Invest Northern Ireland

2021-22

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

Introduction

1. Invest Northern Ireland (Invest NI) is a Non-Departmental Public Body, established in 2002 to grow the local economy by helping new and existing businesses compete internationally and by attracting new investment. Invest NI is a separate legal entity with its own independent board and Accounting Officer. It is sponsored by the Department for the Economy (the Department), but it is not part of the Department nor are its financial statements consolidated with those of the Department. In 2021-22 it recorded £157.4million (2020-21, £508.1 million) of grant-in-aid funding from the Department; a proportion of this funding related to COVID-19 business support grants to Northern Ireland businesses.

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

Purpose of the Report

3. I am required to examine, certify and report upon the financial statements prepared by Invest NI under the Industrial Development Act (Northern Ireland) 2002. I provided adverse regularity and true and fair audit opinions on the 2020-21 financial statements of Invest NI. This report explains the reasons for my opinions on the Invest NI financial statements for the year ended 31 March 2022, reflecting similar issues to those noted in my previous report.

4. I have qualified audit opinions due to:

   - COVID-19 business support grant expenditure totalling £13.4 million in 2021-22 and £138.3 million (restated) in 2020-21, together with related transactions and balances, which was controlled and administered by the Department but was, in my view, incorrectly recorded in Invest NI's financial statements. In my view this expenditure was also therefore irregular since reliance cannot be placed on Invest NI's legal powers to confirm that the expenditure was regular. Further details are provided in paragraphs 5-14 and 17-18 below.
   - limitations in the scope of my work due to insufficient evidence available to satisfy myself that £14.7 million of COVID-19 business support grants controlled and administered by Invest NI complied with the schemes' eligibility criteria. Further details are provided in paragraphs 19-20 below.

Qualified True and Fair audit opinion

5. Invest NI's financial statements include expenditure on a number of COVID-19 emergency business support grants totalling £13.4 million in 2021-22 and £138.3 million (restated) in 2020-21, which were administered and paid by the Department. The opening balance of net assets at 1 April 2020 was also affected by transactions related to these schemes. A breakdown of

expenditure between these schemes is provided in Figure 1. Neither Invest NI nor any of its staff were directly involved in their delivery.

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

Scheme	Expenditure in 2021-22 £ million	Expenditure in 2020-21 £ million	Expenditure in 2019-20 £ million
Small Business Grant Scheme	(0.1)	23.2	220.0
Tourism and Retail Sectors Grant	0.03	73.6	0.0
Large Tourism and Hospitality Business Support Scheme	13.5	37.4	0.0
Wet Pubs Scheme	(0.06)	4.1	0.0
TOTAL	**13.37**	**138.3**	**220.0**

Source: Invest NI 2021-22, 2020-21 and 2019-20 Annual Report and Accounts

6. Despite the schemes being administered and paid by another organisation, rather than by Invest NI, the expenditure was included in Invest NI's financial statements, under the instructions of the Department. This unusual accounting arrangement was used because the Department did not have the legal authority to make the required payments itself. The aim of this arrangement was to reflect scheme expenditure in the entity with the appropriate legal authority to make the payments. Invest NI has the relevant authority under the Industrial Development (NI) Order 1982. So essentially the Department designed and delivered these schemes and incurred the expenditure, while instructing Invest NI to include the expenditure in its accounts on the basis that it had the correct legal powers. However, neither International Accounting Standards nor the Government Financial Reporting Manual (FReM) allow for legal vires as a basis for recognition.

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

8. Invest NI is required to provide financial statements which show a true and fair view of its financial transactions and its financial position. Therefore, including the expenditure of another entity led to misstatements within Invest NI's financial statements in 2021- 22, including the corresponding figures for 2020-21 and the opening balance of net assets at 1 April 2020. I have therefore qualified my audit opinion on the financial statements.

9. During my audit of the 2020-21 financial statements the Department consulted with the Departmental Solicitor's Office (DSO) and the Department of Finance (DoF) on this novel accounting treatment and both bodies gave their support to it. However, the legal advice is not based on the application of relevant accounting standards and DoF, although supportive, did not issue an accounts direction to the Department to provide a clear basis for the approach taken. It is a requirement of my role to form an independent audit opinion on whether the financial statements reflect a true and fair view, and comply with accounting standards and the

Government Financial Reporting Manual. Since the Department controlled and administered the scheme and made the payments to recipients, without any meaningful involvement of Invest NI, it is my opinion that this money was not spent by Invest NI and therefore should not have been recorded in its financial statements.

10. In addition to the grant expenditure in Figure 1, Invest NI also included notional grant-in-aid from the Department of £16.8 million (2020-21, £286.1 million), representing payments made by the Department to grant recipients of these schemes. No related accruals where reflected at 31 March 2022 (2021, £4.5 million (restated)). In my opinion, Invest NI did not have an obligation at 31 March 2021 or 1 April 2020 for these schemes since it was not involved in controlling or delivering them and therefore should not have reflected an obligation for accruals in its corresponding figures at 31 March 2021 or in the opening balance of its net assets and reserves at 1 April 2020. Income from grant clawbacks of £3.1 million (2020-21, £nil) was also reflected in the 2021-22 financial statements together with associated debtors of £0.5 million (2020-21, £nil) after providing for £1.5 million (2020-21, £nil) of debtors which are not expected to be recovered. These all represent further misstatements which I have taken into account in determining my audit opinion.

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

Account area	Misstatement in 2021-22 £ million	Misstatement in 2020-21 £ million	Misstatement in 2019-20 £ million
Grant-in-Aid – i.e. payments to grant recipients made by from the Department's bank account	16.8	286.1	67.7
Grant expenditure on DfE administered schemes	(13.4)	(138.3)*	(220.0)
Charge for expected credit loss (ECL) on grant clawback debtors	(1.5)	-	-
Income from clawback of grants for these schemes	3.1	-	-
Accruals	-	4.5 *	152.3
Debtor – grant clawback still owed net of ECL	(0.5)	-	-
General Fund – relating to opening accruals	(4.5)	(152.3)	0.0

*These figures have been restated, see paragraphs 15-16 below for more details.

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

12. I provided Invest NI with an opportunity to reconsider its accounting treatment and proposed that it make an adjustment to its 2020-21 financial statements to rectify the issue. There was constructive engagement on this issue and Invest NI demonstrated openness to my recommendation, however, Invest NI understandably wanted to wait until the Department decided its course. Following a decision by the Department not to adjust its own accounts, Invest NI took the same position. There was a further opportunity for Invest NI to resolve this issue by amending its 2021-22 financial statements, including its corresponding figures for 2020-21 and opening balances at 1 April 2020, but it declined to do so.

13. Invest NI operates under a Management Statement and Financial Memorandum (MSFM) with the Department which states that "accounts be prepared in accordance with any directions issued by the minister, Department or DoF". While Invest NI was instructed by the Department to account for the expenditure in this way (see paragraph 7 above) that instruction does not, in my view, constitute an Accounts Direction. Therefore, I must provide my opinion on the basis of my disagreement with the accounting treatment of these grants and the associated grant-in-aid and accruals, since in my opinion they should not have been included in Invest NI's financial statements.

14. The COVID business support grant schemes administered by the Department of £13.4 million for 2021-22 and £138.3 million (restated) for 2020-21 and the associated transactions noted in Figure 2 above have been included in Invest NI's financial statements. Opening accruals of £152.3 million at 1 April 2020 also impacted on opening net assets at 1 April 2020. Since in my view none of these transactions should have been reflected in Invest NI's financial statements I have therefore qualified my true and fair audit opinion. Given my view on the regularity of this expenditure, noted in paragraph 18 below, I have also qualified my true and fair opinion on the basis that disclosure of this irregularity has not been made in the notes to the financial statements as required by the Accounts Direction.

A Prior Period Error had not been notified on a timely basis

15. I issued my audit opinions on Invest NI's 2020-21 financial statements on 4 March 2022, having received representations from the Accounting Officers of both the Department and Invest NI that they had provided me with relevant audit information that I would need to undertake my audit work. As noted in Figure 2 above, in its 2021-22 financial statements Invest NI has restated the corresponding figures relating to 2020-21 for DfE administered COVID-19 business support scheme grants and associated accruals, after reducing both by £2.5 million following identification of an overaccrual. Invest NI was dependent on the Department for the provision of information on these financial transactions. Whilst both bodies appear to have been aware of a potential overaccrual in the 2020-21 financial statements, the Department had clearer detail on the issue as far back as January 2022.

16. Both bodies had a responsibility to bring this to my attention before I certified the 2020-21 financial statements, but failed to do so. Although both assure me that this was not intentional, I am none-the-less concerned that this was not disclosed to me in a timely manner and I expect both bodies to put communications in place to prevent this from happening again in the future. Had I received this information before I had certified the 2020-21 financial statements I would have referred to the error in my report and audit certificate on those accounts.

Qualified opinion on the regularity of income and expenditure

COVID-19 grant schemes administered by the Department for the Economy

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

18. Since, in my opinion, it was the Department and not Invest NI which expended £13.4 million in 2021-22 on the COVID-19 business support grants referred to in Figure 1, reliance cannot be placed on Invest NI's legal powers under the Industrial Development (NI) Order 1982 to prove the regularity of these transactions. In the absence of the Department having sufficient powers in place itself I have qualified my regularity audit opinion in respect of this matter.

COVID-19 grant schemes administered by Invest NI

19. In addition to the grant schemes shown in Figure 1 which were administered by the Department, a number of support schemes were administered by Invest NI in during 2021-22 and 2020-21 in response to the continued impact of the pandemic on Northern Ireland's economy. As part of my work to provide an opinion on the regularity of transactions, I must gather independent audit evidence to assess whether grants administered by Invest NI complied with the eligibility critieria established for each scheme. All of these schemes were designed to rely upon self-declarations made by applicants to confirm eligibility. Therefore, Invest NI could not provide me with sufficient appropriate audit evidence to verify whether the self-declarations made were, in fact, accurate and to allow me to determine whether all of the eligibility criteria relating to expenditure totalling £14.7 million in 2021-22 had been met for the Invest NI administered COVID-19 business support grant schemes set out in Figure 3 below. There were no alternative audit procedures available to me to obtain sufficient appropriate audit evidence to inform my regularity audit opinion.

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

Grant scheme	Key self-declarations made to determine eligibility	Expenditure during 2021-22 £ million	Expenditure during 2020-21 £ million
Coronavirus Hardship Fund for Microbusinesses	○ Turnover had dropped by at least 40 per cent due to COVID-19	-	23.3
COVID Restrictions Business Support Scheme (CRBSS) Part A	○ Income had dropped by at least 50 per cent due to COVID-19	10.7	65.4
COVID Restrictions Business Support Scheme (CRBSS) Part A	○ Income had dropped by at least 40 per cent due to COVID-19	4.0	12.8

Grant scheme	Key self-declarations made to determine eligibility	Expenditure during 2021-22 £ million	Expenditure during 2020-21 £ million
Newly Self-Employed Support Scheme (NSESS)	○ There a decline of more than 40 per cent in trade due to COVID-19 ○ The business would continue to trade	-	8.7
Limited Company Directors Support Scheme (LCDSS)	○ Taxable income was less than £50,000 due to COVID-19 ○ The predicted drop in remuneration and dividend income was at least 40 per cent due to COVID-19. ○ There was an intention to carry on trading.	-	19.6
TOTAL		14.7	129.8

Source: Invest NI 2021-22 and 2020-21 Annual Report and Accounts

20. Approval for the implementation of the schemes was by Ministerial Direction, since the Department's Accounting Officer was unable to provide evidence that these schemes would provide value for money or that there would not be an unacceptably high risk of error or loss of funds. Reliance on self-declarations without corroborating evidence does not mitigate the risk of fraud and error occurring. As a result of the limitation of scope created by insufficient audit evidence being available to prove eligibility criteria have been met where self-declarations have been used, I have qualified my regularity audit opinion.

Reporting on fraud and error in the COVID-19 business support schemes

21. Invest NI is required to disclose a fraud and error analysis of its' COVID-19 government support schemes, providing an evidenced based estimate of the extent of the level of fraud and error in these schemes; identifying risks of fraud and error; and explaining how these risks are managed. In addition, its Accounts Direction requires disclosure of any material irregular expenditure or income. Invest NI has made these disclosures in the Performance Report and within Note 4 of the 2021-22 Annual Report and Accounts

22. Protecting public funds from fraud and error is a key responsibility for all public bodies. We accept that these schemes were delivered in response to an emergency situation, nonetheless, public funds may be at risk, particularly in light of self-declarations being accepted by the organisation as proof of eligibility for the grant schemes that it administered, as shown in Figure 3.

23. In my report on the 2020-21 Invest NI financial statements, I recommended that post payment checks were performed, proof of eligibility from corroborating evidence sought and, where necessary, funds are recouped. I noted that, in accordance with the agreed Memorandum of Understanding for the schemes, the Department was responsible for undertaking this work and that I intended to review the outcome of it.

24. The Covid Grants Fraud and Error Project (the Project) was established by the Department in December 2020 "to review all of DfE's Covid-19 Business Support Grant Schemes to validate and provide assurance of payments under the schemes; identify fraud and error; initiate recovery measures and manage the risk of error and fraud going forward". Ten schemes were reviewed during the Project, with a total spend of £518.6 million between 2019-20 and 2021-22. Nine of these schemes, with a total spend of £516.2 million, were reflected in Invest NI's financial statements over those three years (2021-22: £28.1 million). The Project was terminated in November 2021, having estimated a fraud and error rate of 2.08%, suggesting that £10.7 million of spend reflected in Invest NI's financial statements over that time had been incurred due to fraud and error. By June 2022, the Department had recovered or agreed repayment plans for £4.9 million.

25. Internal audit has recently undertaken a review of the Project. I reviewed the draft internal audit report and note that:

- An external support contract for staff substitution of a multi-disciplinary team with expertise in fraud and error risk, fraud investigation and data analytics was awarded under a Direct Award Contract. The estimated budget at the outset of this work was £350,000 in total. However before all phases of the work were completed, the contract was terminated with actual costs of £305,000. It was estimated that to complete the work in full would have cost an additional £267,000. The Project continued within the Department, however without this work being completed, all of the objectives of the Project may not have been met.
- Testing focussed solely on the first three schemes and targeted the risk of duplication of support with other COVID business support schemes. Testing was not undertaken to address other key risk areas identified, including the validity of self-declarations provided to confirm compliance with certain eligibility criteria for Invest NI administered schemes, despite the recommendation in my report on the 2020-21 financial statements that this was undertaken. A broad assumption was made by the Department that the fraud and error rate for risk areas not tested would be the same as that rate identified by duplicate testing. The Department told me that it was its best estimate, based on the evidence available at the time.
- A risk assessment was made for each of the schemes reviewed. The methodology used to calculate an overall risk rating meant that inclusion of a number of low risk aspects may have reduced the overall scheme risk rating, despite high risk aspects being identified. For example for the CRBSS Part B scheme there were 3 high, 3 medium and 21 low risks, creating an overall assessment of low risk. However, given that this scheme used self-declarations to confirm certain eligibility criteria there was a clear risk of significant fraud and error. While the Department's low risk ratings of the schemes not tested were used to inform the Department's decision to terminate the Project before all phases of the work had been completed, the decision was also informed by the detailed risk assessments..

- Not all schemes and not all high risks were tested, and broad assumptions were used that the duplication error rate identified for the three schemes tested could be used to estimate fraud and error for other risk categories and across the other schemes. In addition, the work undertaken was not subject to review by qualified statisticians. This means that the fraud and error rate calculated may not be statistically valid, and the actual level of fraud and error across these schemes may be higher or lower than estimated.

26. Whilst I acknowledge the recoveries made to date and payment plans agreed, by the Department's own estimation there may have been over £5 million of fraud and error on the schemes which has not been investigated and recovered. Indeed, given the weaknesses in the methodology used to calculate an error rate, fraud and error not addressed could be significantly more. Whilst I acknowledge the urgent need to support businesses at the time meant that normal controls could not be applied before the grants were issued, I am disappointed to note the clear weaknesses in the Department's Project.

Kieran Donnelly

KJ Donnelly
Comptroller and Auditor General

Northern Ireland Audit Office
1 Bradford Court
Upper Galwally
Belfast
BT8 6RB

8 July 2022