEL and the six further education colleges because pay progression increments had been made to staff in the Colleges without receiving the required approval from DFP. Despite the payments being made in line with contractual obligations, the absence of DFP approval represents a breach of controls and has resulted in the payments being deemed irregular by DFP. The value of the payments made by the colleges that did not receive approval in their 2012-13 financial year was £3.4 million in total: Belfast Metropolitan College - £640,321 Northern Regional College – £413,752 North West Regional College - £332,488 South Eastern Regional College - £1,016,882 Southern Regional College – £503,067 South West Regional College - £524,709
Northern Ireland Library Authority 2012-13	The Northern Ireland Library Authority (NILA) was not able to provide me with adequate evidence of the accuracy and completeness of the valuation of its valuable books collection. As a result, I qualified my audit opinion as I was unable to obtain sufficient appropriate audit evidence to support Stock Assets valued at £8.6 million included in the financial statements. http://www.librariesni.org.uk/AboutUs/OurOrg/Pages/Plans-and-Reports.aspx

1.5 It is notable that there has been a decrease in the number of qualified legacy accounts of ALBs over the last two accounting periods (**Figure 3**). This reflects a continued fall in the number of backlog accounts as noted in paragraph 1.6 of this section. Details of the qualifications on the two ALB legacy accounts are outlined at **Figure 5**.

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

Figure 5: Qualified Legacy Accounts – Arm's Length Bodies

Name of Public Body	Nature of the Qualification
Land & Property Services' Trust Statement – Rate Levy Accruals 2011-12 and 2012-13.	The audit opinion has been qualified for a number of years and is qualified again in both 2011-12 and 2012-13 because of significant levels of fraud and error in benefit expenditure. Total housing benefit expenditure (excluding state pension) paid by the Land & Property Services (LPS) in 2011-12 was £40.2 million and in 2012-13 it was £41.2 million. Of this, LPS losses, as estimated by DSD's Standards Assurance Unit, due to fraud and error, amount to £4.6 million in 2011-12 and £5.2 million in 2012-13. Furthermore, my audit examination of vacancy discharges[2] was limited in 2011-12 because I was unable to obtain sufficient information to satisfy myself as to the regularity of vacancy discharges in the financial statements. During 2011-12, vacancy discharges amounted to £67.4 million. However, during 2012-13, LPS undertook an enhanced programme of inspections in conjunction with local councils and were able to demonstrate that the level of error in vacancy discharge was not significant. I also reported on the level of outstanding rate debt at year end, and the amount written off in year. The rate debt outstanding at 31 March 2013 was £156.2 million, (excluding £12.2 million relating to Rating of Empty Homes (REH)), compared to £153 million, (excluding £7.8 million relating to REH), in 2011-12. The amount written off in 2012-13 was £29.1 million compared to £21.8 million in 2011-12. http://www.dfpni.gov.uk/lps/lps-trust-statement-2011-2012.pdf http://www.dfpni.gov.uk/lps/lps-trust-statement-2012-2013.pdf

Outstanding Accounts

1.6 In my 2013 General Report, published in November 2013, I noted that there were nine accounts which should have been covered by the scope of that Report but at that point in time they had not been certified. I am pleased to report that the number of outstanding accounts at the date of this report has reduced from nine to six. These are the RUC George Cross Fund 2012-13, the Economic Research Institute of Northern Ireland 2012-13 and the Northern Ireland Events Company[3] 2008-09, 2009-10, 2010-11 and 2011-12.

2 Vacancy discharge is awarded where a property is vacant for a period of time and is therefore either not liable for rates or has been awarded an exclusion.

3 Following receipt of an independent report investigating the Northern Ireland Events Company, we now intend to progress certification of the outstanding financial statements of the company with the intention of certifying all by early 2015.

Conclusion

1.7 Most central government departments and their ALBs have continued to produce good quality accounts for audit scrutiny, resulting in unqualified audit opinions. However, this report records the qualification of 22 accounts for which adequate audit evidence was not available to enable me to express an unqualified audit opinion or which led to a public interest report being attached to the accounts. Qualifications are usually indicative of weaknesses in internal control and compromise entities' 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, three of which represented excess votes. I have commented further on these three accounts at paragraph 3.34 in Section 3.

Section Two:
Northern Ireland Consolidated Fund 2013-14 – Revenue Accounts

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Northern Ireland Consolidated Fund 2013-14 – Revenue Accounts

Northern Ireland Consolidated Fund 2013-14

2.1 The NI Consolidated Fund (NICF) is the Executive's current account (operating on a receipts and payments basis). All payments out of the NICF must have legislative authority and may either be charged to it directly by statute (known as Standing Services), or voted by the Assembly each year in the Budget Bills (known as Supply Services). Government Accounts Branch within DFP controls the NICF, subject to authorisation of payments by the Comptroller and Auditor General (C&AG), and determines arrangements for payments into it.

2.2 Payments into and out of the NICF are reported annually in the Public Income and Expenditure Account which DFP prepares and submits for audit by the CA&G, in accordance with the Exchequer and Financial Provisions Act (NI) 1950.

2.3 Payments into the NICF are categorised as follows:

- **Rate Revenue:** this is rates income (regional and district) which is due for each property in Northern Ireland and is billed and collected by Land & Property Services (LPS);
- **Consolidated Fund Extra Receipts and other sums due to the NICF:** these are receipts which are not the product of taxation, for example, monies received from the EU;
- **Block Grant:** this is paid by the Secretary of State for Northern Ireland out of money provided by the UK Parliament and is, subject to the limit set by HM Treasury, the balance required to bring the level of public income in Northern Ireland up to the amount needed to cover public expenditure; and
- **Borrowing for capital purposes:** the Exchequer and Financial Provisions Act (NI) 1950 provides that all money raised by the creation of debt is payable into the NICF, together with receipts representing repayment of loans made from the fund and interest on those loans.

2.4 An analysis of the amounts paid into the NICF in 2013-14 is shown in **Figure 6**.

Figure 6: Analysis of Payments into the NICF

	2012-13 £ million	2013-14 £ million
Public Income:		
Rate Revenue	1,105	1,138
Consolidated Fund Extra Receipts and other sums due to the NICF	166	194
Block Grant	13,716	13,783
	14,987	**15,115**
Capital Receipts:		
Borrowing for capital purposes	177	222
Loan repayments received	93	89
Repayment of Advances from NICF	–	12
Amounts returned from Temporary Investment	1,618	2,349
Excess of Public Income over Public Expenditure	–	–
	1,888	**2,672**

Source: *Public Income and Expenditure Account 2013-14*

2.5 Payments out of the NICF are categorised as follows:

- **Consolidated Fund Standing Services:** payments for services which the Assembly has decided by statute should be met directly from the NICF, for example, interest on loans from the National Loans Fund; judicial salaries; and the salary and pension of the NI Ombudsman;
- **Supply Services:** payments required to meet other central government expenditure i.e. from departmental Supply Estimates. Money is voted by the Assembly for a particular financial year. Statutory authority for the necessary payments from the NICF is given by the Budget Act for the year in question, which also grants authority for what the Assembly intends the money to be used for; and
- **Capital payments:** include loans to district councils, other public bodies under statute and schools. It also includes redemption of debt and other payments such as the investment of temporary cash surpluses on the short-term money market.

2.6 An analysis of the amounts paid out of the NICF in 2013-14 is shown in **Figure 7** overleaf.

Section Two:
Northern Ireland Consolidated Fund 2013-14 – Revenue Accounts

Figure 7: Analysis of Payments out of the NICF

	2012-13 £ million	2013-14 £ million
Public Expenditure:		
Supply Services	14,467	14,619
Consolidated Fund Standing Services	9	9
Transfer of District Rates to Local Councils	516	537
Interest paid on Public Debt	84	79
	15,076	**15,244**
Capital Issues:		
Public Debt – Sums Repaid (e.g. repayments to the National Loans Fund)	146	156
Issue of Government Loans	35	26
Amounts placed on Temporary Investment	1,618	2,349
Advances from NICF	–	12
Excess of Public Expenditure over Public Income	89	129
	1,888	**2,672**

Source: *Public Income and Expenditure Account 2013-14*

2.7 Supply Services expenditure is accounted for in the Departmental Resource Accounts which are prepared and audited under the Government Resource and Accounts Act (NI) 2001. The results of my audit of the Resource Accounts are included at **Section 1** of this Report.

2.8 Rates Income (regional and district), which is billed and collected by LPS, is accounted for in the LPS Trust Statement – Rate Levy Accruals Account 2013-14 and is subject to separate audit.

Section Three:
Other Matters

Section Three: Other Matters

Spend relating to North/South Bodies

Spend relating to North/South Bodies

3.1 The Department of Finance and Personnel (DFP) wrote to Accounting Officers on 23 May 2014 alerting Departments to a serious concern that had arisen in relation to the approval of the Business Plans of North/South Bodies and the related payment of grants to those Bodies.

3.2 The letter advised that due to delays in the provision of Business Plans for some Bodies, DFP sought legal advice on the legitimacy of grants paid to the Bodies prior to the approval of the Plans and DFP approval of both the amount of grant and the terms and conditions of the grant. The legal advice indicated that failure to follow the outlined approval process in relation to Business Plans resulted in irregular spend. The legal advice further indicated that if a department pays grant to a North/South Body without the prior approval of DFP, as required by statute, then the department will have breached the provisions of the legislation and the expenditure is thus unlawful.

Departments affected in 2013-14

3.3 There are a number of Departments which make payments of grant to North/South Bodies and the issues raised in DFP's letter were considered in each of these financial audits for 2013-14. I did not qualify my audit opinion on regularity in the accounts of DARD, DETI and DFP. I qualified my opinion on the DCAL accounts as I considered the DCAL situation to be the most significant. DHSSPS also made payments of grant to its North/South body and, after investigation, I was satisfied that the payments were regular. The matter is disclosed in the annual accounts of each of the departments affected.

3.4 A number of the affected Departments raised concerns about the legal advice that DFP received. DFP responded to these concerns and issued additional guidance on 13 June 2014. DCAL sought its own legal advice which agreed with the DFP advice on the legal requirement for DFP approval but conflicted in relation to whether DFP approval had been provided.

3.5 As there was conflicting legal advice on whether DFP approval had been provided in this regard, I was unable to conclude whether illegal spend had been incurred at the time the accounts were certified. I informed the Audit Committees of each of the Departments of this issue in my Report to those charged with Governance, and my staff will follow up as part of their audit work how this matter has been resolved.

2014-15 Financial Statements

3.6 North/South Bodies prepare their financial statements on a calendar year basis, whereas departments prepare their financial statements to 31 March each year. The period 1 April 2014 to 31 December 2014 is covered by the North/South Bodies' 2014 Business Plans. The period 1 January 2015 to 31 March 2015 will be addressed by the Bodies' 2015 Business Plans.

3.7 DFP approval of the Business Plans is normally accompanied by approval of the grant associated with any Plan. In May 2014, DFP advised that in order to comply with the legislation and to avoid departments having to cease grant payments to Bodies, a 'one-off' opportunity would be provided to seek approval for grants separately from the business planning process. This provision was made on the basis that 2014 Business Plans would be brought to the Finance Minister and North/South Ministerial Council (NSMC) as a matter of urgency.

Departments have also been advised to ensure that North/South Bodies' 2015 Business Plans are received by DFP in sufficient time to allow approval of both grants and Plans by the DFP Minister and the NSMC before the start of 2015.

Conclusion

3.8 On 7 October 2014, DFP issued further clarification on the approval of business plans and the actions required by sponsor departments to ensure unlawful and/or irregular payments of grant does not occur. I recommend that these actions are followed by sponsor departments. The issue of differing legal advice around how the legislative approval requirement is fulfilled affects a number of departments and I recommend that this issue is addressed.

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Use of the Government Procurement Card

Background on the Government Procurement Card

3.9 Government Procurement Cards (GPCs) are payment charge cards for purchasing goods and services. The suppliers of items purchased using the GPCs are paid almost immediately by the GPC provider (a major card company), with the purchasing body (the public sector body) reimbursing the GPC provider the balance of the transactions on a monthly basis.

3.10 The difference between GPCs and credit cards is that GPCs are settled (paid in full) every month according to an agreed timeframe, whereas using credit cards gives the option to pay the balance at a later date with the incurrence of interest.

3.11 GPCs are recognised as a cost-effective way for government to purchase low-value goods and services and are intended to complement local purchasing and payment systems, not to replace them. Some benefits of using GPCs are:

- decreased time and cost of processing invoices and orders;
- using GPCs helps government meet its prompt payment commitments[4];
- GPCs allow for merchant and category blocking, giving more control over spending;
- good management information is available from the GPC provider, allowing better monitoring and control of spending; and
- public sector bodies benefit from rebates from GPC providers based on the level of card spending.

3.12 The Department of Finance and Personnel (DFP) informed me that the disadvantages of GPCs may include:

- the reduction in the purchasing approval steps, with purchasing control being placed with an individual officer, and associated risk of irregular expenditure and possible misuse;
- an increased spend off contract;
- perpetuating small purchases which could otherwise be aggregated to bring about greater efficiency for purchaser and supplier;
- increased costs of maintenance through transaction checking, reconciliation and coding the GPC spend; and
- the absence of system accrual information for management information.

While acknowledging there are potential disadvantages with GPCs, there are potential disadvantages with all purchasing systems and it is for organisations to assess the risks

4 The Northern Ireland Executive is committed to pay suppliers as quickly as possible, within 10 days. Departments and Arm's Length Bodies compliance with the requirements was the subject of the reports included in the C&AG's 2012 and 2013 General Reports.

and mitigate against these where appropriate. The need for the effective control and management of GPCs is covered below.

3.13 DFP also informed me that it does not hold details of the average transaction costs of card and non-card purchases in the Northern Ireland public sector. By way of an illustrative example of the scale of potential savings, in 2012 the National Audit Office (NAO) estimated average GPC transaction costs in England of £5 or 35 per cent less than the transaction costs associated with staff using an online catalogue, where the contract price has been agreed (NAO's example of this was car hire).

3.14 Figures gathered by CPD in 2012-13, covering 41 Northern Ireland public sector bodies, indicate that the vast majority (2.1 million or 88 per cent)[5] of the transactions processed by Account NI[6] were of relatively small value (less than £1,000). This evidence would indicate that there are large volumes of relatively low value transactions being processed, where the use of the Government Procurement Cards may be an appropriate, alternative procurement route, and could bring additional benefits to the public purse.

Scope of this report

3.15 The potential for efficiency savings from this method of payment for low value transactions are significant. However, while in Northern Ireland, GPC purchases increased from £7.8 million in 2011 to £13.8 million in 2013, it remains a small fraction of the public sector's total expenditure.

3.16 This short report examines:

- the need for effective controls over GPCs;
- management arrangements for GPCs; and
- the extent of usage of GPCs.

The need for effective controls over Government Procurement Cards

3.17 All public sector organisations, irrespective of their procurement arrangements, are required to ensure that their expenditure is properly authorised and controlled, and their arrangements are appropriate to the range of payments to be made, the techniques available and the risks to be managed[7]. Therefore, control systems for the GPCs should be appropriate to the risks. While a lack of controls will heighten risks to the expenditure, controls which are too strict will introduce unnecessary costs and delays which are disproportionate to the risks and which may discourage legitimate use of the GPCs.

3.18 There are two types of GPCs - a 'physical' (plastic) GPC issued to an individual or team and an embedded GPC assigned to specific suppliers for

5 2.1 million of the 2.4 million transactions in 2012-13 were for less than £1,000 (the total spend was £2.55 billion).

6 Account NI provides a financial processing service for Northern Ireland government departments and 18 other public bodies.

7 Managing Public Money Northern Ireland (June 2008).

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use by designated individuals within the public sector body[8]. The embedded GPCs give the same benefits as the physical (plastic) GPCs, but come with fewer risks as they are restricted to purchases at a specific supplier, rather than to the holder of the GPC.

3.19 The House of Commons Public Accounts Committee (PAC) published a report on the Government Procurement Card in June 2012[9]. The Committee welcomed the Cabinet Office's central policy on GPCs (paragraph 3.25) and emphasised that the policy must be consistently applied by all government departments. It also considered that the policy could go further by specifying additional controls, for example:

- departments could check 100 per cent of transactions;
- restrict the use of the GPCs to permanent staff; and
- ban the use of the GPCs for certain items, such as alcohol.

The House of Commons PAC considered departments themselves need to improve on the minimum standards set out in the central policy.

3.20 Guidance on the risk of fraud, across a range of specific systems including purchasing systems, was issued by the Department of Finance and Personnel in 2011. It stated that all organisations should regularly review the operation of their GPC systems and procedures, as well as the individual GPC operation and security, to ensure compliance with current guidance and best practice. An extract from the guidance, specifically relating to GPCs, is reproduced at **Figure 8**.

Figure 8: Examples of controls to prevent the fraudulent misuse of Government Procurement Cards

- Establish a clear Government Procurement Card (GPC or card) policy that is communicated to all staff and should include expenditure limits for individual transactions.
- Appoint an individual to be the cardholder manager who will be responsible for appointing cardholders and for dealing with the card issuing bank.
- Maintain a list of authorised cardholders.
- Cardholders should maintain a log of all transactions that should be supported by authorisations to make purchases, invoices/receipts.
- Cardholders must hold cards securely.
- Cardholders must check all entries on statements supplied by the bank and refer any discrepancies to the cardholder manager.
- Budget holders should carry out periodic checks to ensure that GPC statements are properly reconciled and that only authorised purchases are made.

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8 A 'GPC – embedded card' is a 'virtual' GPC embedded or lodged with a supplier for a particular category of spending. There may be a number of authorised users of an embedded GPC, with each transaction being 'referenced' to the purchaser and the purchasing body. For example, 46 of the 304 GPCs 'open' at July 2014 were 'embedded' with travel bookers.

9 The Government Procurement Card Public Accounts Committee (House of Commons) 1st Report of Session 2012-13, HC 128, 1 June 2012.

- Ensure that cards are returned to the cardholder manager when cardholders move or cease to be cardholders. The cardholder manager should also ensure that the card is destroyed and the record of cardholders amended.

Source: *Managing the Risk of Fraud (NI) - A Guide for Managers, the Department of Finance and Personnel, December 2011.*

The management of Government Procurement Cards

3.21 Government procurement cards are currently available to Northern Ireland public sector organisations through Barclaycard Commercial (Barclaycard) under a contract[10] overseen in Northern Ireland by the Department of Finance and Personnel's (DFP) Central Procurement Directorate (CPD)[11]. CPD promotes GPCs as a cost-effective method of payment for low value goods and services.

3.22 The GPCs are issued by Barclaycard on the organisation's account to the nominated GPC holders, following applications by authorised officials. Barclaycard enables organisations to assign a number of restrictions to the GPCs, including setting individual transaction and monthly expenditure limits and restricting the GPCs usage to certain categories of purchases. CPD informed me in July 2014 that all the GPCs in Northern Ireland have their access to cash withdrawals blocked.

3.23 Monthly statements, issued by Barclaycard for each of the GPCs, itemise each transaction and purchaser details for information and payment by the organisations. Under the contract the GPCs, transaction processing and account management services are provided free of charge. In addition, each organisation receives an annual rebate based on the aggregate level of spend across the Northern Ireland GPCs[12].

3.24 Guidance on the use and management of GPCs in Northern Ireland is set out in a 'Dear Accounting Officer' letter[13] issued by DFP. This guidance promotes the use of the GPCs; advises on controls systems for the GPCs; and identifies issues raised by the Northern Ireland Audit Office and the Northern Ireland Assembly Public Accounts Committee.

3.25 More recently, in November 2011 the Cabinet Office issued policy guidance on GPCs including access to UK wide contracts[14]. The policy covered the roles and responsibilities for personnel that are required to govern and control their GPC programme and was to form the

10 The contract was awarded by the Crown Commercial Services (formerly 'Buying Solutions') an executive agency of the Cabinet Office.

11 The Central Procurement Directorate (CPD; part of the Department of Finance and Personnel) is the Northern Ireland lead Procurement Body. CPD is tasked with reviewing and developing Northern Ireland procurement policies and providing the Northern Ireland public sector with best value for money procurement services.

12 The annual rebate is paid to the public sector bodies subject to the following conditions – a minimum turnover is exceeded; the agreed settlement period having been met; and being centrally billed. A source of revenue for the card provider is the 'merchant fee', a percentage of the value of the goods and services purchased using a GPC, paid by the supplier (the merchant) to the card provider (Barclaycard Commercial).

13 Issue and use of payment cards (inc. credit cards) Department of Finance and Personnel DAO (DFP) 24/02, 14 November 2002.

14 Government Procurement Card – Pan Government Policy Cabinet Office's GPC Steering Group, November 2011.

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minimum policy governing the use of GPCs.

3.26 The following Case Study below sets out the GPC journey for the Police Service of Northern Ireland (PSNI) which began by only using the GPCs for stationery spend and shows how the proven success of the system has meant it has now been rolled out to all low value, high volume spend categories. This indicates the benefits and efficiencies that can be achieved through the use of GPCs with effective controls in place.

Use made of Government Procurement Cards

3.27 GPCs have been in use since 1997; at July 2014 304 GPCs[15] were in use by Northern Ireland public sector organisations. In 2013 a total of 38 public sector bodies processed £13.8 million using GPCs (**Figure 9**). This expenditure generated a rebate of £76,000, equivalent to 0.55 per cent of the total GPC expenditure, which was shared between the organisations on the basis of their amount of spend.

Case Study: Use of Government Procurement Cards in the PSNI

Government Procurement Cards bring operational efficiencies to the Police Service of Northern Ireland (PSNI)

In 2002, PSNI took the first step to update its antiquated paper-based accounts system. Manual processing of thousands of paper invoices on a monthly basis was proving to be a massive drain on resources, both in terms of staff time and the associated administrative costs. A new approach was required and, acknowledging that stationery overheads were amounting to a significant sum, the organisation decided to embark on the trial of a purchasing card system as a more effective way of managing this high volume, but low value area of expenditure. This critical first implementation allowed them to eliminate not only thousands of paper-based invoices, but it made a significant, immediate impact on streamlining the entire payment process.

Having started out on the GPC journey using it only for stationery spend, the proven success of the system has meant PSNI has now rolled it out to all low value, high volume spend categories, including a full range of payment set-ups for crime scene equipment, photography, first aid equipment, training and travel.

Today, the system is completely online, so cardholders and line managers can log on and see a department's or team's statements online, with all information available at the push of a button – from daily expenditure to detail on individual transactions. All information is easily accessible online and in real-time.

Since implementing the Barclaycard GPC, PSNI has processed over 130,000 transactions, saving an average of £28 per transaction. Over the 10 year period, that has equated to a total efficiency saving of over £3 million.

Source: *Extracts from a Case Study Policing organisational costs more efficiently for PSNI, by PSNI/Barclaycard Commercial*

15 The 304 cards were those GPCs 'open' at July 2014.

3.28 GPCs are held by each of the 12 Northern Ireland government departments. In 2013 the departments combined GPC purchases totalled £3.2 million, representing 23 per cent of the total GPC purchases. The usage of the GPCs varied widely across departments, ranging from £50,000 by the Department of Education and the Department for Culture, Arts and Leisure to almost £900,000 by the Department of Agriculture and Rural Development.

Figure 9: GPC usage across the public sector

Organisation	GPC expenditure 2013 (£'million)
Department of Agriculture and Rural Development	0.90
Office of the First Minister and Deputy First Minister	0.80
Department for Social Development	0.29
Department of Finance and Personnel	0.23
Department of Health, Social Services and Public Safety	0.21
Department of Justice	0.18
Department for Employment and Learning	0.14
Department of the Environment	0.14
Department of Enterprise, Trade and Investment	0.10
Department for Regional Development	0.10
Department of Culture, Arts and Leisure	0.05
Department of Education	0.05
Sub Total (Government Departments)	**3.20**
Police Service of Northern Ireland	7.73
Invest Northern Ireland	1.07
Agri-Food and Bio Sciences Institute	0.65
NI Assembly	0.42
NI Prison Service	0.16
Council for the Curriculum, Examination & Assessment	0.07
Belfast City Council	0.06
NI Authority for Utility Regulation	0.05
Strategic Investment Board	0.05
Electoral Office for Northern Ireland	0.05
Others (16 organisations[1] had <£50,000 GPC expenditure)	0.29
Sub Total (excluding the 12 Government Departments)	**10.60**
TOTAL (38 organisations)	**£13.80m**

Source: *Central Procurement Directorate (information from Barclaycard Commercial)*
Footnote: [1]NIAO's expenditure through GPC was approximately £40,900 in 2013.

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3.29 The remaining £10.6 million (77 per cent) of the 2013 GPC purchases were processed by 26 public sector Arm's Length Bodies. While most of these organisations purchased relatively small amounts, GPC purchases by the PSNI totalled £7.7million and Invest Northern Ireland processed £1.1 million (equivalent to 56 per cent and 8 per cent of the total Northern Ireland GPC expenditure in 2013, respectively).

3.30 Analysis of expenditure[16] processed through GPCs in 2013 indicates that:

- a large proportion (ranging between 38 and 63 per cent across the organisations) of the GPC transactions were for £100 or less, and these transactions accounted for a small proportion (ranging between 4 and 14 per cent of expenditure across the organisations) of the total value of GPC purchases;
- transactions of £500 or less accounted, on average, for 89 per cent of GPC transactions (NAO reported that, in England, transactions of £500 or less accounted for 94 per cent of all GPC transactions[17]); and
- the average value of a GPC transaction in Northern Ireland was £265 (NAO reported that in England the average GPC transaction was £184[18]).

I consider that optimum use should be made of Government Procurement Cards

Conclusions and Recommendations

3.31 In my view more use could be made of Government Procurement Cards within the public sector procurement system. Many public sector bodies processing significant volumes of transactions including the Health and Social Care bodies and Local Councils[19] do not currently use them. As presented in **Figure 9** there is wide variance in the use made of GPC between public sector bodies; and there are numerous small transactions being processed by AccountNI (paragraph 3.14) which may be appropriate for payment by GPCs.

3.32 As set out in paragraphs 3.9 to 3.11, the suppliers of items purchased using GPCs are paid almost immediately by the GPC provider. The Assembly is committed to prompt payment, in particular a 10 day target. My 2013 General Report to the Northern Ireland Assembly[20] examined the prompt payment performance of a range of public sector bodies and found that while there had been improvement, public bodies needed to maximise the number of valid invoices paid within both the 30 and 10 day targets. Increased use made by public sector bodies of GPCs may contribute

16 Based on an analysis of £9.9m of GPC expenditure in 2013 (72% of the total expenditure) from 29,884 transactions in 4 organisations.

17 Based on analysis of approximately 590,000 transactions in 2010-11, from 16 government departments.

18 2010-11 figures.

19 Excluding Belfast City Council which is using GPCs.

20 Financial Auditing and Reporting: General Report to the Northern Ireland Assembly by the Comptroller and Auditor General 2013 – November 2013.

to improving the prompt payment performance of individual public sector bodies.

3.33 It is important that public bodies should continue to examine the nature and extent of their usage of the GPCs to ensure that they are optimising the benefits from the cards. In support of this I recommend that DFP should:

- conduct an assessment of the costs and benefits of using GPCs compared to other procurement methods and communicate its findings to departments and other public bodies; and
- in consultation with departments and other public bodies, identify categories of expenditure where increased use of GPCs may deliver efficiencies.

Excess Votes 2013-14

Background

3.34 Departments plan their resource and cash requirements so that they do not exceed the limits approved by the Assembly. If one or both of these limits are exceeded, an excess vote occurs and I qualify my opinion on the accounts and report on the circumstances giving rise to it. This matter is also considered by the Public Accounts Committee which must decide whether to recommend that the Assembly approves further grant to the department involved to regularise the overspend.

3.35 In 2013-14 there were three Resource excesses totalling £13.48 million. I have detailed below the impact of the Excess Vote in each of these cases and the remedial action being proposed by the departments to ensure there is no recurrence. Each of the departments has stated it will make a request to the Assembly to approve the excess votes at the time of the next Budget Act.

Department of Education

3.36 The Department of Education (DE) is responsible for promotion of education and implementation of education policy as well as being the sponsoring department for 13 non departmental public bodies. In 2013-14, it spent approximately £2 billion.

3.37 DE exceeded the resource limit in respect of the Non Budget Section in RfR A. This was because the cash drawn down by the Department's ALBs exceeded the amounts authorised within the Spring Supplementary Estimates (SSE) and resulted in an excess vote of £6.27 million.

3.38 DE told me that this arose because historically the cash drawdown figure within the estimates for each ALB, had been directly linked to their corresponding budget. In 2013-14 the degree of flexibility on the budget reduced significantly which then also reduced the flexibility on the level of cash drawn down by each ALB.

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3.39 DE also told me that while robust procedures are already in place to manage the overall Departmental Net Cash Requirement control total (which was not breached in 2013-14), it plans to rigorously review and enhance the basis of forecasting and the monitoring of the cash drawdown for each ALB, to mitigate the risk of any repetition.

Department of Health, Social Services and Public Safety

3.40 The Department of Health, Social Services and Public Safety (DHSSPS) is responsible for providing high quality health and social care services, promoting good health and wellbeing. It is also responsible for creating a safer environment for the community by providing an effective fire fighting, rescue and fire safety environment. In 2013-14 it spent approximately £4.3 billion in total.

3.41 The DHSSPS exceeded its estimated net resource limit for providing an effective fire fighting, rescue and fire safety environment resulting in an excess vote of £1.17 million. This arose because the grant in aid estimate for the NI Fire and Rescue Service (NIFRS) included in the SSE did not include cover for pension and provision payments. This meant there was insufficient Estimate cover to meet the required payment obligations.

3.42 The Department has told me that it is in the process of developing all necessary steps to ensure that there is no recurrence of this issue. This includes additional and strengthened cash control procedures to monitor the levels of cash drawdown each month against forecasted amounts. Any significant variances at ALB level will be investigated on a monthly basis and appropriate remedial action will be taken.

Public Prosecution Service For Northern Ireland

3.43 The Public Prosecution Service for Northern Ireland (PPSNI) is the principal prosecuting authority in Northern Ireland. In addition to taking decisions on prosecution in cases investigated by the Police Service of Northern Ireland, it also considers cases investigated by other statutory authorities, such as HMRC. The primary role of the PPSNI is to decide whether to prosecute or not and to have responsibility for the conduct of criminal proceedings. In 2013-14, the PPSNI spent approximately £42.4m.

3.44 In 2013-14, the PPSNI exceeded its estimated net resource limit resulting in an excess vote of £6.03 million. The PPSNI told me that the breach arose as a result of a fair employment tribunal ruling in a case taken by its staff in respect of equal pay and indirect discrimination. The effect of the ruling created a liability for the PPSNI for salary, employer's national insurance and pension costs for all affected staff. As the ruling was not made by the fair employment tribunal until March 2014, the PPSNI was unable to bid for funding cover during any of the in-year monitoring rounds.

Conclusion

3.45 The DE issue is due to weaknesses in cash forecasting and monitoring. DE has reviewed the process for forecasting and monitoring of the cash drawdown for ALBs to mitigate the risk of any repetition. The DHSSPS case was due to an error in compiling its SSE. DHSSPS has also reviewed its processes in order to prevent a recurrence of this issue.

3.46 The issue with the PPSNI highlights the difficulties which arise when significant liabilities materialise at short notice, and insufficient time remains to bid for additional resources through the monitoring rounds and supplementary estimates.

3.47 Regardless of the reason for an excess vote, all Departments should strive to enhance their forecasting techniques for both cash and resource requirements. The pressures on public sector budgets in the current economic climate have significantly reduced budget flexibility, reducing public bodies' ability to respond to unforeseen pressures. As the economic climate is unlikely to improve in the short term, public bodies should ensure that their financial forecasting techniques are underpinned by robust, informed estimates, complemented by a meaningful and challenging budgetary control process.

Corporation Tax

Introduction

3.48 Since my last report in November 2013, I have noted instances where ALBs were engaged in discussions with Her Majesty's Revenue & Customs (HMRC) as to whether they were liable to Corporation Tax, and, if so, what was the extent of the liability. I am concerned that there may be insufficient knowledge within the NI public sector to properly deal with this issue, and consequently NDPBs have required the assistance of private sector consultants to properly address the issue.

Public Sector Liability to Corporation Tax

3.49 In 2009 HMRC was granted the legal power (for the first time) to audit the tax compliance of government departments. The general principle underpinning HMRC's approach is that public sector organisations should not seek to devise or make allowance for any schemes that escape or reduce tax liability, and that each public sector organisation should charge and pay taxes as far as possible in the same way as if it were a discrete (private sector) entity.

3.50 Under UK legislation, ALBs can take a variety of legal forms. Those established as Companies Act Companies (either limited companies or companies limited by guarantee) are clearly within the scope of Corporation Tax.

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Most, however, are not Companies Act companies but are established separately by legislation. The statute generally states: 'there will be a body corporate known as 'XYZ'', which means they are squarely within the Corporation Tax provisions according to HMRC guidance.

3.51 All of the Corporation Tax provisions will therefore apply to ALBs whether they are set up as companies or as bodies corporate. They should be making Corporation Tax Self Assessment (CTSA) returns and paying tax accordingly. However, many ALBs will not be undertaking a trade and thus will not have trading profits. Any grant income is unlikely to be taxable, however, whether or not an ALB is chargeable on any trading income, it will be chargeable on any investment income, e.g. income from letting or bank interest, and on any chargeable gains.

Examples of NI Bodies and Corporation Tax Issues

Northern Ireland Housing Executive

3.52 As previously noted in **Figure 4**, one of the issues upon which I qualified my audit opinion on the NIHE accounts was in respect of uncertainty over a £11.5 million potential liability, either accrued or provided, for corporation tax owed to HMRC. I noted that the NIHE has retained the services of a tax consultant in order to assist it with the determination of its actual corporation tax liability.

3.53 This highlights an issue common to many ALBs where there is a lack of in-house tax understanding and expertise. My opinion on the NIHE's financial statements was qualified because, in the absence of submitted tax returns and an expert's opinion, there was insufficient evidence available to me to determine whether the £11.5 million tax liability actually existed.

3.54 I also note the inconsistency in the application of tax exemptions between housing associations in Northern Ireland and the NIHE. Whilst both are engaged in providing essentially the same service, social housing, the Housing Associations have an exemption from corporation tax whereas the NIHE does not.

General Teaching Council for Northern Ireland

3.55 My audit of the General Teaching Council for Northern Ireland (GTCNI) 2011-12 accounts was significantly delayed as a result of an issue involving its liability for corporation tax. Being proactive, the GTCNI had noted that its activities may be liable for corporation tax as it is a 'body-corporate'[21] and engaged with HMRC to establish whether any liability existed. Ultimately GTCNI had to procure the services of external consultants, through its sponsor department DE, to provide clarification on its taxable status and liaise with HMRC. This procurement exercise incurred additional administrative costs. In the meantime, HMRC had issued

21 An entity such as a company or institution that is legally authorized to act as if it were one person.

tax determinations which the GTCNI settled in the knowledge that these could be refunded pending the outcome of its application to register as a charity. The result was that the payment was refunded, as GTCNI was classified as having Charitable Status and therefore exempt from corporation tax.

3.56 This case highlights the difficulties associated with determining taxable status. The GTCNI's proactive approach in identifying and addressing the corporation tax issue is to be commended and I would encourage all public bodies to adopt a similar approach, clarifying their status and liability at the earliest opportunity.

3.57 The case also highlights the issue of additional costs arising from the potential liability to corporation tax:

- GTCNI had to divert scarce staffing resources to deal with the issue;
- additional administrative costs were incurred in the procurement exercise;
- further direct costs associated with paying external consultants to provide the advice were incurred; and
- additional audit work was required to ensure that the appropriate approvals were received and the accounting treatment and disclosures were complete and accurate.

Agri-Food and BioSciences Institute

3.58 I noted that the Agri-Food and BioSciences Institute (AFBI) disclosed a loss of £735,000 in its 2012-13 accounts. This related to penalties and interest payable to HMRC for failing to register for corporation tax payable on its royalty income, and was backdated to its establishment on 1 April 2006.

3.59 In addition to the penalties and interest of £735,000, AFBI's estimated tax liability for the seven year period from 1 April 2006 to 31 March 2013 was £5 million. This estimate was produced by AFBI, working with Deloitte, who were commissioned by AFBI to assist in establishing its tax liability.

3.60 This is another example of private sector consultants being paid to establish the tax liability of a public sector body. Managing Public Money Northern Ireland (MPMNI) states that generally, public sector organisations should avoid using tax advisers as any apparent savings can only be made at the expense of other taxpayers or other parts of the public sector. However, the essence of this point is directed at those bodies considering incurring expenditure on consultants leading to artificial tax avoidance which would be considered novel and contentious.

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Conclusion

3.61 Whilst there is a need for public bodies to comply with current UK tax laws, I would emphasise, and am pleased to note, that in these examples, none of the bodies specifically engaged external consultants to dispute any tax liability, rather they were seeking clarification of their respective positions. Public bodies should be wary that they do not incur unjustifiable expense in challenging HMRC assessments resulting in an overall loss to the public purse through unnecessary expenditure on consultants' fees.

3.62 However it is disappointing that there is a need to engage consultants to provide such tax advice in the first place. Where one public body has a liability to another, it represents poor value for the taxpayer if resources are spent clarifying how much is owed, whether it is actually owed and whether it has been properly accounted for. It would be beneficial if there could be better co-operation between HMRC and public bodies, supported by DFP, to resolve these tax issues without incurring the cost of engaging tax consultants.

3.63 In particular, where public bodies feel there is a strong case for exemption, they should pursue this vigorously with HMRC. As all such tax revenue is paid to HMRC, this constitutes a direct loss to the Northern Ireland block grant, preventing scarce resources from being reinvested on behalf of Northern Ireland taxpayers.

Department of Agriculture and Rural Development Farm Inspections

DARD's Farm Inspection process is crucial to securing EU finding and safeguarding overseas trade

3.64 The Common Agriculture Policy (CAP) provides for direct agricultural support to farmers through subsidies and grant schemes, subject to farmers meeting a number of conditions known as 'cross-compliance'. The Northern Ireland farming community received £317 million in CAP subsidies during 2013-14 (£285 million in 2012-13). DARD carried out farm inspections relating to 27 different grant schemes between 2007 and 2013. The largest of these schemes is Single Farm Payment, with around 38,000 claims submitted in 2013 worth £259 million to local farmers.

3.65 DARD's farm inspection process includes not only subsidy and grant related on-the-spot inspections but also animal feed safety, a range of food hygiene related inspections on behalf of the Food Standards Agency, technical inspections on behalf of the Rural Payments Agency and agricultural wages investigations. The process confirms that farmers have complied with conditions attached to European Union (EU) funded grant payments and with the requirements of EU and Northern Ireland legislation on animal health and environmental protection. It also provides the assurances, for example on the absence of animal disease, that enable Northern Ireland farmers to trade overseas.

Better access to management information will support improvements in the inspection process

3.66 In 2010, DARD established the Better Regulation Advisory Unit to provide a co-ordination and advice function to all DARD business areas. In 2011, the Unit carried out a one-off scoping exercise to analyse the number of farm visits carried out by DARD officials to identify opportunities to increase the synchronisation of farm visits (**Figure 10**).

Figure 10: Number of inspection visits 2009-10

Type of visit	All DARD Inspections	Farm Inspections
Specimen testing	84,779	71,628
Audits	2,175	2,026
Condition checks	1,762	1,762
Routine inspections	21,956	4,964
Targeted inspections	11,275	8,275
Whistleblower	241	235
Total Visits	122,188	88,890

Source: *DARD*

Notes: 1. DARD also inspects other premises, including processing plants and ports.
2. 2009-10 figures are the most up-to-date readily available.

3.67 The scoping exercise reported that there were 144 different types of inspection visits, with 46 types synchronised (32 per cent). It also found that responsibility for farm visits lay with 11 different areas within DARD. The exercise recommended that:

- an internal regulators group should be established to look at further synchronisation of visits for the Department as a whole to reduce the burden faced by the industry. This is currently being taken forward by DARD; and
- the data on inspection visits gathered during the scoping exercise should be updated regularly. However, due to resource constraints this recommendation has not been taken forward by individual business areas.

3.68 While discrete business areas can provide information on inspection activity, associated costs and staff resourcing levels, the information is not produced routinely at a corporate level and there is no central database to generate this data. Consequently, key corporate management information was not readily available, including:

- the cost to DARD of carrying out frontline oversight activities, including farm inspections;
- the cost to farmers for accommodating inspections; and

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- the number and grades of staff trained to carry out inspections and who actually carries out inspections.

3.69 Management information is essential to DARD to successfully manage and improve its inspection processes. While available in discrete businesses areas this is not produced routinely for the DARD as a whole. A significant improvement in the range and quality of management information is required.

3.70 I recommend DARD should take the opportunity arising from the CAP 2014-20 process to establish systems to produce information to facilitate the management and coordination of farm inspections.

3.71 DARD should also carry out a formal assessment of the costs and benefits of introducing a centralised database to record farm inspection data, in order to improve the management and co-ordination of inspection visits, and to assist in reducing the burden on farms.

3.72 DARD should establish a system to record the costs of its inspection programme. This should include the cost to farmers.

DARD has reduced the burden of regulation on farmers but its target of a 25% reduction by 2013 was not achieved

3.73 In 2007, the Ulster Farmers' Union launched its Cut it Out campaign, aimed at raising awareness about what it considered the excessive administrative burden on farmers, and pressed DARD to take action to reduce unnecessary red tape and bureaucracy. In response, DARD appointed an independent panel to review regulations that apply in the Northern Ireland agri-food sector and suggest ways to simplify and reduce the administrative burden on farmers and the industry generally. In 2009, the panel published its findings and recommendations in the Northern Ireland Agri-Food Better Regulation and Simplification Review. The Review made seven recommendations to reduce the regulatory burden on farmers.

3.74 In 2010, DARD accepted three of the seven farm related recommendations outright. Those recommendations not accepted included:

- a recommendation to integrate inspection teams from various government agencies and select farms for inspection using a single risk assessment process. DARD rejected this as it was considered likely to unfairly target large farms;
- training DARD inspectors to carry out checks on behalf of other agencies. This was considered impractical due to lack of staff availability and financial pressures;
- the recommendation to use results from TB and Brucellosis testing to satisfy other cross-compliance requirements. This was rejected as, generally, farmers receive a period of

notice before most cross-compliance visits and this might place DARD in breach of the regulatory requirement for unannounced visits for disease testing; and

- while DARD accepted the recommendation that 80 per cent of eligibility checks should be completed by remote sensing (using satellite imagery and aerial photography to check the information supplied on application forms) it committed to conducting only 50 per cent of checks in this way in 2013. DARD conducted 55 per cent of checks this way in 2013, exceeding its target.

3.75 DARD committed to deliver a Public Service Agreement (PSA) target to reduce the administrative burden on the agri-food industry by 25 per cent by 2013. This target was not achieved: by 2013 DARD had reduced the burden by 10.4 per cent. DARD considers that further reductions in the administrative burden were made outside the scope of the Better Regulation and Simplification Review and that the 10.4 per cent achieved was a significant reduction in the most burdensome regulations. Despite this, the Ulster Farmers' Union remains critical of the slow rate of progress over the six year period 2007-2013.

DARD does not intend to conduct a detailed review of farming regulations but will take account of a similar DEFRA review

3.76 In January 2014, the Department of Environment, Food and Rural Affairs (DEFRA), as part of its 'Red Tape Challenge', reviewed 516 farm related regulations in operation in England, resulting in scrapping almost a third (156 regulations) as obsolete and simplifying or improving a quarter (134 regulations). An exercise carried out by DARD in 2011 confirmed that the vast majority of the 122,000 farm visits carried out in 2009-10 (78 per cent) were to comply with local legislation, not European law. This suggests a review of this area of legislation provides greater scope for reducing regulation and the resulting administrative burden. DARD has no plan to conduct a similar Red Tape Challenge review of farm legislation in Northern Ireland. However, it is working with colleagues from the Department of Enterprise, Trade and Investment who are leading on the Northern Ireland Review of Business Red Tape, with agri-food one of the sectors being examined as part of a pilot review. While welcome, in my view this falls short of what is necessary to reduce the burden of inspection on farms.

3.77 I recommend that DARD should conduct a review of current farm legislation, similar to DEFRA's 'Red Tape Challenge', in order to simplify regulation of the farming industry.

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There is no formal process to synchronise most farm inspections

3.78 No formal synchronisation of farm inspections takes place. DARD told me this was due to the variety and types of inspections which require very different skills sets and deal with a significantly broad variety of complex legislative requirements which in many cases are highly technical/specialised in nature and technically diverse. DARD explained that many inspections are risk based, which in turn determines the frequency of inspection, while the frequency of other inspections is defined in legislation. Where possible there is synchronisation, within the permitted regulatory requirements – examples include the synchronisation of tuberculosis and brucellosis testing in 2012-2013.

3.79 DARD considers that increased synchronisation of inspections, given the specific nature of inspections and expertise required, could in some cases increase the burden on farmers. Experience indicates to the Department that some farm businesses struggle to cope with more than two different types of inspection in one day. EU regulations often require that inspections are unannounced, some can be announced and others are reactive. Coupled with this, inspection frequency is often set on a risk basis. All of this makes synchronisation of inspections more difficult. Despite these difficulties, my view remains that a formal process to co-ordinate the inspections across the various schemes would provide scope for significant savings through better synchronisation of visits.

3.80 DARD should seek to maximise synchronisation of inspections on farm businesses, within the constraints that exist, as doing so could deliver potentially significant cost savings.

Conclusion

3.81 In my opinion, the major issue faced by DARD in this area of its work is the lack of corporate management information. In May 2014 we shared the recommendations contained in this report with DARD for its consideration when developing the suite of grant and inspection schemes required under CAP 2014-2020. The Department has welcomed our recommendations and indicated that they will inform its thinking on the systems needed to comply with statutory requirements and to support its customers. I will continue to review progress in this area in future audits.

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Department for Social Development

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Introduction

1 The Department for Social Development (DSD) has responsibility for housing, urban regeneration, community development, social security and child support.

2 This report reviews the results of my audit of the Department's 2013-14 financial statements and sets out why I have decided to continue to qualify my audit opinion on the regularity of benefit expenditure, other than State Pension. I have also provided an update on the issues I reported on last year.

3 In 2013-14 DSD was responsible for the payment of £5,512 million in benefits, of which £4,812 million was paid by the Social Security Agency (SSA), £659 million was paid by the Northern Ireland Housing Executive (NIHE) and £41 million was paid by Land and Property Services (LPS).

Background to the Audit Qualification

4 My audits of the financial statements of the two bodies responsible for paying the vast majority of the benefits which DSD is responsible for, i.e. SSA and NIHE, have now been completed. In each of these I considered that the estimated levels of fraud and error in benefit expenditure continued to be material. Therefore as in previous years my regularity audit opinion on the benefit expenditure in each of these accounts continues to be qualified.

The background to my decision on each of these is discussed further below.

5 In SSA, which administers 87 per cent of total benefit expenditure, the estimated level of overpayments due to fraud and error was sustained at a historically low level of 0.9 per cent with estimated underpayments at 0.4 per cent. This compares favourably with the Department for Work and Pensions (DWP) in Great Britain where overpayments have been estimated at 1.5 per cent[22]. In coming to my decision to qualify my audit opinion, I recognised that there is an inherent risk of fraud and error in the administration of a complex benefit system which would make it difficult for the Agency to reduce the estimated rate of fraud and error further from its current level, particularly because of potential welfare reform changes. Nevertheless the overall level of fraud and error is material and therefore my regularity audit opinion on benefit expenditure by the Agency (other than state pension benefit which has a very low level of error and no reported customer fraud) continues to be qualified.

6 In NIHE, which administers 12 per cent of total benefit expenditure, the estimated level of fraud and error within these payments has reduced slightly this year from 4.2 per cent to 3.9 per cent. I consider this to be material and therefore my regularity audit opinion is qualified on this account.

7 LPS administer 1 per cent of total benefit expenditure, made up of Housing Benefit

22 The level of estimated fraud and error in DWP relates to figures for 2012-13 for benefits administered by it that are comparable to those administered by the SSA.

payments for people who own their own house and are entitled to apply for a rates rebate if they are on low income and suffering financial hardship. There is estimated to be a substantial amount of fraud and error within these payments amounting to 16.2 per cent (compared to 13.8 per cent last year). My regularity audit opinion will be qualified on this account and the reasons behind this substantial figure will be discussed in my report.

8 Further details of these qualifications will be included in my reports attached to the 2013-14 financial statements for SSA, NIHE and LPS. These reports detail:

- responses to the levels of benefit fraud and error and to the increasing levels of debt due to benefit overpayments; and
- the ongoing steps that are being taken to counteract the levels of benefit fraud and error.

9 In addition, my audit opinion on the 2013-14 NIHE financial statements was also qualified in relation to the regularity of planned maintenance and response maintenance expenditure because of weaknesses in the management of contractors.

DSD arrangements for monitoring and reporting fraud and error

10 DSD's Standards Assurance Unit (SAU) regularly monitors and provides estimates of levels of fraud and error within the benefit system. In order to do this, statisticians from the DSD's Analytical Services Unit randomly select samples of ongoing benefit claims and SAU subject them to detailed examination for evidence of customer fraud, customer error and official error. The results of this testing are then used to produce a range of likely fraud and error in all of the main benefits (within 95 per cent confidence intervals) and the midpoint of this range is presented in Note 23 (entitled 'Payment Accuracy') to the financial statements as an estimate of the monetary value and level of the fraud and error in the year.

11 Note 23 explains that the estimates of fraud and error are by their nature subject to uncertainty because they are based on sample testing. These estimates do, however, represent the best measure of fraud and error available. In order to facilitate the timetable for the production of the financial statements, DSD's testing on payment accuracy is reported on a calendar year basis, not on a financial year basis. I am satisfied that this approach is reasonable.

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12 I examined the work undertaken by DSD to assess the levels of fraud and error within the benefit system. My staff examined and re-performed a sample of DSD's case work during the year and also reviewed the methodologies applied by DSD in carrying out these exercises. I am content that results produced by the SAU are a reliable estimate of the total fraud and error in the benefit system.

Qualified opinion due to fraud and error in benefit payments

13 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.

14 The criteria that are used to determine entitlement to each benefit and the method to be used to calculate the amount due to be paid are set out in legislation. Where fraud or error has resulted in an over or under payment of benefit to an individual who is either not entitled to that benefit, or is paid at a rate which differs from that specified in the legislation, these payments made are not in conformity with the governing legislation and are therefore irregular.

15 However, my regularity opinion is not qualified in respect of State Pension payments because the testing carried out by SAU found no fraud within State Pension payments and the estimated level of error (as shown in **Figure 11**) within State Pension is not significant.

16 **Figure 11** below shows the total benefit payments made during the calendar year of 2013 and the estimated level of fraud and error in relation to these benefits, based on the work completed by SAU. The table shows that total benefits (other than State Pension) amounted to £3.6 billion with estimated over and under benefit payments totalling £92.7 million (on which I have qualified my audit opinion) comprising:

- overpayments of £71.9 million (1.3 per cent of total benefits); and
- underpayments due to official error of £20.8 million (0.4 per cent of total benefits).

All overpayments are irregular, whereas only underpayments made as a result of official error are deemed irregular. Underpayments due to customer error are not deemed irregular.

17 I consider the estimated levels of fraud and error in benefit expenditure to be material and I have therefore qualified my audit opinion on the regularity of benefit expenditure (other than in relation to State Pension).

Figure 11: Estimated Overpayments and Underpayments due to fraud and error in benefit expenditure (2013)[23] (Note 23 to the financial statements)

	Benefits (other than State Pension)	State Pension	Total
	£ million	£ million	£ million
Expenditure	3,548.1	1,963.6	5,511.7
Overpayments due to:			
Customer fraud	28.2	0	28.2
Customer error	14.9	0	14.9
Official error	28.8	0.6	29.4
Sub-total	71.9	0.6	72.5
% of total benefits	1.3%	0%	1.3%
Underpayments[24] due to:			
Official error	20.8	4.1	24.9
% of total benefits	0.4%	0%	0.4%

Source: *Department for Social Development financial statements 2013-14*

Estimated levels of fraud and error

18 The Payment Accuracy Note (Note 23) divides over and under payments into the following categories:

- Fraud – this arises when customers deliberately seek to mislead the Department to claim money to which they are not entitled; and
- Error – this arises because of customer error or official error:
    - Customer error occurs when customers make inadvertent mistakes with no fraudulent intent, and
    - Official error arises when a benefit is paid incorrectly due to inaction, delay or a mistaken assessment by the Department.

Figure 12 shows the trends since 2009 in estimated levels of fraud and error due to each of these.

19 From an overall Departmental point of view the estimated levels of overpayments and underpayments due to fraud and error this year have increased slightly from 1.6 per cent last year to 1.7 per cent this year, although this is lower than the same figure in the DWP of 3.0 per cent for the year to 31 March 2013.

23 Estimates in figures 11 and 12 are to the nearest £0.1million and within 95 per cent confidence intervals.

24 Underpayments exclude those due to customer error (estimated to be £6.9 million) which are not part of the audit qualification.

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Figure 12: Trends in total estimated fraud and error in benefit expenditure

	2013 £ million	2012 £ million	2011 £ million	2010 £ million	2009 £ million
Total benefit expenditure	5,511.7	5,334.5	5,054.9	4,959.0	4,714.9
Overpayments					
Customer fraud	28.2	26.9	22.7	22.1	22.2
Customer error	14.9	19.5	14.8	12.4	15.2
Official error	29.4	22.3	16.9	32.4	21.1
TOTAL	72.5	68.7	54.4	66.9	58.5
% of benefit expenditure	1.3%	1.3%	1.1%	1.4%	1.3%
Underpayments[25]					
Official error	24.9	18.0	17.9	17.7	19.8
% of benefit expenditure	0.4%	0.3%	0.3%	0.4%	0.4%

Source: *Department for Social Development financial statements 2009-10 to 2013-14*

Customer fraud

20 Means tested benefits such as State Pension Credit, Income Support, Jobseeker's Allowance, Housing Benefit and Employment and Support Allowance tend to have the highest rates of fraud as they require the customer to provide complete and accurate information in order to establish entitlement to benefit. Most commonly, fraudulent customer statements relate to:

- customer's living arrangements where the customer has a partner but is claiming and receiving benefit as a single person;
- undeclared and under-declared occupational pensions;
- falsely stating the level of their own or partner's earnings;
- customers not disclosing they are living abroad;
- customers working but claiming unemployment benefits; and
- under declaration of assets.

21 The estimated level of fraud has remained consistent with 2012 at 0.5 per cent of total benefits and amounted

25 Underpayments exclude those due to customer error (estimated to be £7 million) which are not part of the audit qualification.

to £28.2 million in 2013. Within this figure I noted that estimated fraud within benefits administered by SSA had actually fallen to its lowest level for several years while for Housing Benefit administered by NIHE estimated fraud had risen by £2.4 million and is now at an historically high level. I asked DSD to comment on why the estimated fraud figures could be so different between SSA and NIHE and on what steps it was taking to address this issue.

22 DSD told me that it is concerned about this significant £2.4 million increase in Housing Benefit fraud and is monitoring the position with NIHE carefully. DSD is aware that the NIHE has implemented a number of measures to tackle customer fraud, including data matching, continued work in respect of the National Fraud Initiative, the Case Compliance Programme and the Housing Benefit Review. DSD advised me that it will monitor the outcome of these measures carefully and is also considering ways in which the lessons learnt from the performance of the SSA can be shared with and adopted by the NIHE Housing Benefit Team.

Customer error

23 Those benefits with the highest customer error rates are means tested benefits such as State Pension Credit, Housing Benefit and Income Support, which have entitlement conditions that relate to the level of income and/or savings of customers. The main reasons for customer error are:

- the benefits system is complex for customers to navigate;
- customers may be unaware of rules on capital, investments or redundancy payments and do not easily understand deductions for non-dependants;
- customers do not always understand that they have to report any changes in their circumstances; and
- many customers incorrectly believe that reporting changes once to a public body will lead to all government bodies updating their records for that individual.

24 The estimated amount of customer error has fallen this year, from a relatively high level of £19.5 million last year (0.4 per cent of total benefits) to £14.9 million in 2013 (0.3 per cent of total benefits). This improvement was mainly achieved because of improvements in the figures for benefits administered by the SSA. DSD told me that the improved results were due to a number of factors, the most significant of which was the reduction of customer error in State Pension Credit from £6.4 million (1.9 per cent of benefit spend) to £3 million (0.9 per cent of benefit spend). It felt that a combination of its own data matching activities, combined with targeting through NIAO's ongoing National Fraud Initiative has resulted in more effective targeting of unreported earnings and occupational pensions.

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25 In addition DSD indicated that it felt it had performed well in driving actual customer error improvements in Employment and Support Allowance (ESA). While the ESA caseload increased, due primarily to the migration of Incapacity Benefit (IB) and Income Support (IS) customers, the level of customer error in ESA almost halved from 1.1 per cent of expenditure in 2012 to 0.6 per cent in 2013 mainly due to the focus of its Single Investigation Service on undeclared income within the benefit administration. DSD has also told me that it plans additional compliance work within ESA in the coming year which it expects should ensure that the focus remains on successfully targeting and reducing customer error.

26 In addition DSD felt that the reorganisation of all customer fraud and error activity under a Single Investigation Service during 2013 has been key to its performance in 2013. This has involved streamlining fraud and error processes, driving cohesiveness and flexibility in addressing risk, and maximising the use of available resources under a single management structure. Looking ahead, DSD has told me that risks highlighted through measurement will continue to inform counter fraud and error activity, complimented by planned new case routing procedures, to ensure that risk cases are directed promptly towards the most effective method of intervention activity.

Official error

27 Official errors are those that are attributed as being the fault of DSD. They can take time to identify and correct and as a result their cumulative impact on resource and efficiency can be considerable. The main reasons for official errors are:

- incorrectly recording a customer's income;
- incorrectly applying complex benefit rates; and
- making errors in establishing the customer's status (such as their fitness for work, living arrangements etc).

28 Estimated overpayments due to official error have increased significantly from £22.3 million in 2012 (0.4 per cent of total benefits) to £29.4 million in 2013 (0.5 per cent of total benefits). The size of this estimated increase is disappointing as the control of official error is the area where DSD has the most influence. I noted two main benefits with substantial increases in estimated overpayments due to official error:

- Employment and Support Allowance which increased from £3.4 million last year to £8.3 million in 2013. While this is partly explained by a large increase in the size of this benefit because of a transfer from incapacity benefit and income support, the rise in official error for this benefit is still significant; and

- Housing Benefit for owner occupiers (administered by LPS) which increased from £2.8 million last year to £3.5 million in 2013.

29 I asked DSD to comment on these increases and it told me that while the levels of official error did increase significantly within Employment and Support Allowance (ESA), there was not a corresponding significant decrease in performance and the branch in fact performed at similar levels to those of the previous year with accuracy levels in 2012 of 97.6 per cent compared to 96.9 per cent in 2013. It felt that the increase in the level of official error in ESA must be considered in view of the wider context and specifically the migration of Incapacity Benefit (IB) and Income Support (IS) customers to ESA.

30 This reached its peak in the 2013-14 year and it is considered that the impact of this was twofold; namely a direct increase in the levels of estimated error as a result of the increased expenditure, and a significant increase in workload for the branch (the ESA caseload almost doubled) – with all the associated difficulties that brings in respect of staffing, skills, training and inexperience. DSD further clarified that ESA benefit expenditure has increased by around 85 per cent (£216 million) since 2012, now standing at almost £470 million annual spend. Despite this increase in expenditure, it pointed out that accuracy levels had remained stable at around 97 – 98 per cent throughout the 2013 year. DSD also highlighted a number of initiatives aimed at beginning to steer accuracy levels upwards post completion of the IB/IS migration and in anticipation of a greater period of stability for the branch.

31 DSD explained that, as regards Disability Living Allowance, the 2013 increase of £1.9 million was in respect of a starting point of zero in the previous year, with the movement in accuracy resulting from nil errors to just 3 incorrect cases identified out of a random sample of 744. DSD pointed out that this represented a 0.2 per cent overall loss of benefit spend, or an accuracy rate against the risk of loss, of 99.8 per cent. DSD confirmed that there was no particular downward trend or area of concern in respect of the 3 errors discovered, and overall, it felt that 99.8 per cent represented excellent performance, particularly against a backdrop of over 180,000 customers and expenditure of almost £1 billion per year.

32 Finally with regard to the performance of LPS, DSD has told me that official error figures have been impacted by the initial effects of the Automated Transfer of Local Authority Systems (ATLAS) and staffing pressures. ATLAS referrals accounted for 55 of the 121 errors identified (change of circumstances actioned outside the 30 day timeframe). LPS has also seen continuing high levels of staff turnover which can have a negative impact on performance. A temporary embargo on all elective transfers has been put in place to retain skills and experience.

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DSD hopes that the increasing automation of the ATLAS process and the staff embargo will help LPS to address the Official Error performance before the end of 2014-15.

33 Official errors can also lead to underpayments and when they do, this can lead to significant hardship for customers. The estimated level of underpayments due to official error has also increased significantly from £18 million last year (0.3 per cent of total benefits) to £24.9 million in 2013 (0.4 per cent of total benefits). This increase was mainly in benefits administered by SSA, particularly ESA.

34 I asked DSD for its view as to why this increase occurred and also what it is doing to reduce the extent of official error in future. DSD told me it welcomed the recognition in this report at paragraph 5 that there is an inherent risk of fraud and error in the administration of a complex benefit system which would make it difficult for them to reduce the estimated rate of fraud and error further from its current level, particularly because of potential welfare reform changes. DSD told me it continues to be proactive in addressing official error by targeting high risk areas and this will be developed through refinement of high risk scans as well as dedicated teams of accuracy checkers. It also pointed out that the Error Reduction Division 2014-15 funding had been almost doubled in Employment and Support Allowance (ESA) to help focus on the area of staff accuracy. With the completion of the migration of Incapacity Benefit (IB) and Income Support (IS) claims to ESA a review of accuracy checking in ESA is also planned for 2014. DSD feel that this will ensure the maximum impact on reducing the level of official error.

35 DSD has also completed a review of accuracy checking in State Pension Credit resulting in the introduction of enhanced methods to target particular high risk events which contribute to financial inaccuracy. Key to maximising the impact of the additional error reduction resources in place in high risk areas, particularly ESA, is targeting the causes of incorrectness and identifying those cases at greatest risk. DSD confirms that significant effort has gone into the identification and targeting of error, with the intention that, as targeting and detection of error impacts, the overall accuracy levels of 99.2 per cent will increase further.

Other Matters

Governance arrangements within the Housing Association Sector

36 DSD provides funding via the Housing Executive to the Housing Association sector each year and this amounted to £88.5 million during 2013-14. In order to satisfy itself that this money is properly spent, the Department's Governance and Inspection Team (the Team) conducts regular inspections of all Housing Associations in Northern Ireland examining governance, finance, housing

management, property management and property development.

37 A number of years ago DSD's team was identifying serious issues in a relatively large proportion of Housing Associations and I highlighted these issues in my reports as well as raising a number of concerns that I also had in this area.

38 In recent years the work done by the Department's Team in promoting good practice has identified considerable improvements in the sector across each of the areas identified above. These improvements are reflected in the fact that at 31 March 2014, all of the main developing Housing Associations have been awarded at least satisfactory assurance.

39 Out of the current number of 27 Housing Associations, there are now only four Associations where governance issues still arise, resulting in these Associations being awarded Limited or No assurance. Each of these four are relatively small and have little or no ongoing development. DSD has plans in place to review these Associations to ensure these governance issues are addressed.

40 I previously reported that ten Housing Associations were suspended from carrying out development work. Following further inspection by the Department, five of these suspended Housing Associations have been allowed to return to the development programme on a phased return basis. A further two Housing Associations have merged or entered into partnership arrangements with larger Housing Associations and three of the Associations remain suspended.

41 In relation to the largest Housing Association that had been suspended, Helm, the Team has carried out two further follow up inspections during 2013-14 and recommended that all restrictions on development should be lifted with immediate effect to allow Helm a full return to the Social Housing Development Programme.

42 I am pleased to note the continuing improvement in governance arrangements within the Housing Association sector generally which has now been in place for a number of years and has been driven in large part by the efforts of DSD's Governance and Inspection team. I note the plans in place to ensure that this performance is maintained and this is an area which I may return to in the future.

Other Housing Association issues

43 There are two issues relating to specific Housing Associations which I wish to highlight. The first relates to the treatment of Advance Land Purchase grants made to two associations and is an update on my previous report. The second is on the handling of a potential conflict of interest issue within one Housing Association.

(a) Advance Land Purchases by Housing Associations

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44 Last year I also reported on concerns I had over two grants that had been made under the Advance Land Purchase (ALP) scheme. This scheme allows grants to be made to Housing Associations in order for them to purchase a site in an area which has a social housing need but which may not yet have planning permission.

45 It is important to note that ALP grant, in common with all grants to Housing Associations, is managed by the Housing Executive who have the direct legal and contractual relationship with the Associations. However DSD, through its housing division, has a direct and important involvement with the Housing Executive in any decision to recover grant funding. In addition any grant that is recovered is ultimately repayable to DSD. Therefore, although the Housing Executive is legally responsible for decisions to initiate recovery of grant, I consider that DSD also have an important role in this process.

46 Normally I would expect that if land for which an ALP grant has been made is not developed on within a reasonable period of time, for whatever reason, then the grant would be reclaimed in full from the association. The Housing Association Guide, which sets out the principles under which Housing Association Grant is paid, was amended in 2010 to make it clear that if an ALP scheme does not start within a maximum of three years from approval then 'the grant will normally be repaid in full plus interest'.

47 I also queried whether DSD should therefore be seeking interest on the ALP grants discussed below. DSD told me it had considered this but that in its opinion the legislation governing the grant payment was clear in that it only allowed the recovery of interest from the date that it decides to recover the grant (not when the grant was paid). When I examined the legislation I considered that the position was not clear in this respect and that the requirements of the Housing Association Guide appeared to me to imply that interest should normally be charged from the date that the grant had been paid. I have therefore recommended that DSD obtain a legal opinion to clarify the position on how and when it should charge interest.

48 The two schemes which I wish to highlight are:

(i) Helm – Great Georges Street

49 This related to the purchase of a site in 2007 by Helm in Great Georges Street, Belfast which was supported by £8.1 million under DSD's ALP arrangements.

50 Helm have been unable to obtain planning permission for a social housing development on this site since 2007. DSD now have an agreement in place with regard to the settlement of the full amount of the grant. This will be done over a period of around three years. DSD's accounts include a debtor for this amount and I will monitor progress on this issue over the next few years.

(ii) Trinity – Crossgar site

51 A second scheme for which ALP was paid and which has not proceeded relates to Trinity Housing Association for a development in Crossgar. In this scheme DSD (via the Housing Executive) awarded an ALP grant of £835,215 to the Association in February 2008 to purchase the site on the basis that 12 social housing units would be developed. Since then the Association has been unsuccessful on a number of occasions in obtaining planning approval for its proposed 12 unit scheme and earlier this year it obtained planning permission for a single dwelling on the site which does not meet the criteria for social housing.

52 In March 2013 the Housing Executive, indicated that it was minded to begin recovery procedures for the ALP grant on the basis that the scheme had not been commenced within a reasonable time and the only planning permission available on the site was for a single dwelling. As I reported last year the Association then threatened to take legal action to prevent any recovery of the grant funding at that stage.

53 The site in Crossgar is now worth considerably less than when the Association received grant funding for it. In my view, which is also shared by DSD, it is an important principle when making these grants that the development risk remains with the Association so that any losses from changes in land values or planning permission not being forthcoming do not have to be met from public funds.

54 I am very disappointed that recovery procedures have not yet commenced for this grant despite the fact that indications of being minded to do so were given 15 months ago. There is still no imminent prospect of social housing being permitted on the site. The grant was paid over six years ago without any social housing having been built and there is a considerable risk to public funds if such grants are not recovered, particularly when there has been a fall in the value of the related land.

55 In my opinion DSD and the Housing Executive should work to ensure that recovery procedures for this grant begin immediately. If planning permission is subsequently received for social housing on the site then a new grant could be considered at that stage, in line with other new social housing developments.

56 I asked DSD to comment on why this ALP grant has not yet been recovered and DSD told me that the recovery of ALPs is not impacted by reduction in land values and therefore the risk remains with the Association as has been the case with the recovery of the Helm ALP. With specific regard to the Trinity ALP, DSD has told me that in its opinion there are only minimal restrictions on the planning permission received by the Association for this site and that it felt that this could still allow for further expansion. It was on this basis that the NIHE determined that there was sufficient justification to permit

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the Association to continue in its efforts to develop the site. DSD has told me that, as always, it will keep the situation under review.

57 I will also keep this issue under review and would expect that there will be considerable progress over the next twelve months either to develop the site by the Association or to recover the grant.

(b) Handling of a potential conflict of interest

58 During the year a separate issue came to my attention in respect of Trinity Housing Association whereby a member of the public raised concerns around the handling of a potential conflict of interest relating to the purchase of a site in Crossgar by the Association in 2007. I raised these issues with DSD in July 2013. At that time DSD told me that it had already examined some of these issues but following discussions it agreed in October 2013 to follow up on a number of specific questions which I considered had some merit.

59 DSD has not yet been able to obtain satisfactory answers to these questions despite them now having been outstanding for around nine months. I am concerned by the delay in obtaining a response to what I consider to be reasonable and straightforward questions. I have discussed this with DSD and urged it to seek to resolve this issue as soon as possible. I will continue to monitor this and may report on it again in the future.

Conclusion

60 I consider that the estimated levels of fraud and error reported are material and I have therefore qualified my opinion on the 2013-14 DSD's Resource Accounts on the regularity of benefit expenditure (other than State Pension benefits).

61 I am encouraged with the general progress made in the Housing Association sector following the lessons learnt from the DSD's report on Helm in 2012. I will continue to closely monitor the other issues highlighted above.

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Part 1: Introduction

1 The Northern Ireland Housing Executive (the Housing Executive) is a Public Corporation sponsored by the Department for Social Development (DSD / the Department). The Housing Executive is the regional housing authority for Northern Ireland with a wide range of housing responsibilities including acting as landlord for housing stock of approximately 90,000 dwellings.

2 I am required 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 (the Assembly) and the financial transactions conform to the authorities which govern them.

3 This report reviews the results of my 2013-14 audit of the Housing Executive and sets out the reasons why I have limited the scope of both my financial and regularity audit opinions in the following areas:

Response and Planned Maintenance Expenditure (Part 2)

The Housing Executive spent a total of £127 million on maintenance during 2013-14; £41 million on response maintenance expenditure and £86 million on planned maintenance expenditure. Considerable problems have been identified in the past in relation to Housing Executive controls over work done by contractors on its response and planned maintenance programme. While I have found some improvement in the operation of these controls this year I continue to have significant concerns in this area and therefore have again qualified my regularity audit opinion with respect to this expenditure.

Housing Benefit (Part 4)

The Housing Executive spent £659 million on housing benefit in 2013-14. Significant levels of estimated fraud and error in housing benefit expenditure continue to arise and I have qualified my regularity audit opinion on this as I have done in previous years.

Corporation Tax (Part 5)

HM Revenue & Customs (HMRC) recently advised the Housing Executive that it considers that rental income and proceeds from sales of housing stock should be subject to corporation tax. These areas have not been included within the Housing Executive's tax computations in the past. Therefore a potential liability has arisen in relation to the corporation tax payable on this income over the last five financial years. The Housing Executive has estimated a potential liability of £11.5 million in its 2013-14 accounts although this could increase or decrease substantially depending on the outcome of ongoing discussions with the HMRC. The Housing Executive has also appointed consultants to help them in these discussions but at this early stage they are unable to confirm the reliability of the Housing Executive's estimate. The evidence available to me to support the tax liability is therefore limited and consequently I have qualified my audit opinion on the truth and fairness of the financial statements due to this limitation on the scope of my audit.

4 Part 3 of my report examines the circumstances surrounding the estimated overpayment of £18 million to planned maintenance scheme contractors that was widely reported last year and how this has now been settled.

Part 2: Response and Planned Maintenance

Qualified opinion due to weaknesses in the control of expenditure on response maintenance and planned maintenance

Response Maintenance

5 Response maintenance expenditure relates to the day to day repairs and maintenance that has to be carried out on housing stock in response to a specific need, usually initiated by a tenant. In 2013-14 the Housing Executive spent £41 million in this area compared to £51.4 million in 2012-13. The Housing Executive told me that this reduction is largely explained by the impact of 20 of the 26 ongoing contracts having been procured at a more competitive rate. I continue to have concerns in relation to the controls exercised by the Housing Executive in relation to this expenditure as set out below:

(a) General response maintenance inspection results

6 Response maintenance covers a wide variety of expenditure. Due to the technical nature of this work I rely on the Housing Executive's internal controls to ensure that work done by their contractors is properly inspected by district staff and payments are not made until the work has been satisfactorily completed. One of the key controls in ensuring that proper inspections are taking place is the Corporate Assurance Unit (CAU / the Unit). CAU provides the Housing Executive with assurance on the effectiveness of the key controls in operation over its maintenance functions. To do this it statistically selects samples of maintenance work done and reperforms the checks that have already been carried out in each district office.

7 In previous years, as part of its annual programme, the Unit examined the 35 districts within the Housing Executive and presented a report for each one. Scores were recorded against four specific criteria[26] and classified as unacceptable, limited, satisfactory or substantial. In October 2012, following a review to

26 Contract Management; Inspection (on site) now revised to Post Inspections; Probity; and Procedures.

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ensure that it was fit for purpose, the methodology adopted by the Unit was amended, in consultation with Housing Executive management. Amendments included changes in scoring performance, a move to statistical sampling, provision of CAU training support and revisits where necessary. During 2012-13 the Housing Executive merged their previous area offices to create three new regions covering 12 new areas and retained 32 local offices. From 2013-14 onwards CAU reports are prepared for each area.

The results of the work of the Unit are summarised in **Figure 13** below:

Figure 13: Results of response maintenance inspections

	2013-14	2009-12*
Rating	**Number of areas**	
Substantial	7	2
Satisfactory	3	1
Limited	–	6
Unacceptable	–	1
Total	10	10

Source: *Housing Executive.*

*CAU has provided these comparative results by applying the new methodology to previous inspection results. These inspections were carried out during 2009, 2010, 2011 and 2012.

8 I am pleased to note this year that the Unit has reported an improved performance in the delivery and management of these contracts at an area level. To date thirty local offices (out of 32) have been visited within 10 areas[27]. Of these CAU found two local offices to have limited /unacceptable inspection results compared to thirteen district offices last year. For these two local offices the Unit is providing a support programme to help them address areas of weakness.

9 The Direct Labour Organisation (DLO) provides an in house contractor service for the Housing Executive[28]. Previously it delivered contracts in two districts. Since then its work has increased, as a number of contractors have gone into administration, and it is a 'caretaker contractor' in a further five districts. The Unit also inspected work completed by the DLO and found it to be of a good standard. I note that the Housing Executive has established a DLO Performance and Development Committee to support its Board in monitoring the performance, effectiveness and value for money of this service.

10 I asked the Housing Executive what key steps it felt had led to the improved performance reported by CAU and it told me that this was the result of a number of actions taken during the year, which included:

- all maintenance staff receiving accredited competency based training delivered by the Chartered Institute of Housing;
- the appointment of contract managers;

27 At the time of my audit fieldwork (June 2014) the two remaining area reports were at draft stage.

28 This covers building and grounds maintenance, adaptations for the disabled, electrical inspections, plumbing, and change of tenancy repairs and security of empty properties.

- establishment of an intervention team, tasked with visiting those offices with an unacceptable audit rating and helping local management to implement an improvement plan; and
- monthly reporting of contract performance which is subject to critical scrutiny.

11 I have reviewed a sample of the work done by CAU and, while I am not a technical expert in the area of property repairs, I was satisfied that the work I examined was properly carried out in line with their procedures and methodology. However I do have some concerns that the ongoing NIHE due diligence exercise into the planned maintenance scheme inspections' methodology (discussed further in paragraph 7 (a)) could also have implications for the reliability of CAU work completed in the area of response maintenance.

12 Given the fact that the Unit has adopted a new methodology for its inspections, the ongoing NIHE due diligence exercise and the level of systemic weaknesses in the past, I consider that a further year of these inspections will provide a more robust indication of whether this improved performance has been fully embedded.

(b) Heating response maintenance inspection results

13 The Housing Executive spends £3.2 million a year responding to heating maintenance issues. Despite incurring this substantial amount of expenditure, in the past there has not been an independent review of how the district offices ensure the quality of the work done and the accuracy of the payment to the contractor in respect of heating work. This has been partly because of a lack of technical expertise within CAU. As far back as October 2010 the Department recommended that the Housing Executive should also gain assurance over inspections of both planned and response maintenance heating contracts. CAU has, in 2013-14, now incorporated these inspections into their work programme and arranged for support from appropriately qualified staff. At the time of this report two of the twelve areas have been issued with reports and both received limited opinions due largely to concerns around the credibility of contractors' engineers in carrying out heating work, documentation failures and potential overpayments, for example, paying for the servicing of newly installed heating appliances. The Housing Executive told me that the delivery of this inspection programme was delayed by an investigation into the operation of heating service contracts and next year CAU intends to deliver a full programme of heating inspections. It is imperative that CAU is allocated the necessary technical resources to enable it to complete its full programme particularly given the results to date.

(c) Management of contracts

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14 The Housing Executive has introduced innovations in the structure of the response maintenance contracts and the way in which they are managed. In particular the revised response maintenance contracts provide the facility to apply financial penalties when contractors do not perform to the standard expected against agreed key performance indicators. Whilst the contracts do allow for damages to be waived in certain circumstances, I was surprised that since the new contracts have operated the Housing Executive has recovered only £58,000 of the £108,000 penalties it had raised (53 per cent). I asked the Housing Executive why this rate of recovery has been so low and what it is doing to improve this in the future. It told me that an ongoing legal challenge has caused a number of delays in recovery. In addition, a number of contractors went into administration and the outcomes from these may have a positive impact upon the recovery rate.

15 The new contracts also include clear escalation procedures to address persistent unsatisfactory performance. I have been advised that one contractor, who had been at final escalation stage and on a weekly monitoring plan, has now gone into administration and alternative arrangements have been put in place.

Office of Government Commerce (OGC) Gateway Review 5: Operations review and benefits realisation[29]

16 As noted in my report last year the new response maintenance contracts were to be critically evaluated through an OGC Gateway Review. The OGC report was issued to the Housing Executive in May 2014. The report made a number of recommendations, all of which have been accepted and action plans are now being developed to address them. In particular the review:

- Confirmed the improved performance from contractors and evidence of positive tenant satisfaction.
- Found an overall level of complexity and lack of clarity within the roles and responsibilities for those involved in managing the contract.
- Highlighted the need for the Housing Executive to improve the operation of current contract arrangements, in particular, the key performance indicators.
- Commented that the assurance processes in place reflected the needs of the organisation during a period of extensive scrutiny. However as the contract progresses this function needs "reviewing and adjusting proportionally to the needs of an established contract management arrangement in a steady state".

29 The primary purpose of an OGC Gateway Review 5 is to assess whether the anticipated benefits are being delivered and ongoing contractual arrangements meet business need.

17 In relation to the above comment, I agree that when the Housing Executive is completely satisfied that its new procedures are bedded in and working effectively, the extent of the assurances provided should be re-assessed. It is, however, important that the Housing Executive continues to build on the improvements made in the management of general response maintenance contracts to date.

Conclusion on response maintenance expenditure

18 While I am content that there has been considerable progress in the Housing Executive's management of response maintenance contracts these improvements need to have further time to bed in before I will consider removing my audit qualification in this area. This is particularly so for the area of heating maintenance which covers a substantial amount of expenditure. Also I will closely monitor the results of the due diligence exercise on planned maintenance to see if this has any implications for the methodology used for response maintenance. If the improvements that have been seen so far in general response maintenance continue and heating maintenance schemes are subject to a programme of inspections, that result in satisfactory assurance being provided, then it is likely that I will be in a position to consider removal of this qualification next year. However, for this year, I have continued to qualify my regularity audit opinion on response maintenance expenditure.

Planned Maintenance

19 Planned maintenance expenditure relates to larger schemes of maintenance scheduled to maintain the housing stock over time and includes work such as painting, boiler replacement, kitchen replacement and double glazing. During 2013-14 the Housing Executive incurred expenditure of £86 million compared to £94.2 million last year. The main reason for the decrease in expenditure this year has been the delay in awarding new contracts for planned maintenance work. I continue to have concerns in relation to the effectiveness of controls exercised by the Housing Executive in relation to this expenditure as set out below:

(a) Planned maintenance schemes inspection results

20 The delays in awarding these contracts have led to fewer schemes being completed this year. CAU completed and issued draft reports on 21 schemes in 2013-14 as compared to 36 schemes in 2012-13. The results of these inspections are set out in **Figure 14** and show a significantly improved performance for 2013-14. This year 14 per cent of the schemes inspected had either a limited or unacceptable classification. In these reports the types of issues raised included concerns regarding wiring and health and safety issues relating to window restrictors. The percentage of limited/unacceptable compares favourably to last year when 61 per cent of schemes were classified as such. Nevertheless the fact that

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Figure 14: Results of planned maintenance scheme inspections 2013-14

Scheme	Rating				
	Substantial	**Satisfactory**	**Limited**	**Unacceptable**	**TOTAL**
External Cyclical Maintenance	3	–	–	–	3
Health and Safety /Fire Safety	2	1	–	–	3
Kitchen Replacement	4	1	1	1	7
Window Replacement	7	–	–	1	8
TOTAL	**16**	**2**	**1**	**2**	**21**
Percentage	**76%**	**10%**	**4%**	**10%**	

Source: *Northern Ireland Housing Executive.*

14 per cent of planned maintenance schemes examined had less than satisfactory controls for inspecting the work of contractors is still a significant cause for concern.

21 I understand that in the current year CAU have expanded the scope of their previous inspections and work done in the 2013-14 programme is more comprehensive. CAU told me that previously it had mainly looked at the quality of the work completed but it now also examines other areas of the scheme delivery process such as contract management and has been identifying health and safety issues and non-compliance with NIHE specified standards.

22 One important point I note is that CAU has not had the benefit of its own Quantity Surveyor expertise in its inspection reports for a number of years. This is important because CAU need this input to ascertain whether district staff carrying out the inspections at area level are ensuring that contractors are only being paid for work that has been properly completed. If CAU do not have this resource then its reports cannot, in my opinion, provide a full picture. I understand this has been due to staffing and recruitment difficulties and consider that the Housing Executive must ensure this gap is addressed as a matter of urgency.

23 As with CAU's work on response maintenance I reviewed a sample of their work on planned maintenance and was satisfied that it follows their procedures and methodology. However a recent issue has arisen following concerns raised by a whistleblower. The Housing Executive has told me that once these concerns were raised a dedicated investigation team was established to review a number of planned maintenance schemes in one particular Housing Executive area. The team found that some officers were

not managing schemes as directed, leading to compliance failures and potential overpayments to the contractor in question. As a result disciplinary action was taken against one permanent member of staff who was dismissed and an agency employee was required to leave. The Housing Executive also told me that the investigation is ongoing and may result in further disciplinary action. It also intends to take steps to recover any potential overpayments.

24 Following on from this work, the Housing Executive was concerned that CAU had not identified the issues raised by the whistleblower and had in fact given the area in question a satisfactory rating. As a result the Accounting Officer has initiated a due diligence exercise to look at the appropriateness of the methodology and reporting of planned maintenance scheme inspection results during 2013-14. Until this work is completed it inevitably casts some doubt on the work that has been carried out by CAU.

(b) Planned heating maintenance inspection results

25 The Housing Executive spent £24.7 million (28 per cent of total planned maintenance expenditure) during 2013-14 on planned heating maintenance. This year the planned annual heating inspection programme has been delayed due to an investigation into the operation of heating contractors. The investigation identified differences in interpretation of the contract between the heating contractors and the Housing Executive and concluded that, in some cases, servicing of oil heating systems was not in line with industry standards and contractors were getting paid for services not delivered. I asked the Housing Executive if this issue has now been fully addressed and whether similar concerns extend to gas boilers. It informed me that the issues regarding services not completed and industry standards have been largely addressed with some work still ongoing in relation to difference in interpretation of the contract and that these concerns did not apply to gas boilers.

New planned maintenance contracts

26 Until January 2013 when the contracts expired there were 506 planned maintenance contracts covering all scheduled work across the housing stock. Due to various issues, including the resolution of potential overpayments as discussed in Part 4 of this report, the new contracts for planned maintenance contracts had not been awarded by the end of the financial year. The only exception to this is double glazing which was separated from the main contracts, tendered separately and awarded in November 2013.

27 I asked the Housing Executive what steps have been taken to ensure that the new contract arrangements are fit for purpose and less open to interpretation. It told me that:

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- The new contracts set out more clearly how a partnership concept should operate.
- There are now a larger number of contractors (up to 10) to reduce overdependence on contractors and expand competition.
- External consultants will be the scheme managers and be involved in designing schemes, agreeing costs, supervising and approving the work contract. This should address the risk of contractors inflating work content.
- The input of the consultants will be subject to monitoring and checking by technical staff within the Housing Executive.
- Officers engaged in contractor and consultant supervision and management have been fully trained and will be held to account.
- The Housing Executive is engaging external support to review contract management arrangements including structures, processes and controls.
- Lessons learnt from the past, especially on pricing and inspection, should help transfer some of the risks associated with scheme design as consultants will have to meet key performance indicators or suffer financial penalties. Controls will be further enhanced by improved access to key technical resources.

28 CAU has advised that when the new contracts are in place it intends to carry out a robust review of the new consultant contracts which will look at contract management and administration in accordance with clauses and conditions set out in the contracts. Specifically it will examine and score key areas such as quality of work carried out by the contractor, health and safety issues, non-compliance with specified Housing Executive standard, pricing list issues and other contract management issues. It is essential, especially in the early stages of the new contract, that the Housing Executive exercises strong control over its consultants to ensure that it is satisfied that contracts are being properly managed.

Conclusion on planned maintenance expenditure

29 As with response maintenance there are some signs of improvement in the operation of the controls over the planned maintenance expenditure of £86 million. Nevertheless there continues to be a significant level of non-compliance in the controls over this expenditure and this looks unlikely to be comprehensively addressed until the new contracts are up and running. I also note that nearly 30 per cent of this expenditure is in relation to heating maintenance which has not been fully inspected by CAU in 2013-14 and has been the subject of investigation during the year.

30 The fact that CAU inspections do not have their own Quantity Surveyor input to examine the financial aspect of the schemes is a cause for concern and reduces the extent to which I can rely on their work. The current investigation into whistleblower allegations and the resulting Housing Executive due diligence review of the methodology used by CAU exacerbates this further.

31 Consequently I was unable to obtain sufficient evidence that the Housing Executive's control of this expenditure was adequate for the purposes of ensuring that these payments had been applied for the purposes intended by the Assembly and I have qualified my regularity audit opinion again on planned maintenance expenditure this year.

Part 3: Estimated contractor overpayments in planned maintenance schemes

Introduction

32 In June 2013 it was widely reported that the Housing Executive had overpaid its planned maintenance contractors by an estimated £18 million. I provided some further background to this figure in my report of 2 July 2013 when I made it clear that this figure was an estimate based on an extrapolation of overpayments identified in a relatively small sample of schemes. At that point this figure was not included as a debtor within the Housing Executive's 2012-13 accounts as the evidence supporting it was not sufficient.

33 I have reported significant issues in relation to the Housing Executive's controls over planned maintenance contracts for several years. These issues contributed to this overpayment arising.

34 In this particular case, problems were first identified in the work that the Housing Executive's contractors were completing on planned maintenance schemes in 2010 and then again in 2011. It was late 2012 before the Housing Executive began to take substantive action by appointing independent surveyors to review work completed by contractors. By June 2013 these surveyors had examined a relatively small proportion of schemes and found estimated overpayments of over £1 million. The rate of error identified from this work, together with the other work done by the Housing Executive, was projected across all planned maintenance schemes to arrive at the £18 million overpayment estimate.

35 This estimate did not include the impact of any underpayments to contractors, that is, any work which had been done by the contractors at the request of staff within the Housing Executive but not yet billed. It was only after June 2013 that the contractors were approached and substantial amounts of work that they had not charged for began to be taken into account. This is partially explained by the fact that in most cases final account

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reconciliations were not completed promptly after jobs were finished.

36 As the original £18 million estimated overpayments was based on an extrapolated figure and the contractors have identified a large amount of underpayments, the final agreed settlement is much less than anticipated. The details of what have been agreed and how the Housing Executive has reached this position are discussed in more detail below.

Background to planned maintenance contract issues and the £18 million estimate

37 In January 2008 the Housing Executive introduced new planned maintenance contracts initially for a period of four years which were then extended for a further year. The contracts were designed to reflect the principles and recommendations set out by Sir John Egan[30] and were let under the New Engineering Contract (NEC3). This contract was aimed at delivering better value for money by promoting a partnership type arrangement between the public sector and contractors. Over the five years of the contracts the Housing Executive let 469[31] planned maintenance schemes at an estimated contract sum of £172 million covering schemes for kitchen replacements, external cyclical maintenance (ECM) and other work such as window replacements.

38 The contracts were structured so that payments were based on a standard Project Price List (PPL) which was effectively the bill of quantities[32] for each scheme. The PPL provided an indication of the cost of each piece of work. Before making payments the Housing Executive should have carried out 'remeasurement' to identify and cost the variation between the work actually completed at each job and the PPL. This remeasurement was generally not carried out and payments were therefore based on the PPL. In the absence of this important control it was very difficult for the Housing Executive to know exactly how much work had been done on each property.

39 At the end of each contract final account reconciliations should be prepared to ensure that the total work completed on the contract is in line with payments that have been made. The 469 schemes let between 2008 and 2013 included a large proportion of schemes for which financial reconciliations had not been agreed with the contractors[33]. Previously[34] I have drawn attention to the considerable delays in the completion of these reconciliations. I consider that more timely completion of these reconciliations would have significantly

30 Achieving Excellence in Construction (AEC) 1999.

31 The number of schemes increased to 506 when contracts were extended to include the installation of fire doors.

32 A document drawn up by a quantity surveyor which provides details of materials, parts, labour and costs required to complete a project or scheme.

33 In my 2012-13 Report to those charged with Governance I reported that final accounts had only been submitted for 96 of the 469 schemes, leaving 373 schemes still remaining open at 31 March 2013.

34 NIHE 2011-12: Report of the Comptroller and Auditor General to the NI Assembly, when I reported that a number of external maintenance schemes, some dating back to December 2008, with a gross value of £17.3 million had not been subject to final account reconciliations.

reduced the potential for overpayments or underpayments to have arisen on these contracts.

40 An approximate timeline of the key events is given in **Figure 15** below:

Figure 15: Timeline of key events (2010-2014)

Date	Event
April 2010	Inspection reports prepared by NIHE's Scheme Inspection Unit (a predecessor of CAU) conclude that there is potential for contractor overpayments in kitchen replacement schemes. However this is not reported to NIHE audit committee.
September 2011	The Head of CAU produces a report advising of potential overpayments of £513,000. This is based on a review of five kitchen schemes.
November 2011	The information from CAU is presented to the NIHE audit committee and there is considerable disagreement between management and CAU over the figures. Internal Audit is asked to review both sets of figures.
December 2011	Internal Audit Review agrees with conclusions of CAU but also highlights its lack of technical expertise. A Senior Procurement Manager (within NIHE) is then asked to also look at the figures in detail.
May 2012	The Senior Procurement Manager concludes that there are indicators of overpayments but at a lower level than CAU estimated.
September 2012	NIHE appoints an independent firm of surveyors to review a sample of 20 kitchen schemes.
February 2013	Independent surveyors issue a draft report concluding there have been overpayments of significant sums.
29 May 2013	NIHE prepare estimate of potential overpayment of £18 million and advise their Board. Chairman briefs Minister as to the size of the estimated potential overpayment.
7 June 2013	Chairman arranges for a review of the NIHE handling of planned maintenance contracts to be carried out by Campbell Tickell.
10 June 2013	Minister makes a statement to the Assembly regarding the estimated potential overpayment of £18 million.
10 June 2013	Chairman announces that a review into the planned maintenance issue is to be completed by independent consultants.
July 2013	Independent surveyors asked to review a further 19 schemes and engage with the contractors.
October 2013	Campbell Tickell Review published.
Nov 2013-March 2014	Detailed negotiations with contractors to reach an agreed settlement.
March 2014	Proposed agreement reached and approved by NIHE Board, subject to DSD/DFP approval.
April 2014	Contractors sign agreed terms of settlement, subject to DSD/DFP approval.
July 2014	DFP/DSD approval received for the settlement

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Calculation of the £18 million estimate

41 Issues with how these contracts were being managed were first identified by the Scheme Inspection Unit (SIU) in 2010 and then raised again by CAU in November 2011. Unfortunately there was a considerable degree of challenge by Housing Executive management to these findings which led to independent surveyors not being appointed to investigate the issue until September 2012.

42 The work done by the independent surveyors was reported in the first part of 2013 and found that, in general, normal contract management arrangements had been set aside by the Housing Executive in favour of more relaxed procedures based on partnership, trust and mutual co-operation which meant that effective checking and inspection was not being carried out and consequently potential overpayments were not being identified. They found that of the 20 kitchen replacement schemes examined (out of 242 undertaken to that time) there were potential overpayments of £1.319 million out of a total cost of £6.259 million with overpayment rates on different schemes ranging from 2 per cent to 40 per cent. It should be noted, however, that at this stage the surveyors were not identifying underpayments as the contractors had not yet been approached.

43 The Housing Executive used the work of the independent surveyors, together with work undertaken by its Central Cost Group, as a basis for estimating the potential overpayments across all of its planned maintenance work from 2008. By extrapolating the error rates across the expected contract costs the total contractor overpayment was estimated at around £18 million.

44 This estimate was based upon the figures that were available at June 2013. However the limitations of this figure should have been made clearer. These limitations included:

- the figure was based on a relatively small sample of data;
- the figure was based on estimated, rather than actual, spend; and
- there was a possibility that when negotiations began with contractors, underpayments may be identified which could then be set against the overpayments.

45 I asked the Housing Executive why these limitations had not been made clearer when this figure was reported. It told me that at June 2013 the assessment of these contracts was at an early stage and the eventual outcome would not have been known. This only became available following the extensive work undertaken by the appointed experts, the contractors and the Housing Executive. Furthermore they advised that there were also uncertainties, under the terms of the contract, regarding whether a contractor could pursue compensation events after a specified period of time. While the

limitations were recognised, it would appear they were not always effectively communicated at that time.

Progress since the £18 million estimate was reported

46 In June 2013 the Chairman of the Housing Executive commissioned an external independent review of the Housing Executive's handling of planned maintenance contracts. The Chairman appointed the chosen firm using a single tender action[35] and has stated that this was to ensure that the review could start quickly as there was a considerable degree of urgency given the issues that had been found. The company appointed was Campbell Tickell. The Chairman has told me he knew of their work for other similar organisations and he felt they had the necessary expertise to carry out this review.

47 The Chairman submitted a business case to the Department's Accounting Officer estimating the investigation costs to be £40,000 which was approved. In fact the actual input of Campbell Tickell was higher than anticipated and the final cost agreed with the Housing Executive is around £66,000 (some 66 per cent higher than the figure proposed in the original business case). Campbell Tickell has advised that these extra costs were largely due to the volume of documents and records that required review.

48 I also note that a Board member of the Housing Executive is an associate of Campbell Tickell. I asked the Housing Executive how it ensured there was no conflict of interest in this case. It told me that the Chairman was fully aware that the Board Member had a business association with Campbell Tickell and that the Board Member was not involved in the appointment of the company. Therefore the Housing Executive is satisfied that any potential for a conflict of interest was managed entirely correctly.

49 The terms of reference for Campbell Tickell were to:

i. Review the information received by the Housing Executive Board on the planned maintenance contracts leading to the potentially significant overpayments to four contractors.

ii. Confirm whether or not the information was accurate and complete, or to add any additional relevant information.

iii. Assess whether the calculation of the estimated overpayment was reasonable and robust.

iv. Assess whether the actions taken or planned were sufficient to pursue the recovery of these monies.

vi. Consider whether management weaknesses led to this situation.

vi. Make recommendations to deal with any inappropriate actions or identified weaknesses.

35 Public sector bodies are allowed to opt out of normal procurement processes and adopt a single tender action if a sound business case can be made to support this.

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50 Campbell Tickell noted in their report that, following agreement with the Housing Executive, they could only partly report on the fourth bullet point as they wanted to avoid the risk of prejudicing ongoing negotiations with the contractor.

51 The review was completed in October 2013 and identified the following key issues:

- The prime cause of these potential overpayments being the poor planning, preparation, implementation and controls by the Board and management of a new form of partnering or Egan building contract known as NEC3.
- Mistakes by the Housing Executive in deciding not to implement an important provision of NEC3, namely the ongoing requirement to re-measure the work undertaken by contractors.
- Various shortcomings in management and governance within the Housing Executive which led to substantial overcharging by contractors on planned maintenance contracts.
- Potential contractor overpayments estimated to be within a range of £9 million - £13 million, lower than the amount estimated by the Housing Executive.

52 The review noted that the problems were exacerbated by:

- The Housing Executive and contractors not understanding the fundamental culture change needed to create a true partnering approach.
- The lack of meaningful management information to allow appropriate monitoring, oversight and comparative performance management.
- The organisational culture which created distrust and antagonism within different parts of the Housing Executive.
- The cost saving programme which led to experienced staff leaving who had particular expertise on these contracts.
- A fragmented and inadequate framework for control and assurance.
- Incomplete information being passed up the hierarchy and ultimately to the Audit Committee and Board meaning they could not exercise effective oversight and challenge of the situation.

53 I asked the Housing Executive what steps it had taken to address the key recommendations arising from the review. It told me that an improvement plan has been established to address the recommendations against which progress is monitored by the Board. Furthermore the Housing Executive advised me that the following key actions were ongoing:

- the establishment of user groups across the main contract maintenance areas of planned, response, heating, grounds and adaptations;
- comprehensive reviews of scheme delivery processes;
- mechanisms to support front line staff and to share good practice;
- a mobile working solution project for response maintenance[36];
- setting up a system of benchmarking of performance and costs;
- a systematic review and risk assessment of all contract processes;
- additional training in contract awareness and management;
- a thorough review of the format and content of reports to the Audit Committee and Board; and
- taking steps to foster a support culture in audit and inspection activities.

Negotiations for an agreed settlement

54 While the review by Campbell Tickell confirmed that there did appear to have been substantial overpayments to contractors, although at a lower level than the Housing Executive estimate, their review did not involve engagement with the contractors.

55 To progress the issue of recovering the overpayments the independent surveyors who had examined the original 20 schemes were asked in July 2013 to examine a further 19 kitchen schemes and to begin to engage directly with the contractors (who by this time had appointed their own expert) in order to confirm and agree the level of overpayment. The instruction to the surveyors was to undertake negotiations to agree final costs for a number of schemes, including any compensation events (any underpayments to contractors for additional work that had been done by them). They were also asked to examine how the results of this work could be extrapolated across all of the kitchen projects.

56 Negotiations continued into 2014 when the surveyors finally reached an agreed position with the contractor's expert whereby, in respect of the kitchen projects, total overpayments were estimated at £8,367,000 but crucially underpayments were estimated at £8,175,000. This meant that in total a net £192,000 could be recovered by the Housing Executive.

36 This project describes the use of handheld devices which maintenance officers will use to record their inspections at the time of visits and will automatically update the main housing system.

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57 A settlement offer was then agreed with the four contractors which involved three of them paying £670,000 to the Housing Executive and one of them being paid £470,000 – i.e. a net recovery of £200,000. This settlement covered all issues surrounding the planned maintenance contracts, including ECMs and windows replacement. Legal opinion, received by the Housing Executive, recommended that this settlement should be accepted.

58 This settlement has now been approved by the Department for Social Development and the Department of Finance and Personnel and the figures have been included within the 2013-14 accounts of the Housing Executive.

Overpayments not recovered

59 The work done by the surveyors only looked at the kitchen projects whereas the original £18 million estimate had also included overpayments arising from windows replacement and ECMs. The Housing Executive's Central Cost Group estimated over and underpayments for these areas based on extrapolated data. These estimates have not been reviewed by independent surveyors or agreed with contractors and therefore can only give a high level estimate of potential over and underpayments. Indeed I am aware that the contractors have argued that they are entitled to higher levels of compensation events than negotiated. Nevertheless, for the purposes of the accounts and to comply with public sector accounting rules, the Housing Executive has estimated that a net overpayment of £2.1 million (relating to the External Cyclical Maintenance, window replacement and other planned maintenance) should be written–off and it has received the necessary approvals to do so.

60 I asked the Housing Executive why it decided not to pursue this potential overpayment. It told me that the legal advice it had obtained highlighted, for this particular case, the high costs associated with obtaining evidence to support a recovery strategy based on adjudication and then, if required, litigation. These costs, both technical and legal, would have been substantial with no certainty of successfully recovering any amounts outstanding.

Summary of overall movements in overpayments and underpayments

Figure 16 shows the link between the original estimate of £18m and the figures eventually agreed in the settlement:

Figure 16: Changes to the original contractor overpayment estimate

	Overpayments £million	Underpayments £million
Original estimate	18.0	–
Reduction in estimate[37]	(5.5)	–
Revised estimated overpayment	12.5	–
Made up of:		
Kitchens	8.3	8.1
External Cyclical Maintenance	3.8*	1.3*
Other	0.4*	0.8*
Total	**12.5**	**10.2**
Net overpayment	2.3*	
Settlement figure	0.2	
Estimated loss	2.1*	

Source: *NIHE*

*These figures are based on estimates produced by the Housing Executive using extrapolated data. As explained in the paragraphs above they have not been reviewed by independent surveyors or agreed with contractors and therefore can only give a high level estimate of potential over and underpayments

Conclusion

61 Since the introduction of the new planned maintenance scheme contracts in 2008 the Housing Executive has been lax in managing them. If proper arrangements had been in place, including remeasurement as required under the contract, then the overpayments and underpayments since identified would not have occurred.

62 It is unacceptable that checks which should have been carried out under the planned maintenance contracts were set aside in favour of a 'light touch' regime under which the Housing Executive appeared to trust that work not done by contractors but paid for would be balanced by the work done by contractors and not charged for.

63 There were opportunities for the Housing Executive to identify the problems occurring at a much earlier stage and to have taken steps to address them. However for various reasons, including a large degree of challenge from Housing Executive management to the 2010 findings of the Scheme Inspection Unit,

37 The planned maintenance schemes let 2008-2013 had an estimated contract value of £172 million. As part of the settlement it was agreed that schemes with a value of £65 million would be excluded from the overpayment calculation as they were not yet complete and therefore could still be fully measured under the NEC3 contract. These schemes will now be subject to normal contract management procedures. The £5.5 million is the estimated overpayment for these schemes.

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this did not happen. As a result there was a delay in dealing with the issues and the problems only began to be dealt with towards the end of the contracts.

64 I am disappointed to note the parallels between this issue and a similar issue I identified in my 2004 report[38] on gas central heating in Housing Executive homes. Gas contracts were also managed on a 'bill of quantities' basis. Detailed building surveys were not undertaken as the Housing Executive considered this to represent commercial sense. Final contract costs consistently exceeded tendered prices and my examination at that time indicated that net overspends and variances were likely to be at least £2.5 million.

65 The Executive has reached a settlement with the contractors following a long negotiation process. Despite the fact that the Housing Executive is following legal advice it is disappointing to note their estimate of a further net balance of £2.1 million of overpayments which will not be pursued. While it is important to highlight that this figure has not been put to the contractors or subjected to the detailed scrutiny of a negotiation process it is very concerning that the Housing Executive has potentially incurred such a significant loss.

66 I note that schemes completed after July 2013 should now be dealt with in accordance with the terms of the contract, that is, the full remeasurement process is applied and compensation events addressed where appropriate. I have already commented on the new planned maintenance contracts in Part 2 of my report and hope that lessons have now been learnt so that such a situation does not arise in the Housing Executive again.

Part 4: Housing Benefit

Background and methodology

67 The Housing Executive administers housing benefit on behalf of DSD. The Department's Standards Assurance Unit (SAU) regularly monitors and provides estimates of levels of fraud and error within the housing benefit system. In order to do this, statisticians from the Department's Analytical Services Unit randomly select samples of ongoing housing benefit claims and SAU subjects them to detailed examination for evidence of customer fraud, customer error or official error.[39]

68 The results of this testing are used to produce a range of likely fraud and error in housing benefit (within 95 per cent confidence levels) and the midpoint of this range is presented in Note 30 (entitled 'Fraud and Error') to the financial statements as an estimate of the monetary value of the fraud and error in the year. The estimates of fraud and error are by their nature subject to uncertainty because they are based on sample testing but do, however,

38 Introducing Gas Central Heating in Housing Executive Homes, NIAO: NIA 43/03, HC 725 Session 2003/04 1 July 2004.

39 Customer fraud arises when customers deliberately seek to mislead NIHE. Customer error occurs when customers make inadvertent mistakes with no fraudulent intent. Official error arises when housing benefit is paid incorrectly due to inaction, delay or a mistaken assessment by the NIHE.

represent the best measure of fraud and error available. In order to facilitate the timetable for the production of the financial statements, SAU's testing is reported on a calendar year basis, not on a financial year basis. I am satisfied that this is reasonable.

69 I examined the work undertaken by the SAU to assess the estimated levels of fraud and error within the housing benefit system. My staff examined and re-performed a sample of the case work during the year and also reviewed the methodologies applied by the SAU in carrying out these exercises. Based on this work I am content that results produced by the SAU are a reliable estimate of the total fraud and error in the housing benefit system.

Qualification of regularity opinion due to fraud and error in housing benefit payments

70 The entitlement criteria and the method to be used for payment of housing benefit are set out in legislation. Where fraud and error has resulted in an over or underpayment of benefit to an individual who is either not entitled to housing benefit, or is paid at a rate which differs from that specified in the legislation, the payments made are not in conformity with the governing legislation and are therefore irregular.

71 The levels of fraud and error for housing benefit for the year 1 January 2013 to 31 December 2013, estimated by the SAU in total represent some 3.9 per cent of housing benefit expenditure.

72 **Figure 17** shows the housing benefit payments made during the calendar year of 2013 and the estimated amounts of fraud and error in relation to these payments, based on the work completed by SAU. This shows that the total amount paid in the 2013 calendar year was £659 million with estimated irregular payments of £25.9 million comprising:

- overpayments of £21.1 million (3.2 per cent of housing benefit payments); and
- underpayments due to official error of £4.8 million (0.7 per cent of housing benefit payments expenditure).

All of the overpayments are irregular, whereas only underpayments made as a result of official error are deemed irregular.

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Figure 17: Trends in estimated[40] overpayments and underpayments due to fraud and error in housing benefit expenditure

	2013 £million	2012 £million	2011 £million	2010 £million	2009 £million
Total Housing Benefit Expenditure*	659	612	558.5	568.3	503.6
Overpayments due to:					
Customer Fraud	11.7	9.2	2.8	0.9	4.5
Customer Error	4.6	4.8	4.8	4.0	1.2
Official Error	4.8	6.8	2.6	9.8	3.6
Total overpayments	21.1	20.8	10.2	14.7	9.3
% of Housing Benefit Expenditure	3.2%	3.4%	1.8%	2.6%	1.8%
Underpayments[41] due to:					
Official Error	4.8	4.7	3.6	2.4	3.4
% of Housing Benefit Expenditure	0.7%	0.8%	0.6%	0.4%	0.7%

*This amount is the population from which a sample was examined by the SAU. It is based on amounts paid in the calendar year and differs from amounts in the financial statements which are based on financial years.

Source: *SAU Reports*

Customer Fraud

73 The estimated level of customer fraud continues to increase substantially and at £11.7 million is 27 per cent higher than last year. Most commonly customer fraud arises from:

- under declaration of assets;
- falsely stating the level of their own or partner's earnings;
- undeclared and under declared occupational pensions;
- customers working but not disclosing this; and
- non–disclosure of customer's living arrangements where, for example, the customer has a partner but is claiming and receiving housing benefit as a single person.

74 This means that the estimated level of customer fraud is now higher than at any time in the previous five years. This is disappointing as the Housing Executive had previously advised me that the ATLAS system of electronic notification of

40 Estimates are to the nearest £0.1 million and presented with 95 per cent confidence intervals.

41 Underpayments exclude those due to customer error which do not form part of the audit qualification. In 2013 these underpayments are estimated to be £1.2 million (2012 - £1.7 million).

changes in benefits and the reinstatement of the annual earnings exercise for 2013 would reduce the level of customer fraud. When asked why this did not happen the Housing Executive pointed out that in two of the nine cases reported by SAU, the fraud originated in the base Social Security benefit which passported entitlement (and the fraud) to housing benefit. The financial impact of this "passported" fraud would account for an estimated 20 per cent of the fraud total. The majority of the remaining fraud relates to claimants' living arrangements and this type of fraud is now being targeted in part by the work undertaken under the Housing Executive's new Tenancy Fraud strategy. The ATLAS system and the earnings exercise both help identify irregularities in claimants' financial circumstances but there tends to be a time lag between using these tools and reducing related fraud in the system. The Housing Executive also told me that the latest figures produced by SAU for the period April 2013 to March 2014 show that the estimated level of Customer Fraud has fallen to 1.2 per cent of benefit expenditure, equivalent to £7.9 million i.e. below the 2012 estimate.

Customer Error

75 Customer error relates to situations where customers have made mistakes in claiming benefit which are not judged to have arisen from fraudulent intent. This would include situations where errors arise because:

- customers cannot properly navigate the complex housing benefit system;
- customers are unaware of rules on capital, investments or redundancy payments;
- customers do not understand the requirement to report any changes in their circumstances; and
- many customers incorrectly believe that reporting changes once to a public body will lead to all government bodies updating their records for that individual.

76 I note that estimated customer error has dropped slightly from last year. I asked the Housing Executive to comment on this and it told me that the earlier identification of changes through the operation of the ATLAS system and other counter-fraud and error techniques have helped in reducing this.

Official Error

77 The estimated level of overpayments due to official error has dropped considerably this year while the level of estimated underpayments has increased marginally. As official errors arise from mistakes by the Housing Executive these errors are within its control and it is best placed to reduce them. Therefore I welcome the estimated level of this error being reduced.

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78 Official error is often difficult to identify and consequently the cumulative impact can be considerable. Reasons for official errors include:

- incorrectly recording a customer's income;
- incorrectly applying complex benefit rates; and
- making errors in establishing the customer's status (such as single status, etc).

79 Last year the Housing Executive told me that considerable work was being undertaken to reduce the level of official error including automating approximately 80 per cent of actions prompted by ATLAS and introducing additional resources to deal with the backlog of work that had built up over the first half of the year. It is reassuring to see that these measures appear to be achieving results but it is important that the Housing Executive continue to focus on bringing this level down further. The Housing Executive told me that it is pleased to note that the work put into reducing Official Error is achieving the desired outcome and it will continue to focus its efforts on making further progress in this area.

Conclusion on housing benefit expenditure fraud and error

80 I recognise the considerable efforts and resources committed by the Housing Executive to address housing benefit fraud and error. However the estimated levels of fraud and error in housing benefit expenditure remain material and I have therefore continued to qualify my audit opinion on the regularity of this expenditure.

Other issues relating to Housing Benefit

Benefit overpayments to be recovered

81 Benefit overpayments arise whenever benefits are paid in error to customers. During the year the gross level of housing benefit overpayments owed by claimants increased from £46.9 million to £49.4 million. **Figure 18** shows the total value of benefit overpayments to be recovered by the Housing Executive as at 31 March for each of the last five financial years.

Figure 18: Trends in the recovery of Housing Benefit Overpayments

Gross debt	2014 £million	2013 £million	2012 £million	2011 £million	2010 £million
Written off	**49.4**	**46.9**	**45.4**	**41.8**	**37.5**
Provided for[42]	(1.3)	(1.3)	(1.3)	(1.8)	(1.3)
Net debt recoverable	(15.8)	(15.5)	(15.8)	(13.1)	(12.1)
Recovered	**32.3**	**30.1**	**28.3**	**26.9**	**24.1**
Recovery % (as % of gross debt)	(15.0)	(13.9)	(13.9)	(13.1)	(12.8)
Net debt at year end	**31.3%**	**30.5%**	**31.4%**	**32.7%**	**35.3%**
Gross debt	**17.3**	**16.2**	**14.4**	**13.8**	**11.3**

Source: *Housing Benefit Overpayments Strategy and Northern Ireland Housing Executive financial statements*

82 I note that debt due from benefit overpayments continues to rise with the gross debt at the year end of £49.4 million being 32 per cent higher than it was in 2010. However the Housing Executive has managed to recover more monies overpaid this year than last year and has substantially exceeded the Department's overpayment recovery target for 2013-14 of £13 million. The recovery rate at 31.3 per cent still appears low and I asked the Housing Executive what further action is being taken to improve this.[42]

83 The Housing Executive told me that it remains committed to achieving as high a rate of recovery as possible and will be reviewing its strategy aimed at both preventing and recovering housing benefit overpayments during the year. It pointed out that there are constraints on recovery rates imposed both by legislation and claimants' ability to repay which can limit the recovery amount achievable during the course of the year and, when set against the number and value of overpayments identified though the Housing Benefit Fraud and Error Strategy (over £4 million for 2013-14), it becomes increasingly difficult to match recovery rates with the rate of creation of overpayments. This situation has been recognised by the Department in the setting of a key performance indicator in this area of work and, as has been noted, the Housing Executive has exceeded its targeted recovery amount in each of the last three years. In addition to this, the Housing Executive told me it has benchmarked its performance on the rate of recovery of overpayments against that of a number of Great Britain Local Authorities and has achieved above average performance levels in each of the last two years.

42 This relates to debts that the Housing Executive considers may not be recovered but have not yet been written off. See Note 16 to the accounts.

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Tenancy fraud

84 Tenancy fraud is the possession of a social housing tenancy by someone who is not entitled to it. This deprives those on housing waiting lists of the chance of a permanent home and gives rise to additional costs for temporary accommodation and additional house building. It is estimated that tenancy fraud costs the public purse £1 billion a year in England and Wales. In September 2013 I published a report[43] on this area which highlighted that:

- Not enough was being done to tackle tenancy fraud.
- Every 100 additional properties recovered through a proactive detection programme may have the potential to save approximately £800,000 in costs for private rented accommodation.
- By applying the Audit Commission's 2% estimate[44] the number of properties fraudulently occupied in NI could be as high as 2,400 with a current replacement cost in the region of £200 million.

85 The Housing Executive has now developed a strategy to address this issue and advised me that it has commenced implementation. This strategy sets out new measures to address tenancy fraud and includes unannounced visits, contact with utility providers to initiate data sharing arrangements, roll out of general publicity and a training programme on how to detect and deal with instances of this fraud.

86 The PAC recently held an Evidence Session on my report and is likely to publish their Report later this year.

National Fraud Initiative

87 The National Fraud Initiative (NFI) is an exercise to conduct data matching reviews to assist in the prevention and detection of fraud and I welcome that the Housing Executive has fully engaged with this process. The outcomes to date of this exercise in Northern Ireland have demonstrated the value of NFI in identifying and countering benefit fraud and error.

88 The Housing Executive has taken part in two NFI exercises which have involved matching data from a number of databases such as payroll and occupational pension details with its housing benefit records and preliminary work has been undertaken for a third exercise.

89 The second exercise identified nearly 25,000 matches, of which just over 75 per cent related to housing benefit. The Housing Executive told me that about 10,000 of these matches[45] were referred by the Housing Executive to the Social Security Agency's Benefit Investigation Service (the Agency). By the

43 Tackling Social Housing Tenancy Fraud (24 September 2013)

44 Audit Commission: Protecting the Public Purse 2011: Fighting fraud against local government (10 November 2011).

45 These figures relate to housing benefit data matches which are sent to the Agency where personal information on passported claimants is required to process the match as this data is not held within the Housing Executive. The Housing Executive also investigates matches in other data sets, for example, creditors and payroll.

end of May the Housing Executive had processed nearly 13,000 matches and identified 10 suspected frauds and 254 errors totalling £778,000.

Part 5: Corporation Tax

Qualified opinion on financial statements

90 Prior to 2013-14 the Housing Executive paid corporation tax on interest receivable only. During the year HM Revenue and Customs advised that it now considers that rental income and income from the sale of housing stock should also have been liable to corporation tax. This is the subject of ongoing negotiations with HMRC but in the meantime the Housing Executive has prepared tax calculations to attempt to estimate the potential liabilities arising from this income since 2009-10 (HMRC have confirmed they will not seek any corporation tax due for periods before this).

91 To date the Housing Executive has paid HMRC £3 million on account. An amount of £6 million has been accrued in the financial statements within Note 18 to the accounts to represent management's estimate of the likely liability to HMRC and £5.5 million has been provided for within Note 23 to the accounts in respect of potential further liabilities.

92 The Housing Executive has now engaged tax consultants to provide them with expert advice in their discussions with HMRC but it is too early for them to conclude whether management's estimate is reasonable. There is still considerable uncertainty as to the actual amount that may become payable once negotiations with the HMRC have been completed and there is scope for this to increase or decrease substantially from the current estimate. While the Housing Executive has carried out considerable work to support their estimate of potential liabilities, this is a very complex area and due to the degree of uncertainty I consider that I do not have sufficient evidence to conclude on the completeness and accuracy of the tax liabilities disclosed in the accounts.

93 As a result I am unable to obtain sufficient appropriate audit evidence to support the material figures for accruals and provisions for tax of £11.5 million which are included in the financial statements at Notes 18 and 23 and have qualified my audit opinion on the truth and fairness of the financial statements due to this limitation on the scope of my audit. I am hopeful that these issues will be resolved during 2014-15 and will keep this matter under review.

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Part 6: Conclusion

94 I have qualified my regularity opinion on the Housing Executive's 2013-14 accounts for the following reasons:

- On response maintenance because while there has been considerable progress in the management of response maintenance contracts these improvements need further time to bed in;
- On planned maintenance because significant weaknesses continue to be identified in the Housing Executive's controls over work done by contractors on its planned maintenance programme; and
- Material levels of estimated fraud and error in housing benefit expenditure.

95 I have also qualified my financial audit opinion because of uncertainty as to potential corporation tax liabilities arising from an ongoing review by HM Revenue and Customs.

NIAO Reports 2013-2014

Title	Date Published
2013	
Department for Regional Development: Review of an Investigation of a Whistleblower Complaint	12 February 2013
Improving Literacy and Numeracy Achievement in Schools	19 February 2013
General Report on the Health and Social Care Sector by the Comptroller and Auditor General for Northern Ireland	5 March 2013
Northern Ireland Water's Response to a Suspected Fraud	12 March 2013
Department of Culture, Arts and Leisure: Management of Major Capital Projects	22 March 2013
Sickness Absence in the Northern Ireland Public Sector	23 April 2013
Review of Continuous Improvement Arrangements in Policing	3 September 2013
The Agri-Food and Biosciences Institute (AFBI)	12 September 2013
Tackling Social Housing Tenancy Fraud in Northern Ireland	24 September 2013
Account NI: Review of a Public Sector Financial Shared Service Centre	1 October 2013
DOE Planning: Review of Counter Fraud Arrangements	15 October 2013
Financial Auditing & Reporting 2013	5 November 2013
The exercise by local government auditors of their functions in the year to 31 March 2013	19 November 2013
Department for Regional Development: Archaeological Claims Settlement	3 December 2013
Sport NI's Project Management and Oversight of the St Colman's Project	10 December 2013
2014	
The Future Impact of Borrowing and Private Finance Initiative Commitments	14 January 2014
Improving Pupil Attendance: Follow-Up Report	25 February 2014
Belfast Metropolitan College's Titanic Quarter PPP Project	25 March 2014
Safer Births: Using Information to Improve Quality	29 April 2014
Continuous Improvement Arrangements in Policing	6 May 2014
Improving Social Housing through Stock Transfer	3 June 2014
Managing and Protecting Funds Held in Court	1 July 2014
Modernising benefit delivery in the Social Security Agency's local office network	11 November 2014
Local Government Auditor's Report - 2014	18 November 2014
Primary Care Prescribing	27 November 2014

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