



Northern Ireland Audit Office

# Financial Auditing and Reporting: General Report by the Comptroller and Auditor General for Northern Ireland – 2017







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This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 for presentation to the Northern Ireland Assembly in accordance with Article 11 of the Order.

K J Donnelly  
Comptroller and Auditor General

Northern Ireland Audit Office  
13 March 2018

The Comptroller and Auditor General is the head of the Northern Ireland Audit Office. 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

<b>AAD</b>	Audit and Assurance Department (in NI Housing Executive)
<b>ABRR</b>	Application Based Rate Rebate
<b>AO</b>	Accounting Officer
<b>AOP</b>	Armagh Observatory and Planetarium
<b>AOCC</b>	Assembly Ombudsman and Commissioner for Complaints
<b>ARAC</b>	Audit and Risk Assurance Committee
<b>C&amp;AG</b>	Comptroller and Auditor General
<b>CPD</b>	Central Procurement Directorate
<b>CXBC</b>	Chief Executive’s Business Committee (in NI Housing Executive)
<b>DAC</b>	Direct Award Contract
<b>DAERA</b>	Department of Agriculture, Environment and Rural Affairs
<b>DCAL*</b>	Department of Culture, Arts and Leisure
<b>DE</b>	Department of Education
<b>DEL*</b>	Department for Employment and Learning
<b>DETI*</b>	Department of Enterprise, Trade and Investment
<b>DfC</b>	Department for Communities
<b>DfE</b>	Department for the Economy
<b>DfI</b>	Department for Infrastructure
<b>DFP*</b>	Department of Finance and Personnel
<b>DOE*</b>	Department of the Environment
<b>DoF</b>	Department of Finance
<b>DoH</b>	Department of Health
<b>DoJ</b>	Department of Justice
<b>DSD*</b>	Department for Social Development
<b>DVA</b>	Driver and Vehicle Agency
<b>DWP</b>	Department for Work and Pensions
<b>EA</b>	Education Authority
<b>EU</b>	European Union
<b>FCES</b>	Fine Collection and Enforcement Service
<b>FPN</b>	Fixed Penalty Notice
<b>FSA</b>	Food Standards Agency in Northern Ireland
<b>GB</b>	Great Britain
<b>GFIS</b>	Group Fraud Investigation Service
<b>HR</b>	Human Resources
<b>HSC</b>	Health and Social Care



<b>ICSS</b>	Independent Counselling Service for Schools
<b>LPS</b>	Land and Property Services
<b>LSANI</b>	Legal Services Agency Northern Ireland
<b>MLA</b>	Member of the Legislative Assembly
<b>MSFM</b>	Management Statement and Financial Memorandum
<b>NAV</b>	Net Annual Value
<b>NDPB</b>	Non-Departmental Public Body
<b>NDVR</b>	Non-Domestic Vacant Rating
<b>NI</b>	Northern Ireland
<b>NIAC</b>	Northern Ireland Assembly Commission
<b>NIAO</b>	Northern Ireland Audit Office
<b>NIAUR</b>	Northern Ireland Authority for Utility Regulation
<b>NICF</b>	Northern Ireland Consolidated Fund
<b>NICS</b>	Northern Ireland Civil Service
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIHE</b>	Northern Ireland Housing Executive
<b>NILA</b>	Northern Ireland Library Authority
<b>NILSC</b>	Northern Ireland Legal Services Commission
<b>NIW</b>	Northern Ireland Water
<b>OFMDFM*</b>	Office of the First Minister and Deputy First Minister
<b>PAC</b>	Public Accounts Committee
<b>PND</b>	Penalty Notice for Disorder
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PSNI</b>	Police Service of Northern Ireland
<b>RfR</b>	Request for Resources
<b>RHI</b>	Renewable Heat Incentive
<b>SAU</b>	Standards Assurance Unit
<b>SIB</b>	Strategic Investment Board
<b>SLA</b>	Service Level Agreement
<b>SMS</b>	Short Message Service
<b>Sport NI</b>	Sports Council for Northern Ireland
<b>SSE</b>	Spring Supplementary Estimate
<b>TEO</b>	The Executive Office
<b>TIU</b>	Technical Inspection Unit
<b>VES</b>	Voluntary Exit Scheme

**Note:** Northern Ireland Civil Service (NICS) departments were reorganised with effect from May 2016. Those marked with an asterisk are the pre-May 2016 departments.



# Executive Summary



## Executive Summary

Each year I prepare a report which summarises the results of my financial audit work across central government bodies. This report primarily deals with the results of my audit of 2016-17 accounts, but also reports the outcome of audits for previous accounting periods which I have certified since my last report. It does not encompass my work on bodies within the health and social care sector, which will be addressed in a separate report.

**Section One** summarises the receipts and expenditure of the Northern Ireland Consolidated Fund, a central fund which accounts for such things as receipt of the Northern Ireland block grant and rates income and the distribution of these monies to Northern Ireland departments and other public bodies. This section also provides an update on Voluntary Exit Schemes which I reported on in October 2016<sup>1</sup>.

**Section Two** summarises audit qualifications I have made on the accounts of central government bodies during 2017. My audit qualifications should be viewed in the context that the vast majority of public bodies continue to provide accounts on time and have unqualified audit opinions. There was a rise in the number of qualifications during the year, driven by an increase in excess votes, where I draw attention to departments who have exceeded budgetary limits approved by the Assembly. However, in reality, most of the departments that incurred excess votes on their 2016-17 accounts had followed the correct budgetary procedure by applying for approval for further expenditure through Spring Supplementary Estimates (SSEs). The dissolution of the Assembly in January 2017, however, meant that this process could not be concluded as would normally be the case. Only one department would have incurred an excess vote if Assembly approval had been obtained for the SSEs and further information on this is provided in Section Three.

**Section Three** brings together a number of reports, the majority of which I have attached to accounts. I would draw out a number of common themes emerging from these reports:

- the role played by whistleblowers in identifying malpractice and the importance of timely investigation, reporting and resolution of the issues identified;
- the need for public officials to maintain high standards of conduct in public life, which includes complying with proper procedures and being open and transparent about potential conflicts of interest;
- the importance of proper record keeping to be able to show openness and transparency and to provide evidence of what was considered during decision making;
- the importance of strong governance arrangements and leadership within organisations; and
- the need for adequate, effective checks to ensure that fraudulent activity is prevented or detected.

I am particularly concerned at the number of findings reflecting conduct that falls short of the high standards expected from those in public life. The Principles of Public Life were set out by Lord Nolan in 1995 and are often referred to as the Nolan Principles. They still reflect expectations for public office holders, whether they are elected, appointed or employed, they require:

- Selflessness;
- Integrity;

<sup>1</sup> Northern Ireland Public Sector Voluntary Exit Schemes, Northern Ireland Audit Office, 11 October 2016

- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

All those in public life have a responsibility to comply with these principles in undertaking their roles and making decisions in the public interest.

Included in Section Three:

- My report on the Armagh Observatory and Planetarium draws out a number of issues resulting from investigations into transactions initiated by a former Accounting Officer. The issues raised include purchases made outside of the body's procedures, the misuse of credit cards, the purchase of high value IT equipment and the receipt and recording of hospitality, including that received from a contractor for services not procured in line with proper procedures.
- My report on the Northern Ireland Courts and Tribunals Service Trust Statement – Fines Collection account for 2016-17 outlines my concerns with the system for fine defaulters. Nearly half (£10.9 million) of the £22.1 million debt outstanding at 31 March 2017 is unlikely to be recovered, with less than 25 per cent of fine defaulters being successfully served notice of fine default hearings. Whilst debt collection rates should be improved by a series of initiatives, the creation of a Fine Collection and Enforcement Section with Civilian Collection Officers has been delayed until 2018, due to the need for further secondary legislation.
- My report on Sport NI outlines issues about governance and the completion of accounts for 2014-15 and subsequent years due to poor quality accounts and supporting papers being presented for audit. I would emphasise the need for the production of timely, good quality Annual Reports and Accounts for proper accountability and I would strongly urge the body to now make the completion of these a priority.
- My report on the Independent Counselling Service for Schools reveals concerns surrounding the management of a contract for this service. These concerns were originally brought to my attention by a whistleblower.
- My report on the Land and Property Service's Rates Levy Account for 2016-17 includes details of the qualification of my audit opinion due to the level of fraud and error in housing benefit administered during 2016 and covers the circumstances of an internal fraud.
- My report on the Northern Ireland Housing Executive (NIHE) deals with qualifications to my audit opinion on the 2016-17 accounts in respect of insufficient evidence of controls operating over planned maintenance expenditure and the level of housing benefit fraud and error. It also identifies deficiencies in how the governance arrangements operated with regard to a specific whistleblower allegation.
- In my report on Direct Award Contracts I am pleased to note the reduction in the number and value of contracts let by departments and

## Executive Summary

their executive agencies in a non-competitive way since 2013-14, and welcome the progress made.

It is clear throughout this General Report that central government bodies continue to make efforts to improve their control systems, but that further work is needed to resolve weaknesses. It is critical that bodies ensure basic controls are in place and operating effectively to prevent the misuse of public funds.

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**13 March 2018**

Section One:  
Central Funding



## Section One: Central Funding

### Northern Ireland Consolidated Fund 2016-17 – Introduction

- 1.1 The Northern Ireland 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 Acts (known as Supply Services). Government Accounts Branch within the Department of Finance (DoF) controls the NICF, subject to the Comptroller and Auditor General (C&AG) authorising payments, and determines arrangements for payments into the NICF.
- 1.2 Payments into and out of the NICF are reported annually in the Public Income and Expenditure Account which the DoF prepares and submits for audit by the C&AG, in accordance with the Exchequer and Financial Provisions Act (Northern Ireland) 1950. I am content that the 2016-17 financial statements of the Public Income and Expenditure account properly present the receipts and payments, and that they are regular.

### Payments into the Northern Ireland Consolidated Fund

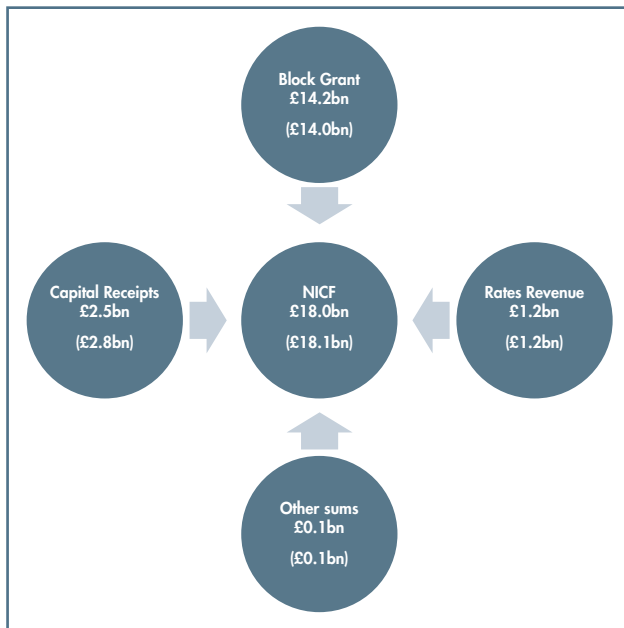
- 1.3 An analysis of the amounts paid into the NICF in 2016-17, compared to the previous year's sums in brackets, is shown in **Figure 1**.

- 1.4 Payments into the NICF are categorised as follows:

- **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;
- **Capital Receipts:** the Exchequer and Financial Provisions Act (Northern Ireland) 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;
- **Rates Revenue:** rates receipts (regional and district) are due for each property in Northern Ireland and are billed and collected by Land and Property Services (LPS); and
- **Consolidated Fund Extra Receipts and other sums due to the NICF:** receipts which are not the product of taxation, for example, interest received on Government loans and loans from the Consolidated Fund.



**Figure 1 : Analysis of Payments into the NICF, 2016-17**



Source: Public Income & Expenditure Account for Year Ended 31 March 2017

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

## Payments out of the Northern Ireland Consolidated Fund

1.6 An analysis of the amounts paid out of the NICF in 2016-17, compared to the previous year's sums in brackets, is shown in **Figure 2**.

**Figure 2: Analysis of Payments out of the NICF, 2016-17**



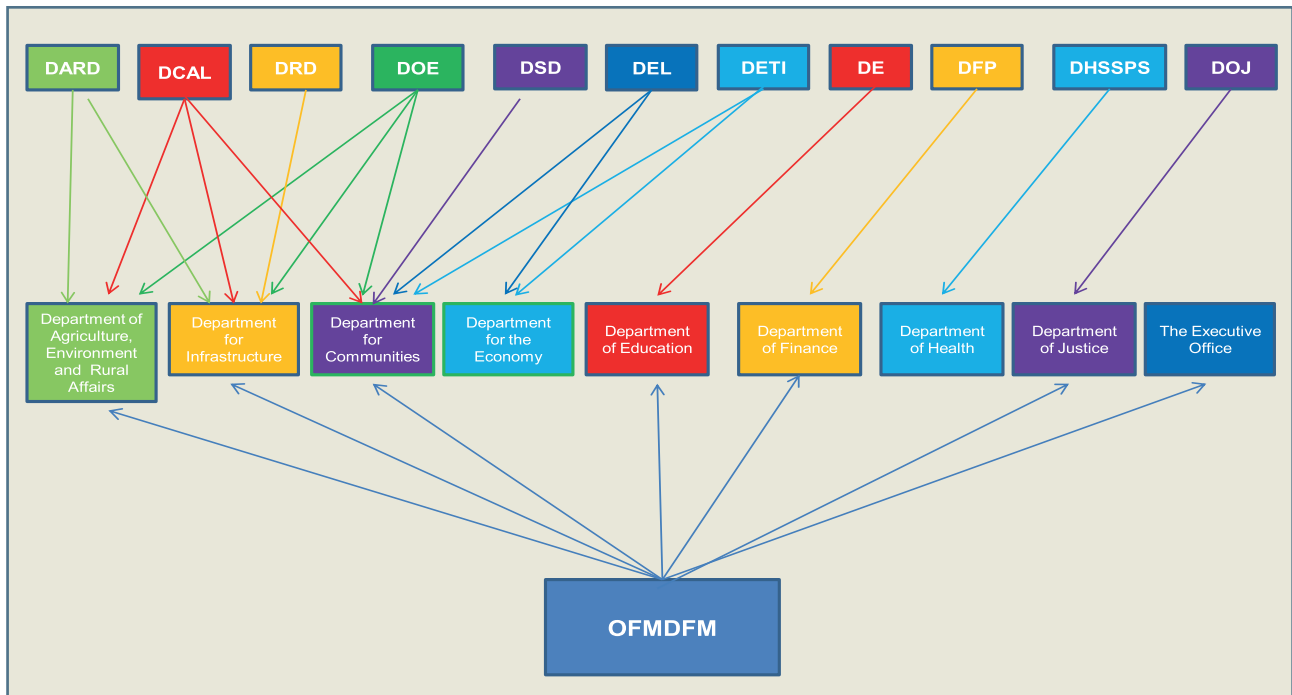
Source: Public Income & Expenditure Account for Year Ended 31 March 2017

1.7 Payments out of the NICF are as follows:

- Supply to Departments:** payments required to meet 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 the money to be used for what the Assembly intends;
- Temporary Investments and Other Capital Expenditure:** these payments include loans to district councils, other public bodies under statute, and schools. They also include redemption of debt and other payments such as the investment of

# Section One: Central Funding

**Figure 3: NI Government Reorganisation – Transfer of Responsibilities**



Source: NIAO and OFMDFM<sup>2</sup>

temporary cash surpluses on the short term money market; and

- **Other Public Expenditure:** 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 pensions of the Northern Ireland Ombudsman.

1.8 **Appendix 1** shows the amount of supply received by Northern Ireland departments in 2016-17. The two largest spending departments were the Department of Health (DoH) and the Department for Communities (DfC), receiving supply of £4.6 billion and

£4.1 billion respectively. Comparisons with 2015-16 are not meaningful due to the reorganisation and reduction in the number of departments from 12 to 9, with effect from May 2016. The relationships between the new departments and their predecessor bodies are outlined in **Figure 3**.

## Voluntary Exit Schemes

1.9 In my previous report I noted that the DoF (formerly the Department of Finance and Personnel) established the Public Sector Transformation Fund to finance public sector exit schemes from 2015-16 to 2018-19. Various public bodies designed exit schemes and applied for

2 See list of abbreviations for the names of the legacy departments

**Figure 4: VES Borrowing and Exits Financed**

Scheme Year	Funds available for borrowing £m	Actual Spend £m	Other Funding £m	Total Funding £m	Number of Exits (FTE)#
2015-16	200	170.5	4.1 <sup>3</sup>	174.6	4,298
2016-17	200	47.7 <sup>4</sup>	*	47.7	1,251 <sup>4</sup>
2017-18	200	*	*	*	*
2018-19	100	*	*	*	*
<b>TOTAL</b>	<b>700</b>	<b>218.2</b>	<b>4.1</b>	<b>222.3</b>	<b>5,549</b>

Source: DoF

\*Figures not yet available

# Full time equivalent posts

funding to effect a pay bill reduction to address ongoing budgetary pressures facing departments.

1.10 The Stormont House Agreement and Implementation Plan (Fresh Start) provided the flexibility to use £700 million of capital borrowing to fund the voluntary exit schemes (VES) in Northern Ireland. **Figure 4** provides a breakdown of available funding across the four scheme years, compared to actual spend, together with the number of exit packages financed. Any borrowing not used to finance VES may be used by the Executive for capital investment within Northern Ireland.

1.11 In my October 2016 report<sup>5</sup>, I recommended that the DoF should

monitor and report on an annual basis the net savings generated against the overall pay bill. The DoF's evaluation of the 2015-16 VES<sup>6</sup> has addressed this recommendation and estimated annualised pay bill saving of £149.7 million net of costs of an additional 202.5 staff required to maintain business continuity. However, the DoF has indicated that the full costs involved in replacing staff who have left under the VES cannot be collated, due to limitations in the data held by individual organisations<sup>7</sup>. I would therefore recommend that organisations consider the feasibility of capturing this data for future VES evaluations to enable the DoF to more accurately quantify net pay bill savings.

3 Total VES funding from sources other than Transformation Fund was approximately £4.1m at time of response to 2015-16 scheme evaluation questionnaire

4 Figures provided by DoF as at January 2018. Figures include both actual spend and exits as at January 2018, and projected expenditure and exits, and they are therefore subject to change

5 *Northern Ireland Public Sector Voluntary Exit Schemes*, Northern Ireland Audit Office, 11 October 2016

6 Public Sector Transformation Fund 2015-16 Public Sector Reform Division Evaluation

7 Within the NICS for example, organisational change facilitated horizontal moves, which, in some instances, resulted in VES vacated posts being re-filled. Where the posts of those who moved horizontally were subsequently suppressed, pay bill savings from VES were retained. Where posts of those who moved horizontally were not suppressed, more complex tracking would be necessary to quantify the extent of the offset to VES pay bill savings

## Section One: Central Funding

1.12 A further recommendation from my October 2016 report was for organisations to monitor the impact of their VES on staff skills, morale and service delivery. The DoF amended its VES guidance in November 2016 for 2016-17 schemes onwards to require organisations to “monitor and mitigate the impact of VES on staff morale, and on service delivery”<sup>8</sup>. I note that the revised guidance does not require organisations to monitor the impact on staff skills. DoF stated however, that monitoring of staff skills is indirectly addressed in several areas of the evaluation questionnaire.

1.13 To evaluate the 2015-16 VES, the DoF undertook a survey of organisations that received money from the Public Sector Transformation Fund. The evaluation noted:

- Only eight of 34 organisations conducted any objective measures (such as a staff satisfaction survey) to assess staff morale before and after VES, however, six of these eight bodies reported a positive result.
- Over two thirds of organisations surveyed had carried out an objective review of service delivery. Responses were mixed, with one respondent noting that service delivery had improved due to outsourcing and restructuring, whilst others reported that although business critical services were unaffected administrative functions were under pressure to maintain quantities and standards of output.

1.14 Whilst it is clear that improvements have been made which should help ensure future VES are more robust, further refinement in the data available to calculate net pay bill savings may be possible. I will continue to monitor the situation and may report on these issues at a later date.

### The Future

1.15 Since my report to the Assembly in December 2016 on the 2015-16 accounts of central government bodies, the new departments have had to operate within an environment which is significantly different from recent years namely:

- the Assembly was dissolved in January 2017, with no budget being set for the NI Executive for the 2017-18 financial year;
- at the end of March 2017, in the absence of an Executive, it fell to the Permanent Secretary of the DoF to allocate funding to Northern Ireland departments under powers provided by section 59 of the Northern Ireland Act 1998; and
- in the ongoing absence of an Executive, the Secretary of State brought forward a Budget Bill in Westminster on 13 November 2017 to enable public services to continue in Northern Ireland.

1.16 The Budget, which was recommended by the Northern Ireland Civil Service (NICS), provided departmental

allocations and ambits that reflected the priorities of the previous Executive, updated for changed circumstances. The allocations made did not include any of the financial support which the UK Government would be prepared to make to Northern Ireland following the agreement between the Conservative Party and the Democratic Unionist Party.

- 1.17 These circumstances continue in the context of longer term significant budgetary pressures, where departments are expected to achieve more with fewer resources. The change in demographics and public expectation of service delivery prompts new ways to increase the value for money from public spending and improve the quality of public services.
- 1.18 To mitigate public expenditure pressures arising from external changes, departments should look for innovative ways to organise and deliver services; continue to develop new skills and methods of engagement with those using public services; and adopt innovative thinking about reforming services. Any changes and savings introduced must be sustainable however, they should not involve merely moving cost pressures from one area of the public sector to another, nor involve short term solutions to problems which create longer term issues.
-



Section Two:  
Qualified Opinions



## Section Two: Qualified Opinions

### Remit

2.1 I am responsible for forming an audit opinion on 122 central government accounts. In forming an audit opinion on a set of financial statements I must assess whether expenditure is regular and in accordance with the intentions of the Assembly when it granted the money.

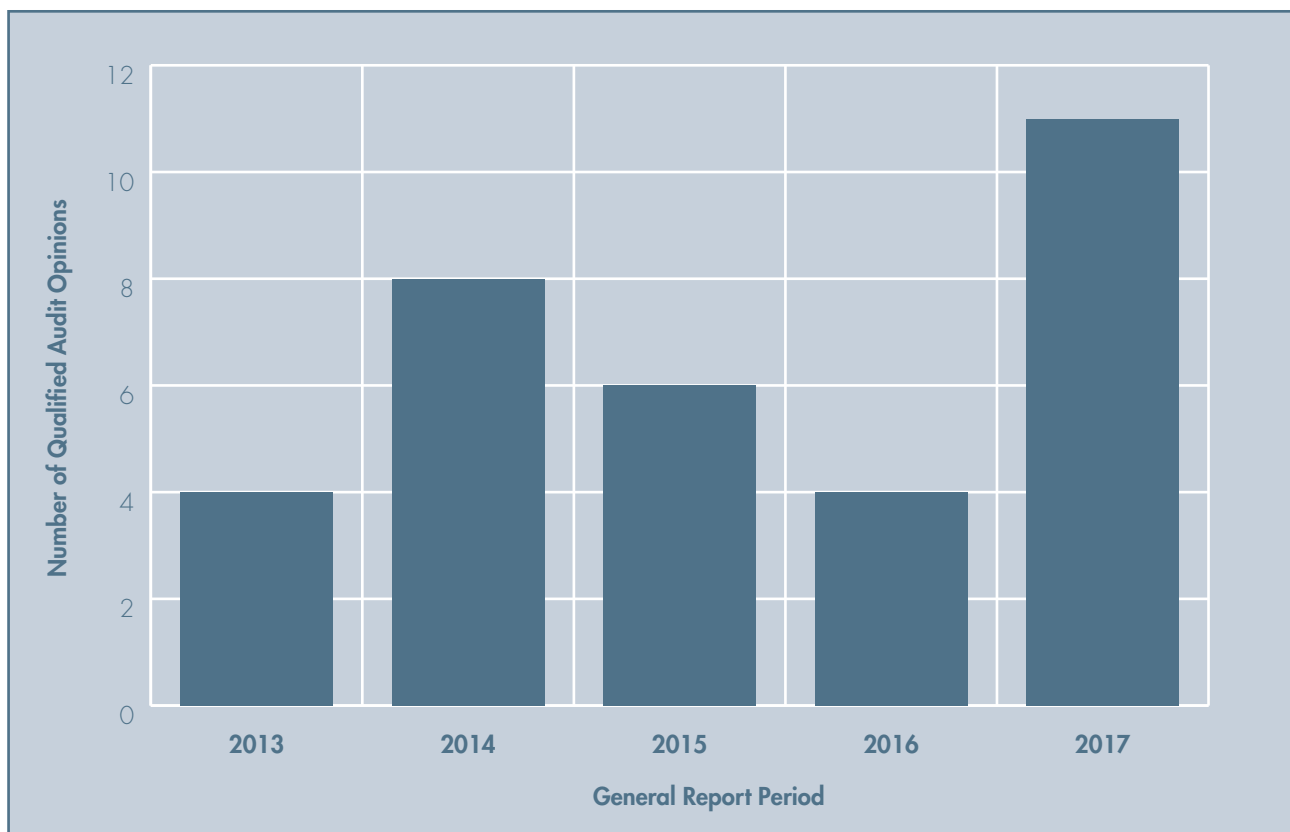
### Qualified Audit Opinions – Resource Accounts

2.2 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 the excess. I will also bring the matter to the attention of the Public Accounts Committee (PAC), which must decide whether to recommend that further grant is approved to the department involved to regularise the overspend.

2.3 In the 2016-17 accounting period an increased number of resource accounts (11 out of 17) received qualified opinions compared to previous years (**Figure 5**). The reason for this increase was a significant number of excess votes due to the Assembly being dissolved in January 2017 before it had the opportunity to approve revised limits which would have regularised the situation. As a result, I would consider these excess votes to be technical

**Figure 5: Number of resource accounts receiving a qualified audit opinion for General Report Periods 2013 to 2017**





in nature as the mechanism needed to regularise revised resource and cash requirements was not available to departments in 2016-17. Further information on the estimates process and the impact of the dissolution on the resource accounts is provided in Section Three of my report. For the other accounts, reasons for qualification included significant levels of benefit fraud and error; a failure to obtain necessary DoF approvals; and a failure

to comply with European Union (EU) regulations, circumstances which also applied in 2015-16 to the accounts that were qualified.

2.4

**Figure 6** contains brief details of all the resource accounts which received qualified audit opinions for the 2016-17 financial year. My full reports are published separately and laid in the Assembly.

**Figure 6: Resource Accounts 2016-17 receiving a qualified audit opinion**

Public Body	Nature of the Qualified Audit Opinion and C&AG's Report
Department of Agriculture, Environment and Rural Affairs	<p>The audit opinion on the Accounts of the Department of Agriculture, Environment and Rural Affairs (DAERA), has been qualified in respect of two issues:</p> <ul style="list-style-type: none"> <li>• The Department was unable to provide sufficient or appropriate audit evidence to support £26.4 million of the disallowances it accrued. There were no additional audit procedures that I could undertake to provide me with assurance over this element of accrued expenditure. As a result, the audit opinion [‘true and fair’] has been qualified due to a limitation in scope.</li> <li>• I also qualified my audit opinion on the grounds of regularity. During the 2016-17 financial year, DAERA accrued a further £15.9 million in its resource accounts, as amounts due to be paid to the EU in respect of new disallowances of EU funding recorded in year. The disallowed expenditure had not therefore been utilised for the purposes intended by the Assembly and does not conform with the authorities that govern it.</li> </ul> <p>Going forward I am also concerned about the issue of the management of debt on the Less Favoured Area Compensatory Allowance Scheme under the 2007-2013 Northern Ireland Rural Development Programme, and also part of the Common Agricultural Policy. The DAERA estimates that a total debt of approximately £5.26 million exists with 12,000 farm businesses affected, of which £3.19 million applies to nationally funded elements and £2.07 million to EU funded elements. However, the Department’s Internal Audit unit has identified issues relating to the accuracy of this estimate.</p> <p>It is considered that much of the debt may be unrecoverable. As time passes the proportion of unrecoverable debt continues to grow, thereby exposing the public purse to even greater losses.</p> <p><a href="https://www.daera-ni.gov.uk/sites/default/files/publications/daera/17.18.086%20DAERA%20Resource%20Accounts%202016-17%20Final.PDF">https://www.daera-ni.gov.uk/sites/default/files/publications/daera/17.18.086%20DAERA%20Resource%20Accounts%202016-17%20Final.PDF</a></p>

## Section Two: Qualified Opinions

<b>Figure 6: Resource Accounts 2016-17 receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Department for Communities	<p>In 2016-17, expenditure<sup>9</sup> on benefits was £5,896 million. This comprised:</p> <ul style="list-style-type: none"> <li>• £5,192 million - payments by the Department to social security benefit claimants;</li> <li>• £665 million – payments by the Northern Ireland Housing Executive (NIHE) to claimants of Housing Benefit. This is included within the NIHE's accounts and the Department's accounts; and</li> <li>• £39 million – Housing Benefit payments by Land and Property Services (LPS) on behalf of the Department to claimants who own their own home and are entitled to apply for a rates rebate if they have low income and are suffering financial hardship. This is included in the LPS Statement of Rate Levy Account.</li> </ul> <p>My regularity opinion provides assurance that payments have been made in accordance with the authorities that govern them.</p> <p>The Department's estimate of the overall level of overpayments in 2016-17 due to fraud and error was 1.5 per cent of total annual benefit expenditure (2015-16: 1.4 per cent). This equates to total overpayments of £87.7 million (2015-16: £78.8 million). The Department's estimate of the overall level of underpayments in 2016-17 due to official error was 0.3 per cent (2015-16: 0.3 per cent). This equates to underpayments of benefits due to official error of £19.7 million (2015-16: £18.5 million). It is the gross values of these overpayments and underpayments that lead to my qualified regularity opinion.</p> <p>The estimated rates of fraud and error in the Department, the NIHE and LPS, compared to 2015-16 were unchanged except for:</p> <p>NIHE – where overpayments due to fraud and error increased from 2.9 per cent to 4.3 per cent.</p> <p>LPS – where overpayments due to fraud and error reduced from 18.6 per cent to 14.4 per cent, while the level of underpayments due to official error increased from 0.6 per cent to 0.8 per cent.</p> <p>Benefits paid as a result of customer fraud are estimated to have increased by £6.6 million, to £51.7 million; customer fraud is now at its highest reported level. The Department told me that the level of customer fraud in social security benefits paid directly by the Department remained consistent in 2016-17 at 0.6 per cent. The level of customer fraud in Housing Benefit has increased, however, from 2.1 per cent to 3.0 per cent. The increase was not specific to a single or particular fraud type, however undeclared earnings remains the primary cause of fraud within Housing Benefit. Responsibility for the levels of</p>

<sup>9</sup> In order to facilitate the timetable for the production of the financial statements the department estimates benefit expenditure and associated fraud and error based on expenditure in the 2016 calendar year

<b>Figure 6: Resource Accounts 2016-17 receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Department for Communities	<p>fraud and error in Housing Benefit transferred to the Department in 2017. This should provide for greater consistency in targeting and reducing the level of fraud across benefits and the prioritisation of resources towards those benefits at greater risk, such as Housing Benefit.</p> <p><a href="https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-annual-report-2016-2017.pdf">https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-annual-report-2016-2017.pdf</a></p>
Department for the Economy	<p>I qualified my opinion on the 2016-17 Department for the Economy (DfE) accounts on the same grounds as I had qualified the 2015-16 accounts of the former Department of Enterprise, Trade and Investment (DETI), namely:</p> <ul style="list-style-type: none"> <li>• ongoing weaknesses in controls in the non-domestic Renewable Heat Incentive (RHI) scheme; and</li> <li>• expenditure incurred without the necessary approvals in place.</li> </ul> <p>I was unable to obtain sufficient evidence that the Department's controls over spending on the non-domestic RHI scheme were adequate to prevent or detect abuse of the scheme. Due to this lack of evidence, I was unable to form an opinion on whether the expenditure on the scheme of £42.3 million in 2016-17 had been applied for the purposes intended by the Assembly.</p> <p>Included within this expenditure is an amount of £18.8 million (44 per cent of total RHI expenditure) on which approval had not been granted by the DoF. This arose because re-approval of the scheme from the then Department of Finance and Personnel was required from 1 April 2015, but not granted until the end of October 2015. During this seven month period, 788 applications were accepted onto the scheme by DETI and since there was no approval in place from the DoF the resulting £18.8 million expenditure incurred in 2016-17 is irregular. Consequently, my regularity opinion has been qualified, since this expenditure does not conform to the authorities which govern it.</p> <p>It is likely that a similar proportion of the non-domestic RHI expenditure will continue to be irregular each year until 2037-38 when the scheme closes, unless the DfE is able to obtain retrospective approval from the DoF.</p> <p>I have reported previously on the RHI scheme, firstly in July 2016 on the establishment and operation of the scheme, and then in June 2017, providing an update on what had changed since the previous year.</p> <p><a href="https://www.economy-ni.gov.uk/sites/default/files/publications/economy/dfc-Annual-Report-2017.pdf">https://www.economy-ni.gov.uk/sites/default/files/publications/economy/dfc-Annual-Report-2017.pdf</a></p>

## Section Two: Qualified Opinions

**Figure 6: Resource Accounts 2016-17 receiving a qualified audit opinion**

Public Body	Nature of the Qualified Audit Opinion and C&AG's Report
Department for the Economy	Departments plan their resources 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 audit opinion and report on the circumstances giving rise to the excess.
Department of Education Teachers' Superannuation Scheme	In nine instances, departments exceeded the limits approved by the Assembly in the initial Main Estimates, leading me to qualify my audit opinion. I discuss these matters further in Section Three.
Department of Finance	<a href="https://www.economy-ni.gov.uk/sites/default/files/publications/economy/dfc-Annual-Report-2017.pdf">https://www.economy-ni.gov.uk/sites/default/files/publications/economy/dfc-Annual-Report-2017.pdf</a>
Department of Health	<a href="https://www.education-ni.gov.uk/sites/default/files/publications/education/Teachers-Superannuation-Annual-Scheme-Statements-2017.pdf">https://www.education-ni.gov.uk/sites/default/files/publications/education/Teachers-Superannuation-Annual-Scheme-Statements-2017.pdf</a>
Department of Health – Health and Social Care Pension Scheme	<a href="https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/DoF-annual-resource-accounts-2016-17-laid.pdf">https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/DoF-annual-resource-accounts-2016-17-laid.pdf</a>
Department for Infrastructure	<a href="https://www.health-ni.gov.uk/sites/default/files/publications/health/DoH-DRA-2016-2017.pdf">https://www.health-ni.gov.uk/sites/default/files/publications/health/DoH-DRA-2016-2017.pdf</a>
Northern Ireland Authority for Utility Regulation	<a href="https://www.health-ni.gov.uk/sites/default/files/publications/health/hsc-pension-scheme-resource-2017.pdf">https://www.health-ni.gov.uk/sites/default/files/publications/health/hsc-pension-scheme-resource-2017.pdf</a>
Public Prosecution Service for Northern Ireland	<a href="https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/dfi-resource-accounts-for-the-year-ended-31-march-2017.pdf">https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/dfi-resource-accounts-for-the-year-ended-31-march-2017.pdf</a>
The Executive Office	<a href="https://www.uregni.gov.uk/sites/uregni/files/media-files/Resource%20Accounts%202016-2017.pdf">https://www.uregni.gov.uk/sites/uregni/files/media-files/Resource%20Accounts%202016-2017.pdf</a>
	<a href="http://www.ppsni.gov.uk/Annual-Reports---5077.html">http://www.ppsni.gov.uk/Annual-Reports---5077.html</a>
	<a href="https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/teo-annual-report-accounts-2016-2017.pdf">https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/execoffice/teo-annual-report-accounts-2016-2017.pdf</a>

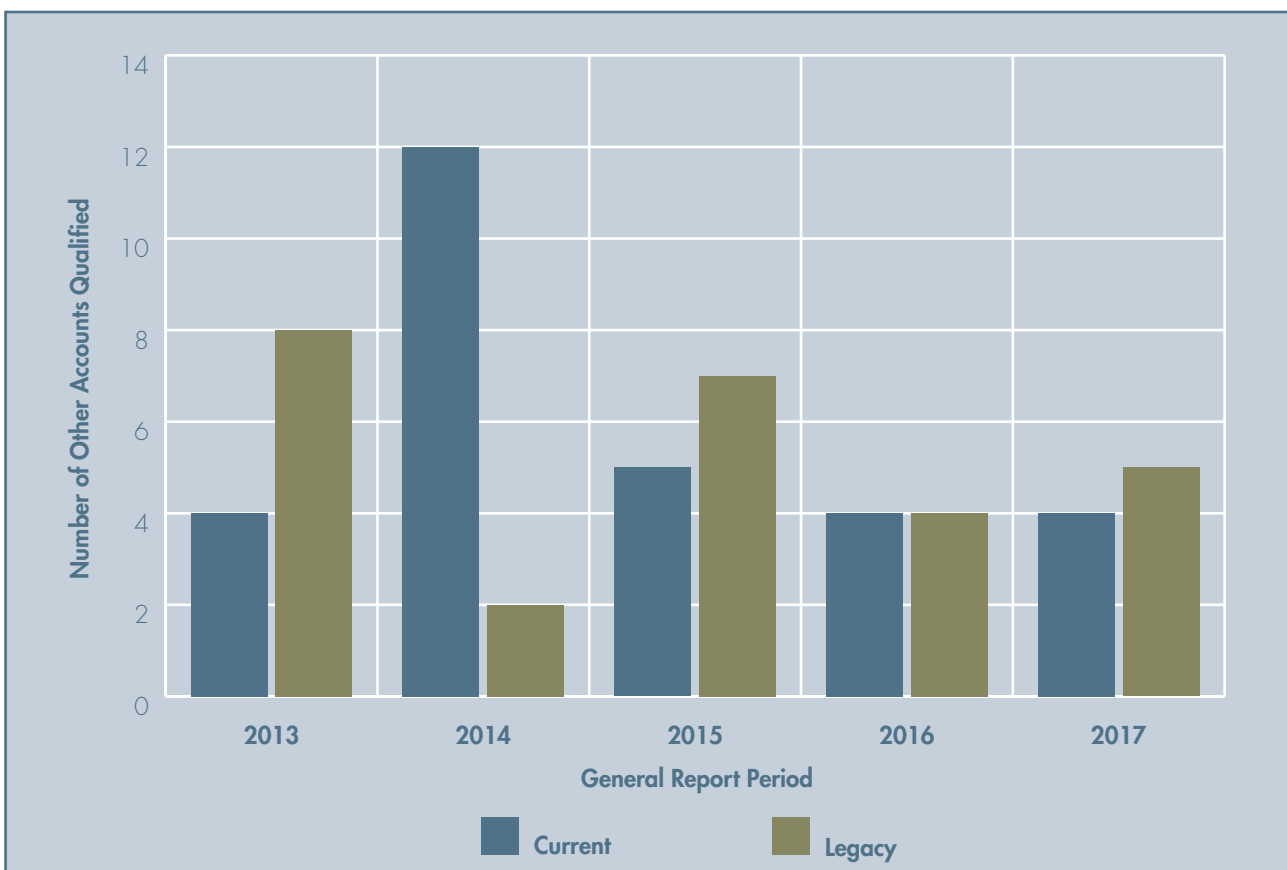
## Qualified Audit Opinions – other accounts

2.5 Since my last General Report I have qualified nine other accounts. Four were in respect of the 2016-17 accounting period, and the rest related to the 2015-16 accounting period (for the purpose of this report, accounts that are not certified within 12 months of the end of the accounting period are termed as legacy accounts). **Figure 7** illustrates the numbers of other qualified accounts that were certified in the

General Report periods 2013 to 2017. For comparative purposes, 2017 recorded the second lowest number of qualifications since 2009-10.

2.6 **Figure 8** contains brief details of the four other accounts which received qualified audit opinions for the 2016-17 financial year.

**Figure 7: Number of other accounts receiving a Qualified Audit Opinion for General Report Periods 2013 to 2017**



Source: NIAO

## Section Two: Qualified Opinions

<b>Figure 8: Other 2016-17 accounts receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Child Maintenance Service Client Funds	<p>The audit opinion on the Child Maintenance Service Client Funds accounts has been qualified for a considerable number of years and this year continues to be qualified in respect of two issues:</p> <ul style="list-style-type: none"> <li>• The regularity of the receipts and payments reported in the account. This is because the receipts and payments are based on maintenance assessments calculated over several years. I consider the estimated level of error in these maintenance assessments to be material.</li> <li>• The accuracy and completeness of the outstanding maintenance arrears at 31 March 2017, as shown in Note 6.1 to the financial statements. As a result of an inadequate audit trail, my examination of the arrears balance was severely limited and therefore I was unable to obtain enough evidence to satisfy myself as to the accuracy and completeness of the outstanding maintenance arrears of £61.6 million.</li> </ul> <p><a href="https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-annual-report-2016-2017.pdf">https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-annual-report-2016-2017.pdf</a></p>
Land and Property Services' Trust Statement – Rate Levy Accruals Account	<p>The audit opinion on the Land and Property Services' Trust Statement Rate Levy Accruals Account has been qualified for a number of years and is qualified again in 2016-17 on regularity grounds because of what I consider to be exceptionally high levels of fraud and error in Housing Benefit<sup>10</sup> expenditure.</p> <p>Total housing benefit expenditure administered by LPS in 2016-17 was £39.2 million. Within this, the levels of fraud and error estimated by the DfC's Standards Assurance Unit amounted to £5.8 million. My qualification notwithstanding I am pleased to note the improvements in the level of fraud and error.</p> <p>I also reported on the level of outstanding ratepayer debt at year end, and the amount written off in year. The ratepayer debt outstanding at 31 March 2017 was £131.7 million, compared to £142.7 million at 31 March 2016. Also, the amount written off in 2016-17 (£20.7 million) was less than the sum written off in 2015-16 (£28.6 million). These are encouraging developments.</p> <p>In late 2015, LPS discovered and reported an incidence of suspected fraud carried out by one member of staff. Further investigations found that this employee misappropriated almost £130,000, of which £98,000 has since been recovered. More details on this fraud can be found in Section Three of this report.</p> <p><a href="https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/LPS%20Annual%20report%20and%20accounts%202016-17.pdf">https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/LPS%20Annual%20report%20and%20accounts%202016-17.pdf</a></p>

<sup>10</sup> Housing Benefit is a means tested benefit administered by LPS to people who own their homes and are on low incomes with savings and capital below the £16,000 eligibility threshold. This includes but is not limited to those in receipt of means tested benefits such as Job Seeker's Allowance/Income Support/Pension Credit/Employment and Support Allowance

**Figure 8: Other 2016-17 accounts receiving a qualified audit opinion**

Public Body	Nature of the Qualified Audit Opinion and C&AG's Report
Legal Services Agency Northern Ireland	<p>I have qualified the financial statements of the Legal Services Agency Northern Ireland (LSANI). The audit opinions on the annual accounts of the LSANI and its predecessor body, the Northern Ireland Legal Services Commission (NILSC) have been qualified since 2003 due to the lack of effective counter fraud arrangements and weaknesses in the financial estimates for provisions in the annual accounts for legal aid liabilities.</p> <p>Nevertheless, there has been substantial progress by the LSANI in addressing the underlying issues giving rise to the qualifications this year. This includes significant work to improve the provisions model and the investment of significant resources to develop a robust strategy to counter fraud and error.</p> <p>I have continued to qualify the LSANI's accounts on the basis of three limitations in scope on my work:</p> <ol style="list-style-type: none"> <li>1. There was insufficient evidence to support the eligibility of certain Legal Aid applications and the completeness and accuracy of payments to legal practitioners. Legal Aid expenditure in 2016-17 was £101.6m (Civil £59.4m and Criminal £42.2m). I have limited the scope of my audit opinion on the regularity of expenditure because I have been unable to obtain sufficient audit evidence to conclude that a material amount of Legal Aid expenditure has not been claimed fraudulently or in error.</li> <li>2. I qualified my audit opinion on the truth and fairness of the amount provided for legal aid liabilities due to insufficient evidence to support the current provisions methodologies and the judgements made when calculating provisions. Specifically I have concerns in relation to: <ul style="list-style-type: none"> <li>– the accuracy and completeness of the numbers of legal aid certificates; and</li> <li>– the quality of management information used in the provisions valuations.</li> </ul> </li> <li>3. I have qualified my audit opinion on the truth and fairness of income recorded in the accounts, as I have been unable to obtain sufficient evidence to conclude that a material amount of income in respect of the recovery of defence costs has not been excluded from the accounts.</li> </ol>

## Section Two: Qualified Opinions

<b>Figure 8: Other 2016-17 accounts receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Legal Services Agency Northern Ireland	<p>I also published a report on 21 June 2016, highlighting a range of concerns in relation to the management of legal aid<sup>11</sup>. The Public Accounts Committee published a report in January 2017<sup>12</sup>, which was critical of how the legal aid budget had been managed by the NILSC and the LSANI over a number of years.</p> <p><a href="https://www.justice-ni.gov.uk/sites/default/files/publications/justice/lsani-annual-report-and-accounts-2016-17.pdf">https://www.justice-ni.gov.uk/sites/default/files/publications/justice/lsani-annual-report-and-accounts-2016-17.pdf</a>.</p>
Northern Ireland Housing Executive	<p>The audit opinion on the regularity of financial transactions in the Northern Ireland Housing Executive's (NIHE) accounts has been qualified due to:</p> <ul style="list-style-type: none"> <li>• Significant levels of estimated fraud and error in housing benefit expenditure. Total housing benefit expenditure in 2016-17 was £674.5 million (£680.3 million in 2015-16) <ul style="list-style-type: none"> <li>– The Standards Assurance Unit in DfC has estimated that overpayments of housing benefit expenditure due to fraud and error were £28.7 million (4.3 per cent) compared to £19.5 million (2.9 per cent) in 2015-16. Underpayments due to official error were estimated to be £3.4 million (0.5 per cent) compared to £3.6 million (0.5 per cent) in 2015-16. I note that the Accounting Officer has provided comprehensive detail on the wide range of measures being undertaken to prevent and detect fraud and error in housing benefit in his Annual Governance Statement.</li> </ul> </li> <li>• Insufficient audit evidence on the adequacy of the controls over the management of planned maintenance expenditure of £95.2 million <ul style="list-style-type: none"> <li>– While I note that there has been considerable progress in NIHE's management of heating contracts within planned maintenance these improvements need further time to bed in before I will consider removing my qualification in this area.</li> </ul> </li> </ul> <p>I have also reported, without qualification on the DfC Internal Audit Unit's investigation into anonymous whistleblowing allegations referred to me by a Member of the Legislative Assembly (MLA). A copy of my report on these issues is included within Section Three.</p> <p><a href="https://www.nihe.gov.uk/housing_executive_annual_report_2017.pdf">https://www.nihe.gov.uk/housing_executive_annual_report_2017.pdf</a></p>

11 Managing Legal Aid, June 2016  
[https://www.niauditoffice.gov.uk/sites/niao/files/media-files/155963\\_niao\\_legal\\_aid\\_web\\_final.pdf](https://www.niauditoffice.gov.uk/sites/niao/files/media-files/155963_niao_legal_aid_web_final.pdf)

12 Public Accounts Committee Report on Managing Legal Aid, November 2016  
<http://www.niassembly.gov.uk/globalassets/committee-blocks/pac/pac-reports/report-on-managing-legal-aid.pdf>



2.7 **Figure 9** contains brief details of the five legacy accounts that received qualified audit opinions.

<b>Figure 9: Legacy Accounts receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Land and Property Services' Trust Statement – Rate Levy Accruals Account 2015-16	<p>The audit opinion on the Land and Property Services' Trust Statement – Rate Levy Accruals Account has been qualified for a number of years and is qualified again in 2015-16 on regularity grounds because of significant levels of fraud and error in Housing Benefit expenditure.</p> <p>Total Housing Benefit expenditure administered by LPS in 2015-16 was £40.7 million. Within this, the levels of fraud and error estimated by the DfC's Standards Assurance Unit amounted to £8.1 million.</p> <p>I also reported on the level of outstanding ratepayer debt at year end, and the amount written off in year. The ratepayer debt outstanding at 31 March 2016 was £142.7 million, compared to £156.4 million at 31 March 2015. However the amount written off in 2015-16 was £28.6 million compared to £25.3 million in 2014-15, whilst the impairment of debt fell by £1.4 million in year from £36.6 million at 31 March 2015 to £35.2 million at 31 March 2016. Overall, this is an encouraging development.</p> <p><a href="https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/LPS%20Annual%20report%20and%20accounts%202015-16_0.pdf">https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/LPS%20Annual%20report%20and%20accounts%202015-16_0.pdf</a></p>
Northern Ireland Library Authority 2015-16	<p>I qualified my audit opinion on the truth and fairness of the Northern Ireland Library Authority (NILA) financial statements due to limitations on the scope of my audit.</p> <p>The NILA financial statements included heritage assets with a value of £9.7 million at 31 March 2015. This included £0.655 million of assets which NILA derecognised during the financial year 2015-16, however, they failed to provide me with adequate evidence of this valuation. There were no other procedures I could have undertaken as part of my audit to satisfy myself on the valuation of these heritage stock assets.</p> <p><a href="http://www.librariesni.org.uk/AboutUs/OurOrg/Annual%20Reports/Annual%20Report%20and%20Accounts%202015-16.pdf">http://www.librariesni.org.uk/AboutUs/OurOrg/Annual%20Reports/Annual%20Report%20and%20Accounts%202015-16.pdf</a></p>

## Section Two: Qualified Opinions

<b>Figure 9: Legacy Accounts receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Northern Ireland Social Fund 2015-16	<p>I qualified my audit opinion on the Northern Ireland Social Fund accounts for 2015-16 because of significant levels of error in Social Fund benefit expenditure (except for Winter Fuel and Cold Weather payments which are considered less susceptible to error).</p> <p>Out of total expenditure (other than Winter Fuel and Cold Weather payments) of £83.2 million, estimated over and under payments total £0.8 million (0.9 per cent). Of that total, overpayments due to official error comprise £0.4 million (0.5 per cent of total expenditure) and underpayments £0.3 million (0.4 per cent of total expenditure)<sup>13</sup>.</p> <p><a href="https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-social-fund-account-year-end-31-march-2016.pdf">https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-social-fund-account-year-end-31-march-2016.pdf</a></p>
Victims and Survivors Service Limited 2015-16	<p>The audit opinion on the accounts of the Victims and Survivors Service Limited has been qualified for 2015-16 on regularity grounds.</p> <p>Financial Assistance Scheme grants were paid to individuals on the basis of self-declarations made in 2015-16, due to eligibility checking having taken place in previous years.</p> <p>Self-declared grant expenditure amounted to £1.7 million. Following a request from The Executive Office, spot checks were carried out by Victims and Survivors Service and an estimated £280,000 of this expenditure was found to be ineligible. Ineligible grant payments are irregular, as the expenditure has not been applied in accordance with the purposes intended by the Assembly.</p> <p>Financial Assistance Scheme funding is allocated equally to successful applicants. Therefore, invalid payments reduce the amount available to eligible recipients. An additional £171 may have been paid to each eligible grant recipient. Victims and Survivors Service confirmed that it will not be seeking to recover ineligible amounts paid. Approval to write-off the amounts identified has been obtained.</p> <p><a href="http://www.victimsservice.org/site/wp-content/uploads/2017/01/Annual-Report-And-Accounts-2015-2016-D16-FINAL.pdf">http://www.victimsservice.org/site/wp-content/uploads/2017/01/Annual-Report-And-Accounts-2015-2016-D16-FINAL.pdf</a></p>

<b>Figure 9: Legacy Accounts receiving a qualified audit opinion</b>	
<b>Public Body</b>	<b>Nature of the Qualified Audit Opinion and C&amp;AG's Report</b>
Armagh Observatory and Planetarium 2015-16	<p>I qualified my audit opinion on the Armagh Observatory and Planetarium (AOP) for 2015-16 on regularity grounds.</p> <p>In June 2015, the AOP's Audit and Risk Committee was advised that a number of Single Tender Actions<sup>14</sup>, in relation to Planetarium activities, had been made without appropriate approvals in place.</p> <p>An initial examination of the supporting documentation found that appropriate procedures had not been followed. Internal Audit began a comprehensive review and forensic audit of all transactions initiated by the retired Accounting Officer in the period October 2013 to May 2015, to identify any non-compliance with AOP procedures.</p> <p>AOP and the DfC were alerted to potential financial irregularities and in October 2015 the DfC referred the matter to the Department of Finance's Group Fraud Investigation Service (GFIS) for further investigation. The Internal Audit review was completed in March 2016, while GFIS reported their findings to the DfC in October 2016.</p> <p>As a result of the retired Accounting Officer's actions, AOP expenditure totalling £49,969 in 2015-16 relating to three Single Tender Actions was classified as irregular. More details on this issue can be found in Section Three of this report; together with other areas of concern which I reported on but which did not impact on my audit opinion.</p> <p><a href="http://www.armaghplanet.com/pdf/Administration/AOP-Annual-Report-Accounts-2015-16.pdf">http://www.armaghplanet.com/pdf/Administration/AOP-Annual-Report-Accounts-2015-16.pdf</a></p>

14 Also known as Direct Award Contracts (DACs)

## Section Two: Qualified Opinions

### Outstanding Accounts

2.8 In previous General Reports, I have referred to accounts which should have been covered by the scope of a particular Report, but had not yet been certified. This year there were four accounts outstanding at 31 December 2017, with a year end more than one year ago. These were not completed on a timely basis due to a combination of governance issues and the non-availability of staff to prepare accounts in the bodies concerned. They included the accounts for 2014-15 and 2015-16 of the Sports Council for Northern Ireland (Sport NI) – which were delayed due to governance issues and the suspension of the audit as a result of Sport NI providing poor quality accounts for audit. More detail is provided in respect of this issue within Section Three.

### Conclusion

2.9 Most central government departments and their arm's length bodies have continued to produce good quality accounts for audit scrutiny, resulting in unqualified audit opinions. This Report records the qualification of 20 accounts. As in previous years, the type and nature of qualifications are usually indicative of weaknesses in internal control and compromised entities' ability to provide sound accountability to the Assembly. While these weaknesses did occur in 2016-17, the increased number of qualifications occurred in the context of the dissolution of the Assembly in January 2017, which I consider in Section Three.

Section Three:  
Other Matters



## Section Three:

### Other Matters

#### A: Impact of the Dissolution of the Assembly on the Estimates Process

- 3.1 The Northern Ireland Estimates, often referred to as the Main Estimates, set out the detailed spending plans of Northern Ireland departments for the financial year. Departments do not have the authority to spend or commit resources; that requires Assembly agreement through the Estimates process and the Budget Acts.
- 3.2 Annual Departmental Estimates are submitted to the Assembly. Once agreed, they become the expenditure limits voted by the Assembly and set out in the Budget Acts. These provide the

legal authority for public expenditure. There is also an SSE process whereby departments seek authority for additional resources and/or cash to that sought in the Main Estimates.<sup>15</sup>

- 3.3 Departments are expected to 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 the excess. I also bring the matter to the attention of the Public Accounts Committee which must decide whether to recommend that further grant is approved to the

Figure 10: 2016-17 Excess Votes

Department/Account	Request for Resources Excess £000	Net Cash Requirement* Excess £000
Department for the Economy	81,608	No excess
Teachers' Pensions	3,905	No excess
Department of Finance	No excess	8,208
Department of Health	No excess	4,835
Health and Social Care Pensions	18,252	No excess
Department for Infrastructure	39,783	63,267 <sup>15</sup>
NI Utility Regulator	1,173	755
Public Prosecution Service	2,857	1,386
The Executive Office	35,543	34,166

Source: NIAO

\* The net cash requirement is the upper limit agreed by the Assembly on the cash which a department may draw from the NICF to finance the expenditure within the ambit of its Request for Resources (RfR)

As resource accounts are constructed in a similar way to commercial audited accounts to show the goods and services which have been consumed (not just the cash expended), this results in the disclosure of different accounting figures. To avoid an excess vote, departments must not spend above the amount provided in an RfR or breach the upper limit on payments out of the NICF

15 Following preparation for the Spring Supplementary Estimate (SSE) process, DfI notified the C&AG it had discovered an error in its 2016-17 financial statements. The error affected the split of EU debtors between Consolidated Fund Extra Receipts and Accruing Resources. This resulted in the NCR excess of £61.530m which was originally reported in the 2016-17 financial statements being increased by an additional £1.737m. The revised NCR excess is £63.267m.

Department involved, to regularise the overspend.

- 3.4 The Assembly was dissolved on 26 January 2017, and the process of considering and approving revised departmental resource and cash requirements via the 2016-17 SSE, and a subsequent Budget Bill, could not therefore take place. Nine departmental accounts had excess votes, i.e. expenditure was more than that authorised by the Assembly (**Figure 10**). However, I would consider that eight of these excess votes were technical in nature since the mechanism to regularise revised resource and cash requirements was not available to departments in 2016-17. The remaining case involved other budgetary issues which would have resulted in an excess vote even if the Assembly had approved the SSE. This is discussed below.

### Department of Health – Health and Social Care Pension Scheme

- 3.5 The Health and Social Care (HSC) Pension Scheme is an unfunded occupational scheme which is open to all HSC employees and employees of other approved organisations. The scheme is managed by the DoH; which is also responsible for scheme legislation.
- 3.6 If the Assembly had approved the SSE, the HSC Pension Scheme would still have had an excess vote of £2.2 million because the Current Service Cost figure used in the budgetary process had been underestimated as a result of actual payroll details not being available at the time.
- 3.7 The DoH told me that it will continue to liaise with the Government Actuary's Department to determine what further reviews need to be carried out when the SSE forecast is prepared, to ensure forecasts are as robust as possible.
- 3.8 The Public Prosecution Service for Northern Ireland (PPS) had another type of budgetary issue, and would have exceeded its Departmental Expenditure Limit<sup>16</sup> even had the Assembly approved the SSE. This is explored further in the following section.
- ### Public Prosecution Service for Northern Ireland
- 3.9 The PPS is the principal prosecuting authority in Northern Ireland. If the Assembly had approved the SSE, the PPS would still have exceeded its Departmental Expenditure Limit.
- 3.10 The PPS told me that in the last quarter of the financial year, the outturn for counsel fees (one element of the costs associated with departmental prosecutions) was more than anticipated at December 2016. In response, the PPS requested additional funding, highlighting a pressure of £475,000 in the January 2017 monitoring round<sup>17</sup>. That monitoring round did not conclude and the request for additional funding put forward did not receive consideration. In addition the extent of the budgetary

16 This is a budgetary limit on spending and includes expenditure which is generally within the relevant department's control

17 Monitoring rounds usually take place three times in each financial year and are the vehicle for the Executive to allocate unspent funding and address unforeseen financial pressures in-year

## Section Three:

### Other Matters

pressure increased over the remainder of the year, giving rise to a total shortfall of £543,000.

- 3.11 To prevent this re-occurring in future years, the PPS intends to extend the level of central oversight in the management of counsel fees.

### Conclusion

- 3.12 If the Assembly had been able to approve the SSE for 2016-17, only the DoH – Health and Social Care Pension Scheme would have required further grant to regularise the overspend. This would have been in line with the general trend in recent years (2013-14, three; 2014-15, two; 2015-16, nil). Departments should nonetheless ensure that their budgetary controls are sufficiently robust to ensure that they remain within approved limits for cash and resource requirements. Whilst the pressures on public sector budgets in the current economic climate have significantly reduced budget flexibility and reduced bodies' ability to respond to unforeseen pressures, public bodies should ensure that their financial forecasting techniques are underpinned by robust, informed estimates. This should be complemented by a meaningful budgetary control process which includes a challenge to ensure that the information used as a basis for the budget is of the best quality available.

## B: Armagh Observatory and Planetarium – Governance Issues

### Introduction

- 3.13 Until March 2016, the Armagh Observatory and the Armagh Planetarium were two distinct institutions within a single statutory corporation. Each operated under a Director and prepared separate annual accounts which were subject to audit.
- 3.14 The Director of the Armagh Observatory and the Director of the Armagh Planetarium were designated as Accounting Officers by the Department of Culture, Arts and Leisure (DCAL). As such they had personal responsibility for the propriety and regularity of the public finances for which they were answerable and for keeping proper accounts. The Accounting Officers were also responsible for safeguarding the assets of the corporation and for taking reasonable steps for the prevention and detection of fraud and other irregularities.
- 3.15 Dr Tom Mason was appointed Director of the Armagh Planetarium on 1 August 1996 and was the Accounting Officer from 1 July 1997 until his retirement on 30 April 2015.
- 3.16 In April 2016, the Armagh Observatory and the Armagh Planetarium became one organisation. In May 2016, responsibility for this organisation transferred from DCAL to the Department for Communities (DfC). The current Chief Executive of the Armagh Observatory



and Planetarium was appointed as the sole Accounting Officer in September 2016.

## Investigations

3.17 In June 2015, the Armagh Observatory and Planetarium (AOP) Audit and Risk Committee was advised that a number of Single Tender Actions<sup>18</sup>, in relation to Planetarium activities, had been made without appropriate approvals in place. Concerns were also raised in relation to entries in the Planetarium's hospitality register.

3.18 An initial examination of the supporting documentation found that the contracts were signed by Dr Mason and confirmed that appropriate procedures had not been followed. The AOP's internal auditors were asked to investigate further. Internal Audit began a comprehensive review and forensic audit of all transactions initiated by Dr Mason, in the period October 2013 to May 2015, to identify any non-compliance with AOP procedures for:

- procurement; and
- the use of the Planetarium's credit cards.

3.19 The AOP and DCAL were alerted to potential financial irregularities in relation to the purchase of high value IT assets, some of which could not be located, and the potential misuse of the Planetarium's credit cards. In October

2015 DCAL referred the matter to the GFIS for further investigation.

3.20 The Internal Audit review was completed in March 2016, while GFIS reported their findings to the DfC in October 2016.

## Issues identified

3.21 My review of the investigation reports identified four main issues:

- purchases made outside of AOP's procedures;
- the misuse of the Planetarium credit cards;
- the purchase of high value IT equipment; and
- the receipt and recording of hospitality.

## Purchases made outside of AOP's procedures

3.22 The investigations focused on three specific contracts<sup>19</sup> (see **Figure 11**).

3.23 With regards to Supplier A and Supplier B contracts:

- The Planetarium's Financial Controls and Procedures require that a business case is prepared for all non-routine purchases above £1,500 (excluding VAT). However, business cases had not been prepared for

18 A single tender action, also referred to as a Direct Award Contract, is a public contract that is awarded without a competition

19 Although the investigations refer to contracts with the three suppliers, there is only a contract with Supplier A which was signed by Dr Mason on 6 April 2015. Invoices from Suppliers B and C were authorised by Dr Mason on 28 April 2015 and 10 April 2015 respectively. For the purpose of this report, reference to contracts has been retained

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**Figure 11: Contracts Investigated**

Supplier <sup>19</sup>	Contract Details	Value
A	Support of the Planetarium's projector and related technology	£15,030 p.a. for three years
B	Purchase of two theatre shows	£14,342
C	Refurbishment of 93 seats	£20,597

these purchases.

- The AOP Management Statement and Financial Memorandum (MSFM) issued by DCAL in May 2009 advises that proposals for Single Tender Actions shall be subject to advice being taken from DoF's Central Procurement Directorate (CPD). However, no such advice had been sought from CPD in relation to these purchases.
- Business cases for contracts exceeding the Accounting Officer's delegated limit of £10,000 should have been submitted to DCAL for approval. This did not occur.

3.24 Dr Mason advised me that the Planetarium had been receiving ad hoc support from Supplier A for a number of years. He added that the Planetarium had tried to work with other suppliers but they were not competent to do the work required. Dr Mason considered that the arrangement with Supplier A needed to be formalised in order to future-proof the Planetarium theatre operation after he retired. His intention was "to provide a cushion for the Planetarium to weather the major changes in AOP's structure that were looming". He provided a similar

explanation for the purchase of the two theatre shows.

3.25 On 5 January 2015 DCAL approved the business case and Single Tender Action to Supplier C for £20,000 to purchase 33 new seats at the Planetarium in 2014-15. CPD advice had been sought for the purchase of the 33 new seats. However, the 33 new seats were not purchased in the 2014-15 financial year and the Planetarium's 2014-15 capital budget was reduced. Dr Mason subsequently committed the Planetarium to the expenditure required to refurbish all 93 seats at the Planetarium in 2015-16 at a cost of £20,597 without having sufficient budget cover in 2015-16 or valid approval.

3.26 Dr Mason told me that his assessment was that new seating would be essential, and if it was not forthcoming the Planetarium would have to close. He considered that there would be money in the Planetarium's 2015-16 budget from his salary as he was only going to be in post until the end of April 2015. The AOP advised me that Dr Mason did not discuss the budget with the Management Committee.

3.27 Dr Mason advised me that in his time as Director of the Planetarium, he fought to restore the AOP to its place as a world-renowned centre for astronomy education and his intention was to save the Planetarium as much money as possible. Regardless of his intentions, Dr Mason's actions in relation to these three contracts were a breach of the Planetarium's procedures and his Accounting Officer responsibilities as set out in the MSFM and Managing Public Money Northern Ireland. These resulted in irregular expenditure of £49,969 in 2015-16 and irregular spend of £15,582 in 2016-17. In addition, any expenditure incurred in 2017-18 in relation to the contract with Supplier A for support of the Planetarium's projector and related technology will be irregular spend.

### The misuse of the Planetarium credit cards

3.28 Although the Planetarium's procedures (March 2013) refer to one credit card, the Planetarium actually had two cards.

3.29 As Internal Audit had noted, Dr Mason had used a Planetarium credit card to pay for his retirement functions in April 2015, and identified other issues of non-compliance with the Planetarium's credit card procedures. GFIS's investigation reviewed credit card expenditure from April 2011 to May 2015. This sought to identify any other credit card items which seemed unusual or outside of what would be considered normal business purchases. GFIS's report states that "this

was not an easy task due to the poor nature of the records, lack of supporting documentation and the hand written annotations on some of the monthly bills (which we believe were made by Dr Mason)". Although Dr Mason responded to GFIS's initial invitation to meet and discuss certain issues, advising that he could be contacted again upon his return from holiday, he did not reply to GFIS's subsequent correspondence.

3.30 The issues identified in GFIS's analysis included:

- some items were sent directly to Dr Mason's home address;
- over £1,000 worth of gift cards had been purchased as staff bonuses;
- the purchase of a games console, four computer games and flowers;
- purchases at supermarkets and on-line stores without any explanation of what had been purchased; and
- the purchase of a drone.

3.31 The GFIS advised that "Without the opportunity to speak to Dr Mason it is difficult to ascertain whether or not these items could be related to a business need within the AOP, or indeed in the case of the drone, was it really value for money to purchase this item for one small shot of film".

3.32 It is disappointing that Dr Mason did not engage with the GFIS during their investigation and afford them the

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opportunity to consider his responses. This would have enabled Dr Mason to explain his actions to the AOP and facilitated the AOP's review of his explanations.

3.33 Dr Mason did, however, provide me with detailed responses to the issues identified in GFIS's analysis at paragraph 3.30 above. For example, he advised that he had purchased gift cards for the Planetarium staff to provide them with some small token of appreciation for their hard work and loyalty to the organisation. Dr Mason recalled that this was discussed with members of the Management Committee. The AOP advised me that the Management Committee members have no recollection of being informed of this expenditure. In addition, they advised that the correct procedure would have been to raise the issue via the Employment Conditions and Remuneration Committee. However, there is no record in the Committee minutes or the hospitality and gift register to support the expenditure.

3.34 I asked the AOP how they satisfied themselves that there were no irregularities in periods prior to those examined by Internal Audit and the GFIS. The AOP advised me that they are not aware of any suggestion of irregularities in prior periods and it should be recognised that current management are newly in post and have no detailed knowledge of prior years. Almost all the permanent staff in place in prior years have left and the current temporary staff do not have detailed knowledge of those years.

They consider that it is unlikely that the initiation of a detailed review of prior years, not focused on specific times or transactions, would pass the value for money test.

### Reimbursement of Credit Card Expenditure

3.35 Dr Mason reimbursed the AOP £422 in respect of his retirement functions which he had paid for using the Planetarium credit card. The GFIS recommended that the AOP consider recovery of money from Dr Mason for credit card purchases totalling £5,502 where the GFIS concluded there can be no justification of business need and deemed to be inappropriate expenditure. The AOP advised me that a letter had been sent to Dr Mason on 31 January 2017 seeking reimbursement of the £5,502, as recommended by the GFIS. Dr Mason replied on 1 March 2017 stating that if the AOP takes this matter to court he could explain fully all the expenditure. He suggested a mediation meeting. Dr Mason's letter was discussed at the Audit and Risk Committee meeting on 29 March 2017, noting that the GFIS had stated that there were no issues of criminality. The Committee concluded that it was not appropriate to hold a mediation meeting as there was nothing to mediate. The Committee agreed that Dr Mason's duty was to explain expenditure on request without the need for a meeting.

3.36 Dr Mason advised me that he considered that all of the expenditure

was directly related to the efficient running of the Planetarium and that most of the expenses and the circumstances were explained at the time to the Management Committee and specifically to the Vice Chairman. As noted at paragraph 3.32 it was in Dr Mason's and the AOP's interest that he engaged with the GFIS on matters raised in relation to his use of the Planetarium's credit cards. The AOP advised me that Dr Mason did not explain his actions at the time and that although he had an obligation to follow due process, he did not do so. The AOP added that a conversation in passing about possible options should not be construed as Management Committee approval.

laptops, a desktop computer, a drone, two action cameras and a projector.

3.40 The GFIS concluded that "There can be no valid explanation why Dr Mason felt the necessity to have so much IT equipment at what was presumably his home address, and why it took the best part of 10 months after his retirement for him to return it".

3.41 Dr Mason advised me that he was responsible for IT at the Planetarium and that a lot of the equipment had been used and trialled at his home office. He went on to state that the Vice Chair of the Management Committee and the Finance Officer knew that he had the IT equipment, and he had asked them both to let him know when the IT equipment needed to be returned. As none of the equipment was needed for the day to day running of the Planetarium, he did not urgently attend to its return. He further stated that, when he was asked to return the equipment, he did so.

## The purchase of high value IT equipment

3.37 The reviews of credit card expenditure identified the purchase of a number of IT items.

3.38 Physical verification of these purchases and other IT equipment was difficult as the Planetarium did not have a comprehensive asset register showing locations and tag numbers of all capitalised assets and other records were poor. A number of items could not be located and AOP believed they were in Dr Mason's possession.

3.39 In January 2016, almost ten months after his retirement, Dr Mason returned equipment which the AOP advised had an estimated purchase cost of £9,500. Amongst the items returned were two

3.42 The AOP advised me that it did not believe there was a need for so much expensive equipment to be taken away from the Planetarium. The Management Committee was not informed of Dr Mason's practice and is concerned that Dr Mason stated that he purchased equipment that was not needed for the day to day running of the Planetarium. The AOP expected all equipment to be returned immediately on retirement without the need for it to issue a specific request.

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- 3.43 When a member of staff leaves a public sector organisation any items belonging to the organisation, and held by the individual, should be returned immediately. Consequently the AOP should have requested return of all the IT equipment held by Dr Mason as soon as he retired.
- 3.44 I asked AOP whether all missing items had been returned. The AOP advised me that Dr Mason had signed a declaration that “all items owned by the Armagh Planetarium and Observatory which were in my possession at the time of my retirement have now been returned to the organisation”. The AOP are not aware of any items which have not been returned.
- 3.45 I asked the AOP whether, in light of the issues raised in both investigations, it compiled a complete asset register and whether procedures had been put in place to ensure that it is updated on an on-going basis. AOP advised me that the asset register is reconciled to the accounting records and there is an on-going process to physically verify and tag:
- all older assets above a specified net book value; and
  - all new additions.
- 3.46 The MSFM advises that a public servant should not receive any benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity. It also advises that regardless of whether a gift or hospitality is accepted or declined, the Gifts and Hospitality Acceptance form must be completed by the recipient and that failure to declare in the Gifts and Hospitality Register may result in disciplinary action. Where the propriety of accepting a particular gift or offer of hospitality is in doubt, the advice of the sponsor department should be sought.
- 3.47 The MSFM also indicates that where hospitality offered is an overseas visit, prior approval is required from the Accounting Officer or Chair of the Board.
- 3.48 In March 2015, Dr Mason undertook a five night trip to Utah which was fully funded by a supplier (Supplier A). I note that Dr Mason did not:
- seek prior approval for the trip from the Chair of the Board;
  - seek advice from DCAL given the unusual nature of the trip; and
  - record the trip in the Planetarium’s Gifts and Hospitality Register.
- 3.49 In April 2015, Dr Mason awarded a contract to the same supplier for three years’ support of the Planetarium’s projector and related technology. As noted at paragraph 3.23 above, a business case was not prepared for this expenditure. Neither had Dr Mason sought advice from the CPD nor DCAL’s approval for the Single Tender Action,

### The receipt and recording of hospitality

which exceeded his delegated authority.

- 3.50 When interviewed by Internal Audit, Dr Mason stated that his Utah trip did not influence the award of any contracts or the purchase of any items. Dr Mason advised Internal Audit that the trip was to facilitate the carriage of a meteorite along with an item from a university and to discuss/work on a film on which he had previously provided input. Dr Mason considered that the trip would benefit the Planetarium as it would have a copy of the final product free of charge and would be included in the credits. The AOP advised me that although Dr Mason received a credit at the end of the film as a contributor, the AOP had to pay £8,552 for the film.
- 3.51 Dr Mason told me that there was no need to seek prior approval of the Board for the Utah trip as he reported all business trips after the event as had been agreed with the Board. This practice is contrary to the MSFM.

## Conclusions

- 3.52 The DfC's Accounting Officer has advised me that the issues which led to the AOP Accounts being qualified are a concern to him. In response to the investigations, DfC had written letters to the Chair of the AOP, the Accounting Officer and Chair of the Audit and Risk Committee to seek assurance that management are working closely with auditors to establish an action plan and implement all recommendations to minimise the risk of similar irregular activities happening again. The DfC advised me that they had received an action plan from the AOP in February 2017 and that the AOP had assured them that the plan is being implemented.
- 3.53 The GFIS recommended that no further action was taken against Dr Mason in terms of potential criminality.
- 3.54 Dr Mason advised me that throughout his tenure his financial transactions were approved by the Board and regularly audited by the internal and external auditors. However, as Accounting Officer, Dr Mason had a personal responsibility to check compliance with prescribed procedures and this responsibility remained, regardless of the extent to which non-compliance issues were identified and brought to his attention.
- 3.55 Dr Mason engaged with the Internal Audit review of the three Single Tender Actions and use of the Planetarium credit cards but did not engage with the subsequent GFIS review. Even as a former public servant it remained Dr Mason's responsibility to seek every opportunity to respond to questions on his conduct, while in public service, with the fullest possible responses. It is clear from his responses to me that he had detailed information which would have assisted the GFIS review.
- 3.56 High standards of conduct in public life are essential to maintain fairness and transparency in public services and to help ensure that public expenditure achieves value for money. Extensive

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guidance on best practice is in place to ensure the effective corporate governance of all public sector bodies and to help protect public servants. All senior public servants, including those in small organisations such as the AOP, have a responsibility not only to follow guidance but to act as role models for others regarding matters of propriety. Senior staff should lead by example, especially in matters of conduct.

3.57 I have examined the Internal Audit and GFIS reports and Dr Mason's responses to me on the issues raised. I have referred to these in my report. Dr Mason told me that what he did was to benefit the Planetarium and its standing in the international community. I am concerned that, regardless of what he viewed as laudable objectives, as the Planetarium's Accounting Officer Dr Mason failed to follow guidance and best practice in relation to Single Tender Actions and in his use of the Planetarium's credit card. It is also disappointing that Dr Mason failed to consider whether a conflict of interest arose in relation to accepting hospitality from a supplier of one of these Single Tender Actions.

3.58 The role of Accounting Officer carries with it personal responsibilities in relation to regularity and propriety and the conduct of Accounting Officers should be beyond reproach. In my view, Dr Mason's actions were not up to this high standard, in his conduct as an Accounting Officer and specifically in his response to a GFIS review of his

conduct.

## C: Northern Ireland Courts and Tribunals Service Trust Statement – Fine Collection

### Introduction

3.59 The Northern Ireland Courts and Tribunals Service (NICTS), an Executive agency of the Department of Justice (DoJ) of Northern Ireland, acts as an agent for the collection of financial penalties which have been imposed by the Judiciary, the Police Service of Northern Ireland (PSNI) and the Driver and Vehicle Agency (DVA). These include fixed penalty notices (FPNs), court imposed monetary penalties (namely fines, extra costs, other party costs, compensation for victims of crime and fixed penalty enforcement fines), and confiscation orders.

3.60 Financial penalties can be imposed by the Courts, the PSNI and the DVA for a wide range of reasons from traffic violations to compensation awarded to victims of crime (see **Appendix 2**). Dealing effectively with those who default on payment is an ongoing challenge for the justice system. Approximately half of the revenue is successfully collected in the 12 months after the penalties are imposed. The funds collected are paid to the NICE after deduction of some allowable costs incurred in collecting the fines and monies due to other parties.

3.61 Since 2011-12, the NICTS has



produced six annual Trust Statements which show income from fines and penalties, collection and administration costs and provisions for uncollectable amounts. It also reflects the complex inter-dependencies between the NICTS and a number of other departments and agencies involved in the enforcement process, including the PSNI. I qualified my audit opinion on the first four annual Trust Statements produced up to 2014-15. The PAC met on 22 October 2014 to consider my report on the NICTS Trust Statement for the year ended 31 March 2013. The Committee published its own report on 21 January 2015 which contained six recommendations for improving the collection of fines and penalties (see **Appendix 3**).

3.62 At 31 March 2017, the total amount of debt outstanding from non-payment of financial penalties was £22.1 million (2016: £19.8 million). Approximately £7.6 million (2016: £6.8 million) relates to amounts outstanding for less than one

year, with £10.7 million (2016: £9.9 million) outstanding between one and five years and with £3.8 million (2016: £3.1 million) outstanding for more than five years. The total debt has been impaired by an amount of £10.9 million (2016: £10.9 million) which is unlikely to be recovered.

3.63 The purpose of this report is to highlight concerns I have with the system for dealing with fine defaulters.

### The estimate of the impairment and collectability of overdue debt The value of net receivables

3.64 The Trust Statement records the total debt outstanding at the end of the financial year and also shows the impaired debt which is an estimate of the amount that is unlikely to be recovered (see **Figure 12**).

3.65 The level of debt outstanding has

**Figure 12: Nearly half of the debt outstanding at 31 March 2017 is unlikely to be recovered**

	Total Debt £m		Impairment £m		Collectable Debt £m	
	2017	2016	2017	2016	2017	2016
Court Imposed Fines	11.8	10.6	6.7	6.3	5.1	4.3
Confiscation Orders <sup>21</sup>	5.1	4.5	2.1	2.5	3.0	2.0
Other Party Criminal	4.3	3.9	1.9	1.9	2.4	2.0
Fixed Penalty Notices	0.5	0.4	0.0	0.0	0.5	0.4
Extra Costs/Offender Levy	0.4	0.4	0.2	0.2	0.2	0.2
<b>Total</b>	<b>22.1</b>	19.8	<b>10.9</b>	10.9	<b>11.2</b>	8.9

Source NICTS Trust Statement 2016-17 Note 6

21 Confiscation orders are imposed under the Proceeds of Crime Act 2002 or the Proceeds of Crime (NI) Order 1996. A confiscation order is an order directing the payment of money obtained by a defendant as a result of his/her criminal conduct, to the Crown. In Northern Ireland only the Crown Court has the jurisdiction to make a confiscation order. Confiscation orders are generally larger in value than other monetary penalties but smaller in volume

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**Figure 13: Outstanding debt since 2014-15**

	Total Debt £m	Impairment £m	Collectable Debt £m
2014-15	21.1	7.3	13.8
2015-16	19.8	10.9	8.9
2016-17	22.1	10.9	11.2

Source: NICTS

increased over the last three years (see **Figure 13**). NICTS advised me that the increase in the level of debt outstanding is a result of an increase in the number of Court Imposed Fines and an increase in the value of Confiscation Orders.

hold a hearing unless there is clear evidence that the defendant has been served the notice in person, or the defendant chooses to attend the hearing following notice by postal service. (**Figure 14** below shows the Fine Default Hearings – Payment Rates).

### Notice must be served of default hearings

3.66 When the administrative debt collection process is unsuccessful, the NICTS seeks to bring the defaulter to a default hearing in court. Before the court can hold fine default hearings, notices must be served in person or by postal service to the defendants so that they have an opportunity to attend and explain the reasons for default. The court will not

### Less than 25 per cent of fine defaulters are successfully served notice

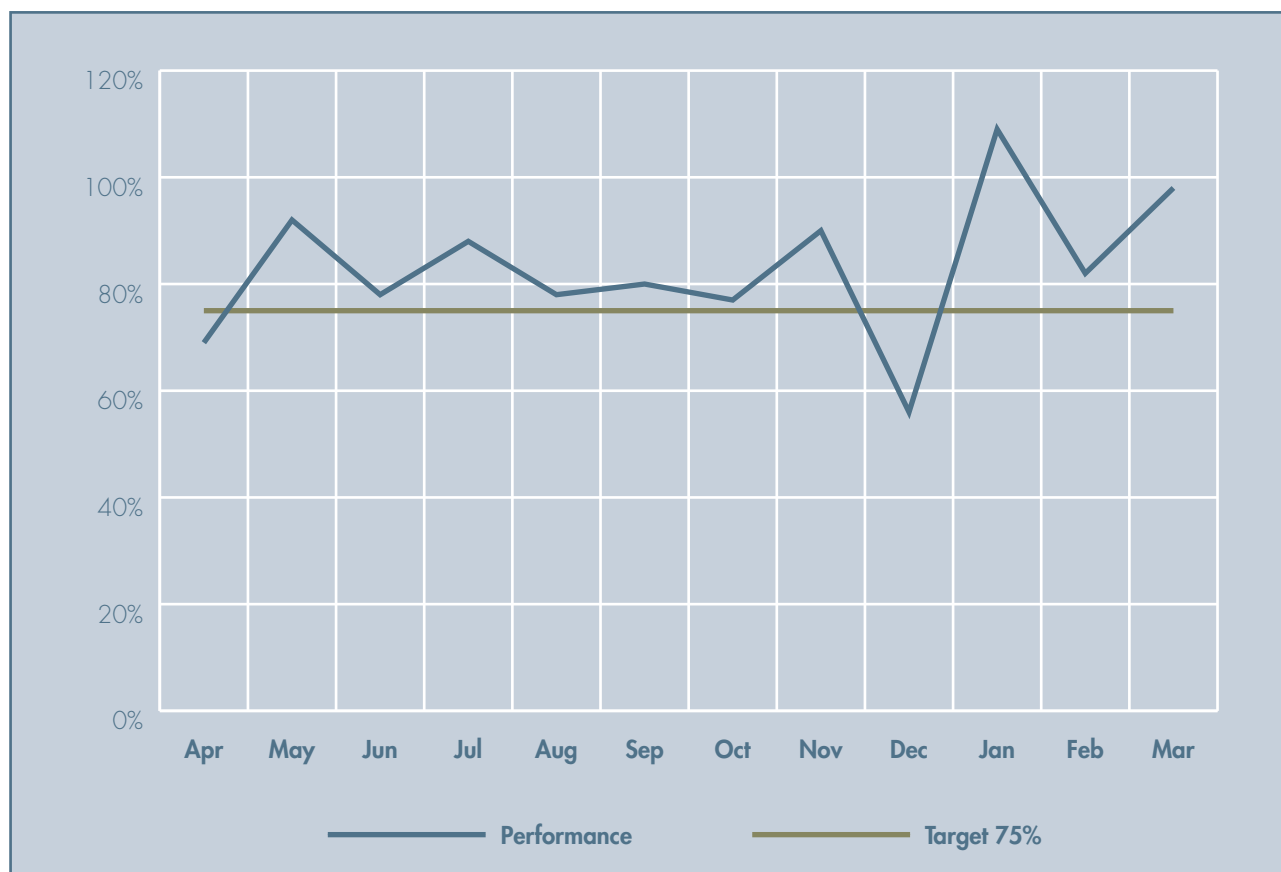
3.67 During the period from 1 April 2016 until 31 March 2017, the courts issued 59,923 notices in relation to outstanding fines which met the conditions to be called for a fine default hearing. 35,584 were issued for personal service by a summons server and 24,339 were

**Figure 14: Fine Default Hearings – Payment Rates (up to 31 March 2017)**

Outcome	Number of Cases	%	Value of Fines (£000)	%
Fines paid	13,252	67.4	3,367	55.3
Fines remitted	5,450	27.7	1,580	25.9
Fines part paid/part remitted	955	4.9	1,147	18.8
<b>Total</b>	<b>19,657</b>	<b>100</b>	<b>6,094</b>	<b>100</b>

Source: NICTS

**Figure 15: Execution of Warrants - PSNI Performance 2016-17**



Source: NICTS

issued for service by postal service. Of those issued for personal service, 6,081 (17.1 per cent) were successfully served. Of the notices issued by post, 6,843 (28.1 per cent) of the individuals responded or appeared in court for the hearing which means those notices were successfully served.

3.68 The requirement to have default hearings has added an important legal requirement to the collection of default debts. The low level of success in serving notices adds to the uncertainty

when assessing the overall collectability and value of outstanding fine debt. It has also contributed to the high level of debt impairment in the current year.

**Fine default hearings – payment rates: value of fines reduced by one third**

3.69 The review of the outcome of the hearings in the 32 months to 31 March 2017 shows that when fines are considered at default hearings, approximately one third by value are

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remitted.

#### Warrants issued to the PSNI

- 3.70 At a default hearing a judge may allow an individual more time to pay. If the individual does not continue to meet the repayment conditions determined at the default hearing a warrant may be issued. 7,395 warrants were issued to be actioned by the PSNI during 2016-17 (2015-16: 6,144). **Figure 16** details progress to date on these warrants.
- 3.71 The PSNI aims to execute 75 per cent of warrants within either the specified period of time for enforcement where provided or where this does not exist, within 12 months of the date of issue. During 2016-17 the PSNI executed 75 per cent of warrants by the target date in 10 out of 12 months. Overall, average performance for the 2016-17 year was 82 per cent.

#### Debt collection rates

- 3.72 The impairment charge calculated by the NICTS for outstanding debt applies a number of assumptions based on trends and past performance. The NICTS has based the impairment charge on all reasonable and supportable information available to it at the year end. The changes to the fine default process and the potential impact of new initiatives under the Justice Act (NI) 2016 have led to considerable uncertainty over future debt collection rates, the behaviour of defaulters and the subsequent carrying value of receivables reported in the financial statements.
- 3.73 The debt collection rates should be improved by the introduction of a number of new initiatives contained within the Justice Act (NI) 2016. The initiatives include the creation of a Fine Collection and Enforcement Service with civilian Collection Officers whose responsibility it will be to collect penalties set by, and under the authority of, the

**Figure 16: Outcome of Warrants Issued 2016-17**

Outcome	Number of Warrants	%
Cleared by Committal to prison	2,304	31.2
Cleared by Part Committal/Payment	54	0.7
Cleared by Payment	2,091	28.3
<b>Total Cleared</b>	<b>4,449</b>	<b>60.2</b>
Warrants Outstanding <sup>22</sup>	2,402	32.5
Returned Unexecuted or Stayed <sup>23</sup>	544	7.3
<b>Grand Total</b>	<b>7,395</b>	<b>100</b>

Source: NICTS

22 Warrants have a specified period of time for enforcement or where this does not exist, within 12 months of the date of issue. The majority of the warrants outstanding have not reached the end of their enforcement period

23 A warrant can be 'stayed' for various reasons such as when a bench warrant is delayed so the defendant can appear voluntarily in court as ordered

Courts. It increases the collection options available to the Courts and Collection Officers by creating the ability to deduct payments from earnings or benefits in certain circumstances. For the more wilful defaulter who has the ability to pay but doesn't, the Act allows a broader range of options for the Courts to pursue, including, bank account orders and vehicle seizure orders. In addition, the Act provides for Supervised Activity Orders as an alternative to imprisonment for fine default. Supporting secondary legislation is required to enable a new Fine Collection and Enforcement Service to be operational. The progression of this legislation has been delayed due to the absence of the Assembly/Executive and implementation is currently planned for June 2018. It will have taken three years to implement this aspect of the PAC recommendations and I expect the NICTS to ensure that once secondary legislation is passed there is no further delay in implementing these initiatives.

- 3.74 This should largely remove the PSNI from the fine collection process. It is also expected to decrease the number of fines in default and therefore reduce the need for default hearings and the serving of notices for hearings and the need to issue warrants.

### Cash collection of warrants

- 3.75 Until the introduction of a pilot scheme for card payments in Autumn 2017 in one area, the PSNI could only receive payment for the successful execution of warrants through the collection of cash.

This year's audit found that the PSNI and the NICTS did not regularly reconcile reports detailing cash warrants executed. Although this has now been updated it is a concern that this key control did not operate for nearly a year.

- 3.76 The PSNI is still working towards the introduction of cashless payment options for the execution of warrants with the launch of the above pilot exercise. The PSNI advised me that it will assess the effectiveness of the pilot scheme before it is rolled out in other areas. The card collection scheme is expected to be fully operational by the end of December 2017. However this, along with the revised controls above, will not remove the inherent risk associated with cash collection that an officer, working on his or her own, takes cash payment for a warrant and does not record the warrant as executed.

### Conclusion

- 3.77 The DoJ has taken steps to address the issues in the PAC report including new governance arrangements and control structures over fine collection. Targets have been set to monitor the execution of warrants. A system has been established to allow the numbers of warrants issued to the PSNI and those still outstanding to be reconciled. The failure of this control during the year should not have been allowed to happen. This is an area where there has previously been a significant issue with cash being stolen. This key control needs to operate effectively and consistently.

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3.78 The PSNI is working towards the introduction of cashless payment options for the execution of warrants and has launched a pilot exercise in the Belfast area. In all other areas the PSNI can only receive payment for the successful execution of warrants through the collection of cash. There are inherent risks associated with cash collection. While the introduction of a pilot scheme demonstrates progress I am disappointed that nearly three years after the PAC report the introduction of cashless payment options has not been completed.

3.79 The DoJ has commenced reform through the Justice Act (NI) 2016 to address the weaknesses in the current system of fine enforcement and collection which is neither effective nor efficient.

3.80 Nearly half (£10.9 million) of the £22.1 million debt outstanding at 31 March 2017 is unlikely to be recovered. Debt collection rates should be improved by the introduction of a number of new initiatives contained within the Justice Act (NI) 2016. However it will have taken three years to implement this aspect of the PAC recommendations and I expect the NICTS to ensure that once secondary legislation is passed there is no further delay.

3.81 The new civilianised Fine Enforcement and Collection Service is expected to be operational by June 2018 subject to having the required legislation in place. The PAC reported its findings in January 2015 and I will continue to keep the implementation of the Committee's

recommendations under review. I will look to see evidence of a successful debt collection process resulting in a reduction in the number and value of fines remaining unpaid.

## D: Sport NI - Account Completion and Governance Issues

### Account completion issues

3.82 My staff began audit work on the 2014-15 financial statements in February 2015. The audit was suspended as the draft financial statements and the supporting audit file were of poor quality. In August 2015 my staff reviewed a further draft of the financial statements but again suspended the audit as this draft was also of insufficient quality. In April 2016 my staff noted that revised draft financial statements, although improved, were again of insufficient quality to allow the audit to progress.

3.83 My staff returned to Sport NI in July 2016 where an acceptable quality of 2014-15 financial statements enabled the audit to progress. This audit was carried out in parallel with the audit of the 2015-16 financial statements. By December 2017 my staff had not received final financial statements which would allow the 2014-15 and 2015-16 audits to be concluded. I am therefore continuing to monitor the governance issues within Sport NI, summarised below.

## Governance issues

### Chief Executive's suspension and dismissal, subject to appeal

- 3.84 In September 2013 Antoinette McKeown took up post as Chief Executive of Sport NI. In this role she was responsible for implementing the strategic vision, policy and direction of Sport NI and for ensuring that the organisation met the agreed objectives and targets in the Corporate and Business plans. The Chief Executive was also responsible for advising the Board on the discharge of its responsibilities and ensuring the Board was kept fully informed on the condition of the organisation, its performance, including the systems of internal control, and all important factors influencing it as part of supporting good governance.
- 3.85 The DCAL appointed the Chief Executive as Accounting Officer for Sport NI on 9 September 2013.
- 3.86 On the 10 March 2015 the Sport NI Board suspended the Chief Executive from her position to conduct an open and unhindered investigation into leadership issues. The Leadership Investigation concluded and was presented to the Board at its 16 June 2015 meeting. On the 22 June 2015 the Board informed the Chief Executive that they were moving to disciplinary action. The disciplinary case concluded on 22 November 2016, some 518 days later, with the dismissal of the Chief Executive, subject to appeal. The Chief Executive appealed the decision of

the disciplinary panel and her appeal was upheld. The Board confirmed this decision on 14 June 2017.

### The appointment of the Interim Executive Leadership Team

- 3.87 In May 2015 whistleblowing allegations were received by DCAL. These allegations referenced the view that there were other individuals in Sport NI, who had similar concerns, but felt unable to raise these within the organisation.
- 3.88 The DCAL Permanent Secretary issued a letter to all Sport NI staff providing direct contact details for the DCAL Head of Internal Audit should staff have issues of concern which they felt unable to raise within Sport NI. As a result of this letter ten more staff came forward to raise issues which resulted in DCAL asking its Head of Internal Audit to complete a Scoping Exercise into Sport NI's management and governance issues.
- 3.89 The DCAL Internal Audit report (1 July 2015) made a number of recommendations for DCAL to take forward, regarding concerns raised by Sport NI staff. On 8 July the DCAL Minister set up an Interim Executive Leadership Team (IEL Team) to investigate concerns raised by Sport NI staff. The IEL Team, led by a senior civil servant (designated interim Chief Executive and Accounting Officer) and two staff, were seconded from DCAL, to manage the executive functions within Sport NI.
- 3.90 The main aim of the IEL Team was to

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develop an action plan to address the recommendations made in DCAL's 1 July 2015 Internal Audit report.

appointments competition to recruit additional Sport NI Board members.

#### Board resignations and the appointment of interim members

3.91 In accordance with the Recreation and Youth Service (NI) Order 1986, the Department with responsibility for Sport, appoints the members of the Sport NI Board, including a Chair and Vice Chair. At 1 July 2015 the Sport NI Board comprised 12 members in addition to the Chair and Vice Chair, 14 in total. On 6 July 2015 nine Board members resigned.

3.92 At the August 2015 Sport NI Board meeting three senior civil servants were co-opted to support the Board in an advisory capacity. On 29 September 2015 DCAL launched an open public appointments competition to recruit Sport NI Board members. On 1 January 2016, five new members joined the Board. In February 2016 a co-opted member stepped down from the Board.

3.93 The Chair and Vice Chair of Sport NI resigned on the 31 March 2016. DCAL appointed an interim Chair and interim Vice Chair from the existing Board members, with immediate effect. From 9 May 2016 responsibility for sport transferred from DCAL to the DfC. At the 17 August 2016 Board meeting a co-opted member stepped down from the Board but remains on the Audit, Risk Assurance Committee. On 8 September 2016 the DfC launched an open public

#### Further report

3.94 It is my intention, in accordance with Article 8 of the Audit (NI) Order 1987, to publish a report covering, in more detail, the governance issues outlined above.

#### E: Independent Counselling Service for Schools – Contract Management and Oversight

##### Introduction

3.95 All pupils of post-primary age in grant aided schools have access to counselling which is independent of the school. This access is facilitated by the Independent Counselling Service for Schools (ICSS). The service is funded by the Department of Education (DE) and delivered by counselling providers contracted following a public tendering process. The service costs approximately £1.5 million per year to deliver.

3.96 Counselling is provided on the basis of a half day (3 sessions) per week plus a "drop in" session for schools with less than 1,000 pupils and a full day (5 sessions) per week plus a "drop in" session for schools with more than 1,000 pupils. A regional co-ordinator oversees the operation of the counselling service. This was initially on behalf of



the DE, however, responsibility for this service has now passed to the Education Authority (EA).

- 3.97 During 2016-17, a whistleblower contacted my office and made a number of allegations about the counselling contract which included the integrity of the procurement process, data protection issues and fraudulent transactions. I undertook a review of the ICSS contract, examining a number of different aspects of the contract and I have detailed my findings below.
- 3.98 The DE had previously received similar whistleblowing allegations and had asked Internal Audit and the GFIS to investigate the allegations. Internal Audit investigated several allegations regarding the integrity of the procurement process, data protection and other issues concerning the oversight and management of the process. Some of the allegations investigated by Internal Audit were found to be substantiated, while some others were not.
- 3.99 The GFIS investigation focussed solely on the allegation that the counselling provider had fraudulently claimed payment for counselling sessions which did not take place. The GFIS concluded in conjunction with PSNI that there was insufficient evidence to support a criminal prosecution, however they identified a number of issues relating to the operation of the contract which needed to be addressed.

## Wasted sessions

- 3.100 Wasted sessions are counselling sessions for which the counsellor is available but no counselling takes place. Wasted sessions can occur for a variety of reasons, a pupil may not turn up for an appointment or may cancel their appointment at the last minute. However, they can also occur where unavailability of pupils due to examinations, sports days or exceptional closure days has not been notified to the counselling provider in advance. Where schools have notified the provider of unavailability in advance, these sessions are reallocated to other schools/pupils where possible, however where this is not possible the counselling provider is paid for these wasted sessions.
- 3.101 Until recently, counselling providers have been advised that sessions can only be reallocated during the academic year concerned. In the past this has led to an increase in wasted sessions towards the end of the academic year, particularly in June and I received allegations that wasted sessions were being claimed in order to use up the allocation of counselling sessions for the year. Recently the DE has clarified that counselling sessions can be reallocated across academic years.
- 3.102 I examined the contract between the DE and the counselling provider during my review and found that there was no reference to wasted sessions within the contract. Given the absence of any specific reference to this issue within

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the contract, I asked the DE what the legal basis for making payments for wasted sessions was. The DE told me that providers would be entitled to claim for such sessions, where they have been duly authorised and officials had verified that the payments made to the counselling provider were done so in line with agreed protocols and relevant contractual approvals.

- 3.103 The ICSS has been available to all post-primary schools since September 2007, and wasted sessions have occurred throughout that time. I also noted that one of the counselling providers pointed out the difficulties of dealing with wasted sessions at a meeting with the DE in April 2015. Although some suggestions were made to try to mitigate the effect of wasted sessions, there was no specific conclusion as to how they should be dealt with.

### Management and Oversight of the Contract

- 3.104 A key contact is appointed at each school by the school's Senior Management Team. The key contact undertakes a pivotal role in the coordination of the counselling service, liaising with staff, pupils, parents, the regional co-ordinator and counselling providers. They are also responsible for administrative aspects of the contract, including signing off monthly monitoring sheets which are used to verify counselling sessions in advance of payment being made. It is important that key contacts should be fully aware of their responsibilities in this regard.
- 3.105 The DE told me that there was a team of staff who all had roles and responsibilities in relation to the administration of the contract. However there appears to have been some ambiguity regarding the roles and responsibilities in the oversight of the contract. Some of the staff involved did not appear to be aware of their roles and responsibilities specifically in relation to the administrative aspects of the contract.
- 3.106 Regular performance assessments are an integral part of good contract management procedures. I reviewed the contractor performance assessments for four counselling providers for the 2016-17 year. Each provider was scored across seven criteria, however I noted that identical scores were allocated to the same criteria for each of the providers. In addition, the comments describing the performance of each of the providers across the seven criteria were also identical.
- 3.107 In my opinion, generic assessments do not reflect individual performance and do not provide a basis for constructive feedback on performance. The DE told me that the performance assessments filled out were proforma contained in the contract for this purpose. The DE recognises that they are generic in nature and do not give enough scope for commentary on individual performance and intend to address this issue in the next contract.

## Governance

3.108 During my review I did not see evidence that the DE checks if adequate governance arrangements are in place within organisations providing public services on its behalf. Although the contract does cover issues including prevention of corruption and prevention of fraud and discrimination, I consider there is significant merit in companies who provide services on behalf of the public sector to have their own policies on whistleblowing, conflicts of interest and fraud.

## Contract Extension

3.109 The contract with the counselling provider was due to expire in August 2017 and the DE was required to prepare business cases and interim project evaluations before offering any extensions to the contract. I reviewed the business cases and evaluations and found that they had been prepared in June 2017 – only two months before the contract was due to expire, leaving insufficient time to progress alternatives to extending the contract. As a result, there would have been no counselling contract in place for a period had the existing contract not been extended. The evaluations and business cases should have been undertaken in sufficient time to leave a number of realistic options available for the DE to choose from. The DE told me it accepted that the late timing of the interim evaluations and business cases regarding the contract

extensions were not ideal and it will ensure that the full evaluation of the contracts takes place at an early enough stage to fully inform the procurement for any new contract.

## Conclusion

3.110 The ICSS contract has faced a number of difficulties during its operation. In my view the DE should have made better use of its previous experience in providing post-primary school counselling to pre-empt some of the problems around wasted sessions. I am surprised that the January 2015 contract made no mention of wasted sessions given this previous experience. The DE missed an early opportunity to deal more effectively with this issue when it was raised by one of the counselling providers at a meeting in April 2015.

3.111 I acknowledge there will always be some unavoidable occasions when an appointment cannot be reallocated, for example if a pupil does not turn up for a counselling appointment. However, I consider that school examinations, sports days or exceptional closure days are entirely foreseeable and counselling sessions should be easily reallocated around such events. Whilst I welcome the flexibility that has been created by DE clarification that sessions can now be reallocated into the next academic year, I consider that a more timely intervention on this issue would have led to a more efficient service being delivered at an earlier juncture. I consider that if a

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provider deliberately claims for sessions simply to ensure it receives its allocation, and does not make a reasonable attempt to deliver or reallocate these sessions and no counselling has taken place, then such expenditure has not been made in accordance with the Assembly's intentions.

- 3.112 There are also wider lessons for all public bodies to learn from this case. Specifically I refer to the clarification of roles and responsibilities, the need for meaningful performance review and feedback and the need to undertake timely evaluations and business cases where required. I am disappointed that these basic principles were not applied in this case and expect to see an improvement in how such contracts are handled in future.

### F: LPS - Fraud

#### Introduction and Background

##### Part 1: Trust Statement – Rate Levy Accruals Account 2016-17

3.113 This part of the report sets out:

- the background to the levels of fraud and error in housing benefit expenditure administered by Land and Property Services (LPS);
- the basis of my qualified audit opinion on the 2016-17 Trust Statement prepared by LPS in respect of the Rate Levy Accruals Account;
- actions LPS is taking to reduce levels of fraud and error; and

- progress on some other matters previously considered by the PAC in 2012.

3.114 I am required under the Accounts Direction given by the DoF in accordance with Section 11(2) of the Government Resources and Accounts Act (NI) 2001 to report my opinion as to whether the financial statements give a true and fair view. I am also required to satisfy myself that, in all material respects, expenditure and income have been applied to the purposes intended by the Northern Ireland Assembly and conform to the authorities which govern them; that is, they are 'regular'.

3.115 LPS administers housing benefit<sup>24</sup> for rates of owner occupiers on behalf of the DfC. Unlike all other Social Security benefits where payments are made, LPS administers £39.2 million of housing benefit in Northern Ireland by offsetting housing benefit against the rate accounts of people who own their own house but are entitled to apply for a reduction as they are on low income and suffering financial hardship. There is estimated to be a substantial amount of fraud and error within these transactions amounting to 14.8 per cent of LPS total housing benefit expenditure (compared to 19.5 per cent last year).

3.116 I consider the level of fraud and error in housing benefit expenditure continues to be material. Therefore, as in previous years, my opinion on the regularity of this benefit expenditure is qualified.

24 Housing Benefit is a means tested benefit administered by LPS to people who own their homes and are on low incomes with savings and capital below the £16,000 eligibility threshold. This includes but is not limited to those in receipt of means tested benefits such as Job Seeker's Allowance/Income Support/Pension Credit/ Employment and Support Allowance

## Arrangements for Monitoring and Reporting Housing Benefit Fraud and Error

- 3.117 The DfC's Standards Assurance Unit (SAU) regularly monitors and measures the estimated levels of fraud and error within the benefit system, including housing benefit. In order to do this, statisticians from its Analytical Services Unit randomly select samples of ongoing benefit claims and SAU subject them to detailed examination for evidence of official error<sup>25</sup>, customer error and customer fraud. The results of this testing are then used to estimate the total level of fraud and error.
- 3.118 The DfC points out that the estimation of fraud and error is by its nature subject to uncertainty because it is based on sample testing. Estimates do, however, represent the best measure of fraud and error available at present. In order to facilitate the timetable for the production of financial statements, the SAU's testing on benefit claim accuracy is reported on a calendar year rather than a financial year basis. I am satisfied this is reasonable.
- 3.119 As part of my audit of the DfC, I examine the work undertaken by the SAU to assess the levels of fraud and error within the benefit system, including housing benefit. My staff examine and re-perform a sample of their case work carried out during the year and review the methodologies applied in carrying out these exercises. I am content the results produced by the SAU are a

reliable estimate of the total fraud and error in the benefit system.

## Basis of Qualification

- 3.120 The SAU reported in March 2017 the extrapolated levels of fraud and error for housing benefit administered by LPS during the calendar year 1 January 2016 to 31 December 2016. This report highlights estimated levels of customer fraud of £2.5 million, official error amounting to £2.0 million and customer error amounting to £1.3 million.
- 3.121 **Figure 17** and **Figure 18** (overleaf) show that the level of error has decreased from £5.0m in 2012 to £3.3m in 2016, a decrease of 34 per cent over the five year period and a reduction of 41 per cent when compared to the previous year 2015.
- 3.122 They also show decreases of 39 per cent in overpayments<sup>26</sup> and 40 per cent in underpayments attributable to official error over the same five year period. I note the sustained reduction in official error for overpayments with underpayments remaining unchanged from 2015. Customer error has shown a 37 per cent decrease over the five year period, falling to its lowest level in 2016.
- 3.123 Customer fraud has however remained static at £2.5m which continues to be 257 per cent higher than at the start of the five year review period.

25 The SAU methodology does not take into account the effect a reduction in entitlement to Housing Benefit has on the ratepayer's entitlement to Rate Relief

26 Overpayments are added back onto the rate account and collected as part of the normal rating process

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3.124 Overall I am pleased to note the improvements in the level of fraud and error from £8.6m in 2014, its highest level over the five year period, to £5.8m in 2016, although I am disappointed that the efforts of LPS have not yet had the same significant impact on the level of customer fraud.<sup>27</sup>

### Levels of fraud and error

3.125 LPS advised me that the decreases in the official error rates in 2016 compared to 2015, were a reflection of the following measures:

- LPS Housing Benefit has undergone a period of stabilisation over the last number of years both in workload and in retention of experienced staff.

- The impact of real time Change in Circumstances from ATLAS since 2012 has been diminishing through effective application of resources. LPS Housing Benefit is working towards achievement of normalised resource workloads and a reduction in backlog cases and have plans in place to reduce the 24 day turn around target to 20 days in September and further decrease to stand at 18 days by January 2018 (a target set by DfC). LPS anticipates continued improvement in financial accuracy and a reduction in the levels of fraud and error as SAU fraud and error measurements penalise LPS Housing Benefit for delayed action on information received.

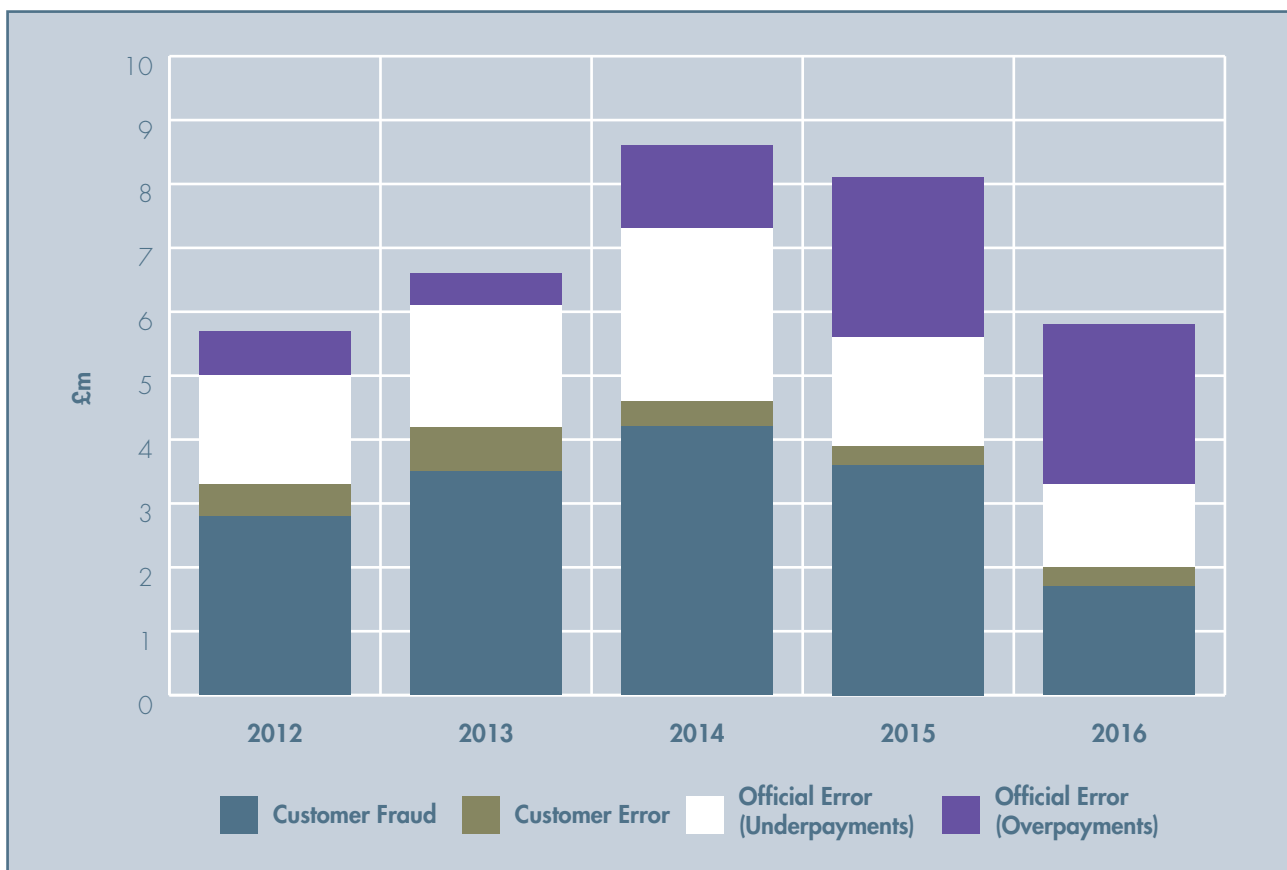
**Figure 17: Estimated fraud and error in housing benefit administered by LPS (Note 11<sup>27</sup>) deemed to be irregular**

	2012	2013	2014	2015	2016
	£m	£m	£m	£m	£m
Housing Benefit Administered	41.2	40.7	42.2	41.5	39.1
<b>Error</b>					
Official Error (Overpayment)	2.8	3.5	4.2	3.6	1.7
Customer Error (Overpayment)	1.7	1.9	2.7	1.7	1.3
Official Error (Underpayment)	0.5	0.7	0.4	0.3	0.3
<b>Total</b>	<b>5.0</b>	<b>6.1</b>	<b>7.3</b>	<b>5.6</b>	<b>3.3</b>
<b>% of Housing Benefit</b>	<b>12.1%</b>	<b>15.0%</b>	<b>17.3%</b>	<b>13.5%</b>	<b>8.4%</b>
<b>Fraud</b>					
Customer Fraud	0.7	0.5	1.3	2.5	2.5
<b>Total</b>	<b>0.7</b>	<b>0.5</b>	<b>1.3</b>	<b>2.5</b>	<b>2.5</b>
<b>% of Housing Benefit</b>	<b>1.7%</b>	<b>1.2%</b>	<b>3.1%</b>	<b>6.0%</b>	<b>6.4%</b>

Source: Analytical Services Unit, DfC

<sup>27</sup> Note 11 to the Trust Statement includes customer error underpayments of £0.3million which are not irregular transactions. This is consistent with the approach adopted in the DfC benefit regularity qualification for 2016-17

Figure 18: Breakdown of over and underpayments 2012 - 2016



Source: Analytical Services Unit, DfC

- Retention of experienced staff is also considered to be a contributory factor to the reduction of fraud and error, since the risk of error reduces as staff knowledge and skills increase.
- Significant quality assurance checks enable the identification of training needs as well as enabling prompt remedial action to be taken where errors have been identified.
- Automation of ATLAS notifications stands at 49.5 per cent of all notifications received in the current year (47,091 received of which 23,290 were automated). This is an increase of 15.8 per cent when compared to the previous year 2015. This has assisted in reducing the impact of delayed action and has enabled better management of the volume of claims where automation is not possible.

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#### Levels of Customer Fraud

3.126 I asked LPS if it had identified any specific reasons for the continued high levels of customer fraud. LPS told me that the SAU has identified that fraudulent income comprises the greatest percentage of customer fraud in LPS data. This is where the claimant has failed to declare or provide evidence to the DfC on earnings or other income that would reduce their entitlement to housing benefit/rate relief. To address this LPS has commenced a review of high risk cases, and hope to build on this by producing a yearly report to identify such cases on an ongoing basis. September 2017 saw will see the introduction of Wider Use of Real Time Information, an HMRC database that will allow Housing Benefit staff to check income on customer claims. This will help identify potential fraud and speed up the processing of claims which in turn will allow a greater number of cases to be reviewed.

3.127 My previous reports detailed particular differences between housing benefit for owner occupiers and all other 'means tested' social security benefits. I acknowledge that, in particular, all other 'means tested' social security benefits have a maximum two week payment period, whereas the LPS awards are for the rating year in which the award is made with a maximum of one year in advance.

3.128 Where an overpayment has occurred, LPS will reassess the liability for the rating year and issue the customer with

a revised rate bill once the change has been processed. I note that ratepayers' entitlement to rate relief may increase if their housing benefit reduces.

3.129 LPS considers that the results of its own Housing Benefit Quality Assurance Team's checks are more appropriate than those of the SAU because procedural and financial checks are undertaken daily on live claims to allow management to address errors immediately with staff. The accuracy figures are therefore a measure of the processing accuracy by LPS during the period rather than of payments made. However, the SAU checks look at all claims which give rise to payments in the period not just changes which require processing by LPS. LPS throughout 2016-17 reported an average payment accuracy level of 98.0 per cent compared to 94.7 per cent reported by the SAU. LPS expect that its processing accuracy of 98.0 per cent will continue to increase the payment accuracy reported by the SAU over time as more claims are revisited and historic information is updated and corrected.

#### Further Actions to reduce levels of fraud and error

3.130 I asked LPS what steps it is currently taking to continue to address the levels of fraud and error that remain and to comment on the results of these efforts to date. LPS told me that:



It has a team responsible for reviewing potentially high risk cases in respect of claimants in receipt of occupational pensions. 9,183 cases were identified as high risk. To date 6,807 of these cases have been reviewed and a further 88 cases were reviewed but awaiting customer response. Of the cases reviewed, 170 required amendment and resulted in a total clawback/recovery of approximately £320 per week. LPS expects that this will assist in the reduction of customer fraud and error as LPS proactively clarifies anomalies identified in claims. Whereas this was originally intended to be a one off exercise, the process will continue as part of the new fraud plan.

- It has been working closely with DfC in reconciling differences between data held closely on respective IT systems. Again this enables LPS to proactively identify and rectify anomalies.
- The success of these actions have contributed towards the improvement of the SAU financial accuracy position of 94.7 per cent at December 2016 against the target of 91 per cent in the LPS Operating Plan 2016-17 a 3.9 per cent improvement from the 90.8 per cent reported by SAU in December 2015.

3.131 LPS was also asked whether it had any new measures proposed for 2017-18 to further reduce the levels of fraud and error. I was informed, that LPS has implemented a review of cases

where no manual intervention has been applied since the initial claim, when the claimant declared income. In this area claimants' circumstances may have changed since their initial claim but LPS has not been updated. LPS has already completed a review of 8,755 cases and requested additional information on a further 1,571 cases. It is expected that the introduction of Wider use of Real Time Information will contribute to this review and that this exercise will also now form part of the fraud plan, which also includes using the LPS Registration Database (Landweb) as a method of obtaining confirmation of property owners.

3.132 As the backlog in outstanding claim actions reduces, LPS anticipates that the existing resource complement will have the capacity to conduct further case reviews of existing claims assuming there is no increase in workload or reduction in resources. However, the suspension of the Assembly in January 2017 meant that the legislation required to set the regional rate had to be processed as an Order in Council at Westminster. This Order did not receive Royal Assent until 27 April 2017 and resulted in a delay in the calculation and issue of rates bills, and a subsequent delay in processing outstanding claims.

3.133 Despite these actions, the level of fraud and error has remained significantly high over the past five years and my opinion on regularity is still qualified on this basis.

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#### Other Matters

3.134 I gave an undertaking to the PAC at its meeting on 24 October 2012<sup>28</sup> to monitor progress on the recommendations made in its report. In the following paragraphs, I have, provided an update on particular issues raised in the report.

#### Outstanding Valuation Caseload

3.135 There has been a fall in the outstanding non-domestic valuation caseload with 4,750 cases outstanding at 31 March 2017 (6,629 cases at 31 March 2016). By 31 March 2017, LPS had cleared the Stage 1 (Application to District Valuer) cases arising from the Non-Domestic Revaluation 2015 exercise, with approximately 25 per cent of these progressing to Stage 2 (Appeal to Commissioner of Valuations). This resulted in a larger number of Stage 2 cases in hand at year end. LPS anticipates that this will be a temporary situation and that the number of non-domestic cases in hand will continue to reduce going forward. I am pleased to note the reduction in the number of cases outstanding at year end given the additional workload associated with Revaluation 2015. I also note a further fall in the number of domestic cases in hand at 31 March 2017 to 10,679 (11,591 at 31 March 2016). LPS has told me that for 2017-18 it has a target for cases to be completed within 90 days across their primary work

streams. I welcome this development and look forward to continued improvement in average case processing times.

3.136 The estimated impact on the rate revenue figure of the outstanding domestic and non-domestic caseload at 31 March 2017 is no more than £2.7 million (£4.8 million at 31 March 2016). This reflected negative growth in the non-domestic Valuation List during 2016-17.

#### Vacancy Discharges

3.137 LPS continues to undertake a programme of inspections of vacant properties in conjunction with the new local Councils. The percentage of properties inspected was increased to 20 per cent, which exceeded the LPS target of 15 per cent. It should be noted that during 2016-17, the LPS vacancy inspection strategy in addition to high value empty property, also focussed on low value properties with a Net Annual Value less than £2,000, which when empty attract a full exemption from rating liability. This shift of focus is reflected in the outcomes.

3.138 The results of the inspection programme indicate the level of error in vacancy discharges, applied by LPS to ratepayer accounts, was no more than £2.43 million (£1.81 million in 2015-16). This level of error has increased by 34 per cent from 2015-16 and remains relatively high in terms of the overall vacancy discharge figure, although not material to my regularity opinion.

28 Evidence on the Northern Ireland Audit Office Report 'Statement of Rate Levy and Collection 2009-10 and 2010-11'. Public Accounts Committee Report together with Minutes of Proceedings of the Committee relating to the report and the Minutes of Evidence printed 12 December 2012 - NIA 88/11-15

## Ratepayer Debt

3.139 The level of ratepayer debt at year end has fallen for the fourth consecutive year from £142.7 million at 31 March 2016 to £131.7 million at 31 March 2017. The debt written off in year has also fallen from £28.6 million in 2015-16 to £20.7 million in 2016-17, however, the impairment of debt rose by £1.4 million in year from £35.2 million at 31 March 2016 to £36.6 million at 31 March 2017. It is encouraging that both the overall level of ratepayer debt and the levels of write-off have fallen significantly in year.

3.140 LPS told me that the improvement is a reflection of the continued impact of its new debt strategy, combined with several measures implemented during 2016-17 to improve collection including:

- improvement of customer segmentation;
- a pilot with external collection agencies such as Stubbs Gazette to target uncollectable debt;
- continued data cleansing;
- implementation of a new Enforcement of Judgements Office interface which created efficiencies in the recovery process;

- automatic Billing for new domestic and the domestic element of mixed hereditaments;
- an interactive Direct Debit mandate for customers; and
- introduction of a new Short Message Service (SMS) and e-mail reminder for turn of year discount to improve levels of customer compliance and expanding the Landlord SMS reminder service.

## Conclusion

3.141 I consider the estimated levels of fraud and error in housing benefit expenditure, administered by LPS, despite the reduction, to be exceptionally high. I have therefore qualified my audit opinion on the regularity of this benefit expenditure contained within the LPS Trust Statement – Rate Levy Accruals Account 2016-17.

3.142 LPS has put in place a number of practices designed to reduce the overall level of debt. However, debt levels remain high and I would urge LPS to continue these practices to maximise the revenue available to the Northern Ireland Executive in pursuit of its commitment to economic and social development in Northern Ireland.

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#### Part 2: LPS Fraud - Application Based Rate Rebate

##### Introduction and Background

- 3.143 This section of the report provides details on a fraud that occurred in LPS between May 2013 and September 2015. The amount misappropriated was £129,772.22, although the loss of revenue would be £134,283.83 if adjusted for the time value of money.
- 3.144 The fraud was perpetrated by an employee, Mr Davidson, by issuing fictitious rate refunds against certain properties and diverting the payments to bank accounts under his control.
- 3.145 It was detected in November 2015 by a staff member who identified some irregularities in a temporary incapable refund<sup>29</sup>.
- 3.146 On 18 December 2015, Mr Davidson was suspended without pay with the case having been referred to the GFIS. The GFIS began liaising with the PSNI on 17 December 2015 with a view to submitting an evidence pack to them. On 22 December 2015 the GFIS formally referred the case to the PSNI for investigation.
- 3.147 Following legal proceedings, Mr Davidson pleaded guilty to the fraud. In October 2016, he received a two and a half year sentence suspended for two years. A confiscation order was also put in place to recoup the money stolen. **Appendix 4** contains a timeline

of events from the discovery of the first irregularities by the staff member.

##### How the fraud was committed

- 3.148 The fraudster was an experienced Administrative Officer working in the Application Based Rate Rebate (ABRR) Team in the LPS Headquarters, Belfast. This team is responsible for the processing of application based rate rebates, whereby the ratepayer notifies LPS of a change in circumstances regarding their property and applies for a discharge on their rate demand as a result of the change. This can generate a refund to the ratepayer in cases where the ratepayer has already paid the full liability.
- 3.149 The fraud was committed by manipulating 16 refunds for two specific types of rebate, Temporary Incapable Rebate (approximately £100,000) and Non-Domestic Vacant Rating (NDVR) Rebate (approximately £30,000). The steps taken to perpetrate the fraud were:
- creating fictitious applications for Temporary Incapable Rebate, for a series of properties all on the same date and all payable to the same person, a purported agent;
  - forging the signature of a senior valuer to approve the applications;
  - creating fictitious applications for periods of NDVR<sup>30</sup>;
  - amending ratepayer details on the ratepayer accounts;

29 A non-domestic property may be affected by a temporary change of circumstances which could potentially make the property incapable of beneficial occupation giving rise to a reduction in the rates liability

30 Rates are not payable for three months from either the date a non-domestic property becomes vacant or the date Land & Property Services (LPS) has determined as a completion day. After the three month free period, rates will be billed at 50 per cent of the normal occupied amount

- changing payee addresses to redirect refunds to an address connected with him; and
- changing details back to the original after payment was made.

3.150 There was an acceleration in his activities during September 2015 in advance of a planned change to the control system. The figures and dates in **Figure 19** clearly demonstrate this. The change involved the creation of a record in the ratepayer's account whenever the Billing Address screen is altered. This means there is an audit trail of changes which can be verified. This control change would have eliminated the opportunity for the fraud to be continued.

**Figure 19: Fraudulent Payments raised May 2013 to September 2015**

Rebate	Amount £	Date Raised
<b>Non-Domestic Vacant Rating</b>	4,473.00	17/05/13
	1,801.06	12/02/14
	11,381.98	12/02/14
	5,400.18	29/08/14
	4,600.98	09/01/15
	2,517.31	09/01/15
<b>TOTAL</b>	<b>30,174.51</b>	
<b>Temporary Incapable</b>	9,735.22	24/07/15
	12,226.19	18/09/15
	37,799.30	18/09/15
	12,124.30	18/09/15
	21,395.83	18/09/15
	6,316.87	18/09/15
<b>TOTAL</b>	<b>99,597.71</b>	
<b>OVERALL TOTAL</b>	<b>£129,772.22</b>	

## How the fraud was discovered

3.151 The fraud was initially uncovered through the vigilance of an LPS staff member. They noted an unusual Temporary Incapable refund on a property which, from their personal knowledge, they suspected was inappropriate. The transaction was then queried with the ABRR Team in LPS Headquarters, Belfast. The ABRR Team initially advised there were no issues with the refund. The staff member was not content so further enquiries were made.

3.152 A total of five refunds all issued on the same date to the same individual, all associated with the same retail park, were identified. The billing names on these ratepayer accounts had all been changed on the same date. Investigation of the Valuation System revealed the refunds had not originated with the Valuation Team. When the staff member established these issues regarding the legitimacy of the refunds, they raised concerns formally with their line manager.

3.153 A senior valuer in the Valuation Team was subsequently contacted who appeared to have approved a Temporary Incapable application form in respect of the queried property, a copy of which was saved on the Abbacus<sup>31</sup> IT system. The senior valuer advised they were unaware of the case and suspected the signature had been forged. It was only then the issue was escalated to senior management and the LPS Fraud Response Plan and associated procedures triggered.

31 Abbacus is a fully managed service and customised rate collection system

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#### Control weaknesses that allowed the fraud to happen

3.154 The main control weaknesses that led to the perpetration of the fraud were:

- **The inadequate operational effectiveness of existing authorisation controls**

The processing of a refund for either Temporary Incapables or NDVRs requires manager approval off-line after the refund is input onto Abbacus. The approval requires paper copies of documentation to be prepared and signed off as evidence of review. This process did not operate as intended. Mr Davidson approached a different team manager in another section (with the appropriate authorisation levels) late in the evening after his line manager had left requesting urgent approval of refunds. The refunds were approved but without effective scrutiny or challenge as the refunds were outside the direct responsibility of the manager. LPS considered Mr Davidson to be 'an experienced, capable and trusted employee whose competence could be relied upon'.

- **The lack of key IT controls to prevent unauthorised changes to standing data and generate an appropriate audit trail**

Access to standing data on the system allowed Mr Davidson to change the ratepayer name and address prior to issue of a refund and

to then change it back after issue. This did not raise an automatic log entry on the ratepayer's account therefore no audit trail of the postings existed.

#### Actions to investigate the fraud

3.155 Once a fraud was suspected the LPS Fraud Response Plan and associated procedures were triggered and notification was sent to relevant parties including the LPS Chief Executive, the Permanent Secretary of the DoF, the Head of GFIS and the C&AG. The Head of GFIS appointed an investigator and LPS appointed a manager from its Revenue & Benefits section as sole contact for the PSNI when they commenced their investigation.

3.156 During meetings with LPS in December 2015 (when the suspected fraud was formally reported) the GFIS advised LPS to examine all work undertaken by the suspected perpetrator to ascertain whether any further financial irregularities could be identified and to establish whether other staff members were involved. An independent member of staff, with previous audit experience, was tasked with this review.

3.157 This review began in early January 2016. It was based on a two strand approach:

- obtain details of all Temporary Incapable adjustments ever made to ensure they were genuine; and

- review details of all refunds issued to a number of addresses associated with the staff member who perpetrated the fraud.

3.158 The first strand identified ten transactions over six ratepayer accounts traced to the refund stage which had payable orders processed by the same staff member. Of these refunds, one was genuine and due to the ratepayer. In this instance the ratepayer had been left out of pocket.

3.159 The second strand of the investigation revolved around the use of billing addresses (ten in total) for refunds associated with Mr Davidson. In total 43 transactions over 15 ratepayer accounts were suspected to be fraudulent.

3.160 After investigation 16 fraudulent refunds amounting to £129,772.22 were identified. These were issued to a named person associated with him.

3.161 Some additional IT investigative work was also completed. LPS traced on the Abbacus system when changes were made to the billing names and addresses. LPS was able to confirm that approximately 94 per cent of the changes had been made by Mr Davidson just before the payable orders were issued.

3.162 The report on the independent investigation was presented to senior management and communicated to the GFIS, the PSNI and Departmental Human Resources. It was concluded from the investigative work that:

- all transactions in the final list of fraudulent refunds were created by only one member of staff, namely the fraudster. He was acting alone and not in collusion with other members of the ABRR Team; and
- all refunds were issued to addresses associated with him.

## Conclusions and recommendations of the GFIS

3.163 The results of the above investigation were considered by the GFIS which subsequently produced a separate report on 24 March 2016. This report considered *'the report [from the above investigation] provided reasonable assurance that the full scope of the alleged fraudulent transactions instigated by Mr Davidson during his employment in LPS has been identified'*.

3.164 As well as the five initial suspected frauds, the GFIS was content that the additional findings from the above investigation had been notified to the PSNI by LPS. The GFIS report stated *'We can also take assurance from the fact that the Police, as part of their criminal investigation, have certified Financial Investigators, who are also analysing his bank accounts. Therefore any credits to the bank accounts from LPS should be readily identified and can be cross checked against the results of the LPS investigation which the Police have'*. LPS has advised that the PSNI also confirmed these findings.

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- 3.165 The GFIS report made a series of recommendations, some of which highlighted system control weaknesses to be immediately addressed. These are summarised below.
- the risk that someone could access the system, change the billing name and address, issue a cheque and then change the details back again without being detected is a key control failure in the system requiring immediate attention; and
  - the period of fraudulent activity (from May 2013 to its identification in November 2015) was an indicator that although management checks were in place, they were not effective. In addition management should be checking to ensure where information is required to be input into the system, it is done. For example log lines which record any changes in billing address against specific accounts were not filled in so an audit trail could not be verified. At that time a system fix to automatically log address changes was underway and implemented shortly after the fraud.
  - There was a high level of trust between management and staff which may have created opportunities which were taken advantage of.
- 3.166 Additional work was undertaken by the GFIS to establish what barriers the member of staff faced when they attempted to raise concerns about an alleged fraud through the ABRR Team and their line management.
- 3.167 The staff member who reported the suspected fraud did not consider themselves a whistleblower. They considered they were reporting genuine concerns but in doing so felt unsupported at the time. The GFIS report indicated the matter had a negative impact on the staff member. The Chief Executive of LPS upon hearing of their difficulties, immediately rang and arranged to meet them, and thanked them for the commitment, diligence and perseverance in bringing the issue forward. He also reassured them that lessons would be learnt and applied as a consequence of their experience.
- 3.168 The recommendations made by the GFIS focussed on:
- The review of policies and procedures in relation to whistleblowing to ensure all levels of management are aware of their responsibilities when a member of staff reports a genuine concern.
  - Making efforts to ensure there are clear and open channels of communication at management levels across the business areas of LPS to allow issues to be fully and honestly pursued.
-



## Action taken to address the ABRR system control and weaknesses highlighted due to limitations in functionality

3.169 On 21 March 2016 the staff member who conducted the internal investigation was temporarily appointed as an independent manager to the ABRR team and asked to carry out a review of processes and controls operated by this team. The processes under review were all Application Based Rate reliefs, namely: Temporary Incapable, Non-Domestic Vacant Rating, Lone Pensioner Allowance, Disabled Persons Allowance, Empty Premises Relief and Rating of Empty Homes. The purpose of the review was to identify the controls in place and highlight any areas of improvement to help mitigate against any potential recurrence of fraudulent transactions and to reduce the level of potential misstatement/error that could arise.

3.170 The findings identified in the report of the above review were:

- a limited number of in-built system controls giving rise to a disproportionate reliance on supervisory checks<sup>32</sup>;
- lack of current procedural documentation for all processes;
- staff with dual/multiple roles in the rating system;
- a number of processing scenarios where the rating functionality is not

set up and account adjustments are required. This gives rise to the development of off-line processes such as the Temporary Incapable rebate; and

- poor audit trail of changes made to some standing data e.g. ratepayers' names and addresses.

3.171 The report was produced in April 2016. It contained findings which demonstrate improvements have been made already in relation to the lessons learnt. These include:

- the introduction of audit trails identifying changes to or removal of either ratepayer names or addresses;
- review of the audit trail by management prior to authorisation of refunds;
- regular generation of reports showing staff with dual/multiple roles and review by management to ensure they are appropriate;
- use of the in-built sample generation report within Abbacus to select samples of 10 per cent of all applications processed for management review;
- communication of the possible impact on a staff member's career, the LPS Team as a whole, and possibility of criminal record for engaging in a similar fraudulent activity; and

32 The C&AG in the 2006-07 Financial Auditing and Reporting General Report noted key control problems with the Rating IT system. A number of points on the lack of basic controls expected to be key elements of most IT systems were raised, in particular the identification of errors being heavily dependent upon manual supervisory checks. Although the specific issues were addressed by LPS at the time, we note the continued reliance on such checks

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- the roll out of a “Back to Basics” training programme for staff to remind them of their Corporate Governance and Management responsibilities and highlight the importance of whistleblowing.

- 3.172 The report goes on to recommend additional changes which could be made to the system and the business itself to further strengthen controls and culture to mitigate against the risk of a similar fraud. The recommendations are sub-divided into short, medium and longer term. (See **Appendix 5** for details).
- 3.173 The recommendations arising out of the fraud investigative work have been shared with the LPS Audit and Risk Committee and the LPS Management Board and also the Departmental Audit and Risk Committee and Board. They have been reviewed in detail and an action plan developed for their implementation. LPS continues to action the recommendations.

### Lessons learnt

- 3.174 An analysis of this fraud case has indicated a number of key lessons which, if applied, could enhance the integrity of any control environment in particular, LPS and its rating systems/procedures.

#### *Staff with dual/multiple roles on a system*

- 3.175 The holding of dual/multiple roles by a member of staff can result in an increased risk of potential fraud. No staff member should be granted dual/multiple permissions to both create and authorise transactions or refunds and LPS has confirmed that this is the case at a transactional level. LPS has also indicated that a review of the segregation of duties between those who authorise changes and those who make them is underway across all rating functions.

#### *Supervisory and Managerial Checks*

- 3.176 Management, through supervision and checking, need to scrutinise the operation of controls as well as overseeing the work and performance of staff. Complacency in executing managerial checks cannot be tolerated. Fraud investigations as a matter of course should consider whether there has been a failure of supervisory checks and if necessary appropriate disciplinary action taken where they have occurred. LPS has advised me that the circumstances around the perceived complacency in executing checks and controls, and whether disciplinary actions was warranted, has been reviewed. LPS has concluded that there is no definitive evidence of failure to execute managerial checks and controls. The perpetrator provided fraudulent documentation or took advantage of the ‘caretaker’ manager’s limited knowledge of the off-line paper based system.

LPS considers it has, and continues to address this latter matter through its “Back to Basics” training programme.

#### *Job Rotation*

- 3.177 Job rotation should also be instigated on a regular basis to reduce the potential impact of over-familiarisation. Organisations like LPS should design and develop job rotation policies by considering risk prone or vulnerable areas, job levels at which such rotations need to be implemented and frequency.

#### *Bespoke IT Systems*

- 3.178 Bespoke IT Systems such as the Rating systems are frequently designed with limited in-built controls which can exert undue pressure on the requirement for supervisory checks. In addition, over time new processes can emerge which have not been accommodated within the existing system. This gives rise to off-line processes which can be subject to manipulation and are more prone to override. This was the case in LPS where a new rating service process i.e. Temporary Incapable accounts, could not be accommodated within the existing Valuation System. When designing a new IT system, consideration needs to be given to building in safeguards against both internal and external fraud. LPS intends to replace the current IT systems within the next couple of years. One of the mandatory design requirements is that all rating service processes are automated, with robust IT internal controls incorporated within the solution.

#### *Audit Trail/Log of information changes/amendments*

- 3.179 The audit trail is a critical component in fraud detection. Strict adherence to the creation of an audit trail provides information proving the legitimacy of transactions. The presence of an audit trail requirement also serves to deter fraud. Employees who know that management monitors and tracks their work see less opportunity for fraudulent activity. Before the fraud was discovered LPS had identified the need for this control and it was introduced in December 2015, and is likely to have accounted for the escalation of the fraud in September 2015.

#### *Dealing with the fraud investigation*

- 3.180 It is important to deal with a fraud definitively and swiftly as soon as it is identified. Promptness and accuracy is critical when reporting the details of a fraud investigation to ensure it is fair and impartial and the findings are creditable and do not prejudice any future legal proceedings. Once the fraud was formally reported, LPS was quick to investigate and to instigate corrective action.

#### *Fraud Awareness*

- 3.181 Due to the vigilance of a staff member the fraud in LPS was detected. All staff have an ongoing role to play in the prevention of fraud. They must be aware of their role and be reminded of it on a regular basis. As the opportunity for fraud increases during times of

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organisational change, it is essential that fraud awareness is given a high profile. Fraud awareness can be raised in a variety of ways, for example, training programmes, fraud and whistleblowing policies, use of intranet and staff bulletins and tailored training for staff in high risk areas.

#### *Whistleblowing Arrangements*

3.182 Employees are often the ‘eyes and ears’ within an organisation and therefore an invaluable resource in helping detect fraud. As part of an open and ethical culture, staff should be encouraged to raise concerns about possible fraud and it is essential that they have a secure and reliable means of doing so. Commitment from the top of the organisation that concerns will be welcomed and treated seriously is paramount to a successful policy, coupled with reassurance that employees will not be victimised or suffer detriment for raising concerns. LPS has advised me that it is fully committed to encouraging all staff to raise any concerns immediately with management. LPS is re-emphasising this to all staff. LPS has advised me it is committed to providing refresher training to all staff.

### Conclusion

3.183 I find it surprising that some of the control weaknesses which allowed the fraud to be perpetrated were basic, for example

inadequate supervisory checks, audit logs etc. I welcome, however, the good practice evident during the investigation of the fraud.

3.184 Basic control weaknesses associated with public sector frauds have previously been reported on by my Office<sup>33</sup>. It is critical that public sector organisations learn from these.

3.185 LPS is currently in pursuit of the amount defrauded following the issue of a confiscation order to recoup the amount stolen. LPS has advised me that a total of £97,500 has been recovered by the NICTS and that the PSNI has a team which revisits confiscations every few years to check for the availability of further money or obtained assets. I expect this case will be reviewed regularly by LPS and should circumstances change and further funds become available, this will be pursued.

3.186 I will continue to monitor progress regarding the implementation of recommendations emanating from the fraud investigation.

## G: Northern Ireland Housing Executive – Regularity Issues

### Introduction

3.187 The Northern Ireland Housing Executive is comprised of a Quasi-Public

33 Examples include:

- The report on the Northern Ireland Appropriation Accounts 2000-01 Department of Enterprise, Trade and Investment – Vote B: Other Economic Support Measures, Administration, Energy and Miscellaneous Services – Local Enterprise Development Unit: Internal fraud
- Internal Fraud in Ordnance Survey of Northern Ireland, 15 March 2007
- Internal Fraud in the Sports Institute for Northern Ireland, 19 November 2008

Corporation and a Non-Departmental Public Body (NDPB)<sup>34</sup> and is sponsored by DfC. 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 86,000 dwellings.

- 3.188 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 for the purposes intended by the Northern Ireland Assembly (the Assembly) and the financial transactions conform to the authorities which govern them.

### Explanation for qualified audit opinions

- 3.189 This report reviews the results of my 2016-17 audit of the Housing Executive and sets out the reasons why I consider I do not have enough evidence to provide an unqualified regularity audit opinion.

### Planned maintenance expenditure (Part 1)

- 3.190 The Housing Executive spent a total of £95.2 million on planned maintenance during 2016-17. Considerable problems have been identified in the past in relation to the Housing Executive's controls over work done by contractors

on its planned maintenance programme and I have qualified my regularity audit opinion in this area for a number of years.

- 3.191 I have not been provided with sufficient evidence over the controls operating with respect to planned maintenance expenditure for 2016-17. Therefore I have again qualified my regularity audit opinion. Further detail is set out in Part 1 of this Report.

### Housing benefit expenditure (Part 2)

- 3.192 The Housing Executive spent £674.5 million on housing benefit in 2016-17. The fraud and error within this expenditure has been estimated to be £32.1 million. As these levels are significant I have qualified my audit opinion on regularity. The Housing Executive's accounts have received similar qualified audit opinions in previous years. Further detail is set out in Part 2 of this Report.

### Other matters (Part 3)

- 3.193 In July 2015, I asked the DfC to investigate anonymous allegations referred to me by an MLA. The DfC's Internal Audit Unit completed an investigation into this matter in August 2016 but my staff were not provided with a copy of the report until February 2017. Furthermore, the findings were not reported to the Housing Executive's Audit and Risk Assurance Committee

34 From 1 April 2014, following a review by the Office for National Statistics, the accounting classification of the Housing Executive changed. The Housing Executive now comprises two accounting regimes. Landlord Services and functions have been re-classified as a Quasi-Public Corporation (which is similar to the previous designation for the entire organisation) while Regional Services and functions are now categorised as an NDPB. The main impact of the accounting reclassification is that the NDPB will, for accounting purposes, be more closely integrated with the sponsor department and budgetary management arrangements are now aligned to those already in place for the department

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(ARAC) until my staff brought the oversight to the attention of the Housing Executive. Further detail is set out in Part 3 of this Report.

#### Part 1: Planned maintenance expenditure

##### Qualified opinion due to insufficient evidence of controls operating over planned maintenance expenditure

###### Key Points:

- Seven of the 13 general planned maintenance schemes inspected this year were classified as limited or unacceptable.
- All six planned heating maintenance schemes inspected this year were classified as substantial or satisfactory.
- My audit opinion continues to be qualified due to lack of sufficient evidence on controls operating over planned maintenance.

#### Background

3.194 Planned maintenance expenditure refers to the money spent annually by the Housing Executive to maintain its housing stock, and includes general maintenance such as works to the exterior of a dwelling (external cyclical maintenance), kitchen replacement, double glazing, disabled adaptations and heating upgrades. During 2016-17, the Housing Executive spent £95.2 million on such schemes compared to £100.1 million in 2015-16. A breakdown is provided in **Figure 20**.

3.195 During the audit, my staff examined the Housing Executive's internal controls to ensure that:

- work done by contractors is properly inspected by maintenance staff;
- accurate assessments of sums payable to contractors are established; and

Figure 20: Planned maintenance expenditure for 2016-17 and 2015-16

Planned Maintenance Expenditure	2016-17		2015-16	
	£m	%	£m	%
Heating	27.1	29	29.1	29
External Cyclical Maintenance	18.5	19	15.0	15
Kitchen replacement	16.6	17	17.1	17
Grounds Maintenance	8.7	9	8.2	8
Bathroom/Kitchen/Rewiring schemes	7.5	8	0.9	1
Disabled Adaptations	3.6	4	3.0	3
Double Glazing	2.2	2	10.7	11
Fire Doors	2.5	3	3.8	4
Others	8.5	9	12.3	12
<b>Total</b>	<b>95.2</b>		<b>100.1</b>	

Source: NIHE

- payments are not made until work has been satisfactorily completed.

3.196 One of the key controls in ensuring that proper inspections are taking place is the work that the Audit and Assurance Department's (AAD)<sup>35</sup> Technical Inspection Unit (TIU) undertakes. The AAD is independent of management and provides assurance to both Housing Executive management and the Accounting Officer. Every year the TIU selects planned maintenance schemes that are seventy-five per cent or more complete. The TIU then selects a random sample of 10 per cent of the dwellings in each scheme for inspection and all aspects of the scheme delivery process are reviewed. Due to the technical nature of maintenance work I rely on the inspections completed by the TIU.

3.197 The Head of the AAD classifies the results of these inspections as providing substantial, satisfactory, limited or unacceptable assurance based on the evidence gathered, the level of risk to which the Housing Executive is exposed and previous inspection findings. Reports classified as substantial or satisfactory provide assurance that there is either a robust or adequate system of governance, risk management and control. Reports classified as limited or unacceptable highlight an inadequate or failed system of governance, risk management and control.

3.198 In June 2015, the AAD concluded that the methodology for planned maintenance inspections was flawed. In my 2015-16 report I noted that the flawed methodology for planned maintenance technical inspections was still in use. In July 2016, the AAD introduced a revised technical inspection methodology which aimed to provide more comprehensive and reliable assurances on the Housing Executive's maintenance activities. I understand that the Department's Inspection Team<sup>36</sup> has reviewed this and is satisfied with it.

3.199 I recognise that the TIU will need to periodically review the effectiveness of this new approach, however, given the lengthy and rigorous quality assurance process to date I would not expect there to be significant changes. Keeping the methodology consistent should assist Housing Executive management in assessing trends in performance year on year.

### General planned maintenance inspection results

3.200 The results of the 2016-17 inspections are set out in **Figure 21** (overleaf). There were 13 inspections this year covering a number of different types of schemes of which seven received limited or unacceptable classifications. I have reviewed a sample of the work completed by the TIU and I am satisfied that the work examined was properly carried out in line with their

35 In June 2014 the AAD was formed following the merger of the Housing Executive's Corporate Assurance Unit and its Internal Audit Unit

36 This Team carries out a programme of inspections which provides the Departmental Accounting Officer with assurance on the activities of the Housing Executive

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Figure 21: Results for the AAD general planned maintenance scheme inspections in 2016-17

Type of scheme Classification	External Cyclical Maintenance	Kitchens	Disabled Adaptations	Grounds Maintenance	Others	Total
Substantial	0	0	0	0	0	0
Satisfactory	2	2	0	2	0	6
Limited	1	0	3	1	1	6
Unacceptable	0	0	0	0	1	1
<b>Total</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>13</b>

Source: NIHE

procedures and methodology. All three of the disabled adaptations inspections utilised the previous methodology, with the new approach in use for the other ten inspections. Reasons for these poor classifications include poor consultant performance, inadequate documentation and records management, and previous priority one recommendations not being implemented. To address this final point the Annual Governance Statement notes that the Head of the AAD intends to validate the reported status of all future recommendations.

3.201 **Figure 22** shows that the percentage of schemes classified as limited or unacceptable has increased to 54 per cent in 2016-17 from 29 per cent in

2015-16.

3.202 Although inspection results can be compared at a high level year on year, the TIU selects different types of maintenance schemes for inspection each year so results on individual inspections are not directly comparable. Furthermore fewer schemes were inspected this year and the revised inspection methodology was used for ten of the thirteen schemes examined.

3.203 The Housing Executive spent £3.6 million on schemes for disabled adaptations in 2016-17 (£3 million in 2015-16). Technical inspections, covering all three Housing Executive regions, received a limited classification

Figure 22: Comparison of the AAD's general planned maintenance scheme inspection results for 2015-16 and 2016-17

Inspection classification	2016-17		2015-16	
	Number	%	Number	%
Substantial	0		2	12
Satisfactory	6	46	10	59
Limited	6	46	2	12
Unacceptable	1	8	3	17
<b>Total</b>	<b>13</b>		<b>17</b>	

Source: NIHE



this year. Findings include on-site works not matching approved plans, poor project documentation/records management, and over or under payments identified by inspectors. I asked why so many issues arose in respect of these schemes and the Housing Executive told me that the staff responsible for managing the contracts, on behalf of the Regions, had a poor understanding of the new contracts which were very different from the previous contract. Furthermore, they encountered difficulties in maintaining on-site delivery of the schemes, as the existing Framework contracts were coming to an end. Consequently the Housing Executive's management decided to transfer responsibility for these contracts to Regions by 31 March 2016 and external consultants were engaged to manage each scheme using the new consultant framework. The technical inspections referred to above, were in relation to schemes managed under the pre April 2016 structures.

### Issues identified in consultant-led planned maintenance schemes<sup>37</sup>

3.204 In April 2013, the Housing Executive established a new framework of external consultants to manage the delivery of the work of contractors. The duration of the framework was initially two years and was extended until the contracts expired in April 2017. In December 2015, the AAD identified non-compliance and variations in practice, across the three Regions during an internal audit. Two of the AAD's key recommendations were,

the need for a fundamental review of the planned schemes' delivery process to ensure adequate controls over regional management of the consultants and consultants' management of contractors, and the need to plan for the end of the contract in April 2017.

3.205 A follow up audit completed this year found that:

- the action plan (developed by Housing Executive management in response to the earlier findings) did not address the control weaknesses that had previously been identified in the scheme delivery process and contract;
- Key Performance Indicators scored by the consultant may be inaccurate resulting in unreliable management information. In addition, it is possible that significant low performance damages were not applied to poor performing contractors; and
- arrangements for 2017-18 were not yet finalised leading to a different approach being established for each Region (see paragraph 3.218).

3.206 I asked why the issues raised by the AAD had not been addressed, and the Housing Executive told me that at the time of the previous audit the consultants' contract was nearing the end of an extension period and it had to decide whether to exercise the final 12 month option to extend. The Housing Executive management considered that the risks of extending the contracts would be less

<sup>37</sup> These planned maintenance contracts transferred responsibility for managing the majority of maintenance contracts to external consultants who in turn are accountable to the Housing Executive. Previously the Housing Executive directly managed these contracts

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than the risks associated with terminating them, as for example, resource shortages and service disruption would be avoided. For 2017-18, the Housing Executive told me that professional services are either being brought in-house or delivered by the existing planned maintenance contractors in areas where issues were experienced with current consultants. Furthermore, a series of changes in process and contract management were agreed and implemented through the final extension period. It told me that lessons learned have been shared with the Procurement Project Team, who will be required to produce a new scheme delivery process for the upcoming procurement of planned maintenance services with a proposed start date of April 2018.

3.207 The TIU inspected five<sup>38</sup> consultant-led planned schemes in 2016-17. Four were classified as satisfactory and one classified as limited. The latter was an external cyclical maintenance scheme where the poor performance of the consultant resulted in significant additional works to the value of around £100,000.

### Progress on whistleblowing investigations

3.208 In my 2014-15 Report I provided an update on the Housing Executive's investigation into whistleblowing allegations raised in the South Region. As part of that investigation concerns were identified over the standard of workmanship on double glazing schemes in the South Region and reported to the Housing Executive's

Audit and Risk Assurance Committee (ARAC) and the Chief Executive's Business Committee (CXBC). Housing Executive management undertook to report back to the CXBC as soon as a quality assurance check had been completed. A series of inspections and reports were undertaken by Housing Executive staff between February 2015 and June 2016. I asked the Housing Executive to provide an update on the outcome of these inspections. It told me that the investigation of a sample of double glazing schemes revealed inconsistencies in the quality of work and less than full compliance with the required specification for installation. Since then the Housing Executive has implemented new contracts and contract management arrangements, incorporating lessons learned, with responsibility now falling under the newly formed Asset Management Division.

3.209 The Housing Executive is also investigating two whistleblowing allegations in respect of grounds maintenance contracts. I asked the Housing Executive for an update on progress to date. It told me that the first allegation, reported in May 2015, was investigated during 2015 and 2016 and the preliminary conclusion indicated that there was no fraud. However, there were issues within the contract management procedures operated by staff at various levels. An interim report was issued in January 2017 which highlighted these emerging issues.

3.210 Further whistleblowing allegations into grounds maintenance were received in April 2016 and, due to limited resources, the Housing Executive did

38 This refers to the external cyclical maintenance and kitchen schemes inspected as part of the 2016-17 programme

not start investigating these until January 2017. Again this investigation has not found any evidence of fraud or significant overpayment to the contractor involved. Preliminary findings have indicated that work is required to align the two separate IT systems for recording grounds maintenance for Housing Executive land. As some of the concerns investigated within the April 2016 series of allegations have affected the findings of the first investigation there has been a delay in issuing a report of the findings and recommendations.

### Planned heating maintenance inspection results

3.211 The Housing Executive spent £27.1 million (29 per cent of total planned maintenance expenditure) during 2016-17 on planned heating maintenance. This year three heating installation schemes and three servicing schemes have been inspected by the TIU's qualified heating engineers with five schemes receiving a satisfactory classification and one a substantial classification. Two of these six inspections were based on the old methodology. These classifications represent an improvement on last year's results and this is encouraging.

### Conclusion on both general and heating planned maintenance expenditure

3.212 This year 54 per cent of the general planned maintenance schemes inspected by the TIU have had limited or unacceptable classifications. This

increase is disappointing but, as noted in paragraph 3.200, three of the thirteen schemes inspected this year relate to disabled adaptation schemes. These schemes are low value and there have been particular issues with their contract management (See **Figure 20**).

3.213 I note that while the AAD recommendations in respect of the 2015 audit of consultant-led contracts were not implemented, the Housing Executive's management has advised that alternative actions were taken to address the risks.

3.214 I have commented previously about delays by the Housing Executive in investigating whistleblowing allegations. I understand that the Housing Executive, like other public sector bodies, has to operate within constrained resources. Serious allegations, such as those noted at paragraph 3.209, should be investigated at the earliest opportunity to ensure that further potential losses do not arise, and to send out the message that consideration of such matters is a key priority for the Housing Executive.

3.215 I welcome the Housing Executive's assurance that lessons learned from previous investigations into double glazing schemes have been incorporated into new contracts. I do find it concerning that results of the previous quality assurance checks over double glazing schemes were not reported back to the CXBC nor were the ARAC kept informed of progress in these investigations.

3.216 While I am content that there has been considerable progress in the Housing Executive's management of planned

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maintenance heating contracts these improvements need to have further time to bed in before I will consider removing my audit qualification in this area.

- 3.217 At this stage, I do not consider that I have sufficient evidence of controls operating over the management of both general and heating planned maintenance contracts.

#### Matter for future consideration

- 3.218 The Housing Executive has put interim arrangements in place for the delivery of the planned maintenance programme in 2017-18 (see paragraph 3.205). This was necessary as the consultants' contract expired in April 2017 but the contractors' contract continues until April 2018. In the interim period I note that different arrangements for consultancy work have been adopted by each Region. I intend to follow up on the effectiveness of the differing approaches in my 2017-18 audit.

#### Qualification of regularity opinion due to insufficient evidence of controls operating over planned maintenance expenditure

- 3.219 Accordingly, in 2016-17 I was unable to obtain sufficient evidence that the Housing Executive's control of this planned maintenance expenditure was adequate to ensure payments were applied for the purposes intended by the Assembly. I have therefore qualified

my regularity audit opinion on planned maintenance expenditure of £95.2 million.

#### Part 2: Housing benefit expenditure

#### Qualified opinion due to estimated levels of fraud and error in housing benefit expenditure

##### Key Points:

- **2016-17 had a higher estimated level of housing benefit overpayments due to customer fraud than any of the previous four years.**
- **Overpayments due to official error are 69 per cent higher than last year.**
- **My audit opinion continues to be qualified due to the material level of estimated fraud and error in housing benefit expenditure.**

#### Background

- 3.220 Housing benefit is a means-tested benefit to help people on low income pay rent. The Housing Executive administers this benefit on behalf of the DfC which funds customer payments and the majority of administrative costs. Eligibility depends on several factors including: income and capital; household size; age; circumstances and rent levels. In 2016-17 the Housing Executive spent £674.5 million (2015-16: £680.3 million) on housing benefit.

3.221 In 2013 the Westminster government introduced a wide range of changes to the social security (benefits) system known as 'Welfare Reform'. Legislation to enable this in Northern Ireland was introduced in November 2015. Two of the five main elements of Welfare Reform that impact on the Housing Executive have been implemented during 2016-17:

- the Benefit Cap, which has affected 1,990 housing benefit claimants; and
- the Social Sector Size Criteria (the 'Bedroom Tax') which has affected nearly 33,000 housing benefit claimants living in the social sector leading to awards being reduced by £406,000 per week on average.

3.222 DfC is administering a Welfare Supplementary Payment scheme until 31 March 2020 to award mitigation payments for those claimants affected by the changes.

## Arrangements for monitoring and reporting of fraud and error

3.223 DfC's Standards Assurance Unit (SAU) regularly monitors and provides estimates of the level of fraud and error within ongoing housing benefit claims. Fraud and error arises in different ways:

- **customer fraud**, which arises when customers deliberately seek to mislead the Housing Executive;

- **customer error**, which arises when customers make inadvertent mistakes with no fraudulent intent; and

- **official error**, which arises when housing benefit, is paid incorrectly due to inaction, delay or a mistake by the Housing Executive.

3.224 SAU reviews are based on a sample of benefit claims and are therefore subject to statistical sampling uncertainties. My staff examine the work undertaken by the SAU and I am content that the results produced by them are a reliable estimate of the total fraud and error in the housing benefit system.

3.225 The criteria that are used to determine the entitlement to housing benefit, and the method to be used to calculate the amount due to be paid, is set out in legislation. Where fraud or 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 have not been made in line with the governing legislation. Overpayments of housing benefit as a result of customer fraud, customer error or official error, and underpayments as a result of official error, are considered to be irregular. Underpayments due to customer error are not considered irregular as customers can decide not to claim benefits.

## Section Three: Other Matters

### Results of the SAU’s testing in 2016-17

3.226 The SAU reports the results of its testing on a calendar year basis to facilitate the timetable for the production of the financial statements. The amount of housing benefit expenditure paid in the 2016 calendar year was £665 million whereas the amount paid out in the financial year 2016-17 is £674.5 million as disclosed in Note 7 to the accounts.

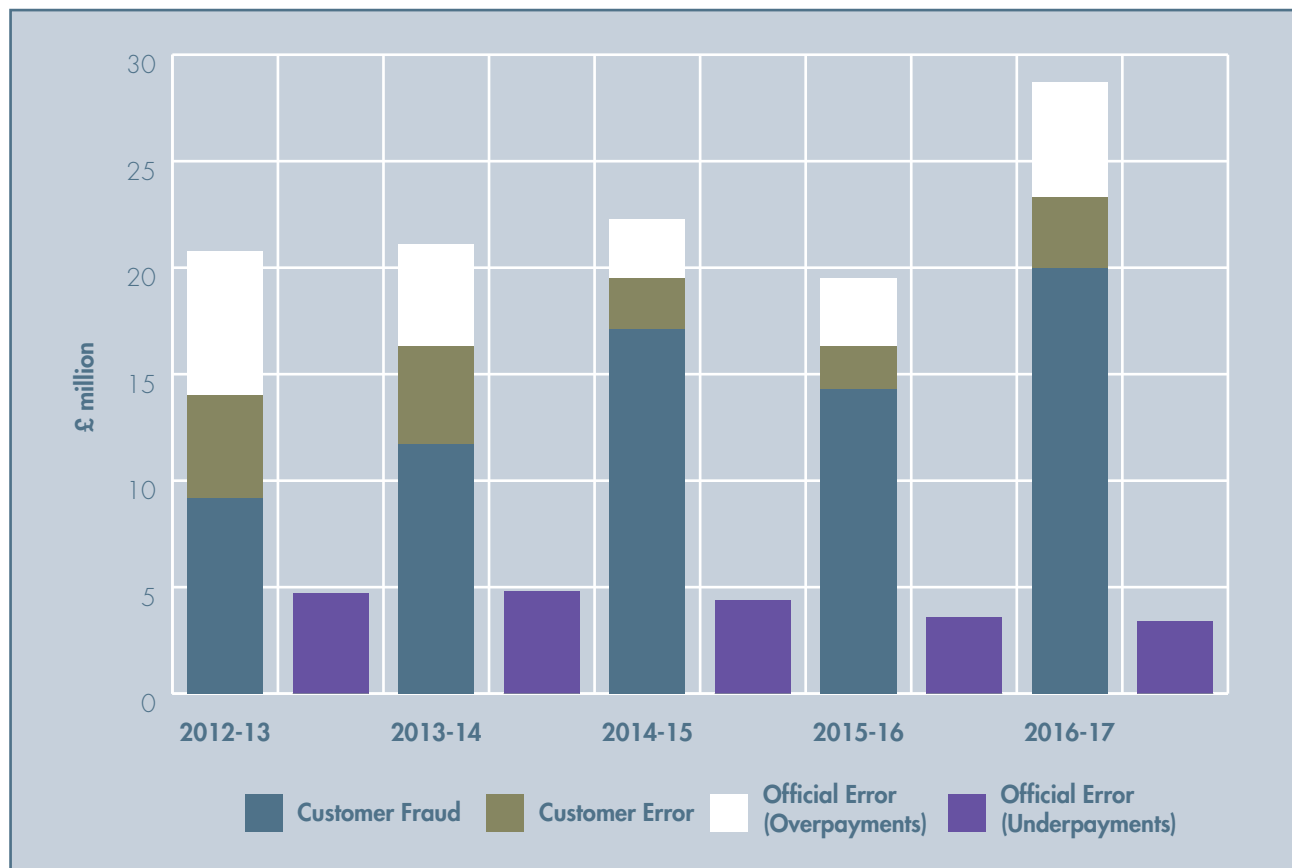
3.227 Note 28 to the accounts (entitled ‘Fraud and Error’) details the estimated levels of fraud and error, based on the SAU’s

work, in 2016. This shows that the total amount of estimated irregular payments in 2016-17 was £32.1 million comprising:

- overpayments due to customer fraud or error and official error of £28.7 million (4.3 per cent of housing benefit payments).
- underpayments due to official error of £3.4 million (0.5 per cent of housing benefit payments expenditure).

3.228 **Figure 23** shows that the total estimated level of overpayments has increased from £19.5 million to £28.7 million (28

**Figure 23: Breakdown of estimated levels of fraud and error by type, 2012-13 to 2016-17**



Source: DfC

	2012-13 £m	2013-14 £m	2014-15 £m	2015-16 £m	2016-17 £m
<b>Total Housing Benefit Expenditure</b>	<b>612</b>	<b>659</b>	<b>650</b>	<b>666</b>	<b>665</b>
Overpayments due to:					
Customer Fraud	9.2	11.7	17.1	14.3	20.0
Customer Error	4.8	4.6	2.4	2.0	3.3
Official Error	6.8	4.8	2.8	3.2	5.4
<b>Total overpayments</b>	<b>20.8</b>	<b>21.1</b>	<b>22.3</b>	<b>19.5</b>	<b>28.7</b>
% of overpayments	3.4%	3.2%	3.4%	2.9%	4.3%
<b>Total underpayments due to Official Error</b>	<b>4.7</b>	<b>4.8</b>	<b>4.4</b>	<b>3.6</b>	<b>3.4</b>
% of underpayments	0.8%	0.7%	0.7%	0.5%	0.5%

Source: DfC

per cent) this year and is higher than any of the previous four years. The largest element of this is customer fraud which has increased by £5.7 million. The SAU examined 552 cases (2015: 545 cases) during the year and identified customer fraud or error in 75<sup>39</sup> (2015: 50) of them. In more than 60 per cent of these cases the customer had incorrectly declared earnings and income. I am disappointed by the significant rise in estimated overpayments due to customer fraud and error this year. I asked the Housing Executive why this had occurred. It told me that it was also disappointed that the reported estimates for fraud and error have increased but note that these are still significantly lower than those reported in Great Britain (GB) as detailed in **Figure 24**. The Housing Executive was unable to analyse the specific reasons for the increase in

estimated figures this year as the issue of customer fraud does not lie wholly within its control.

3.229 The SAU examined a further 588 cases (2015: 588) during the year and identified official errors in 118 cases (2015: 90). Overpayments as a result of official error have increased by nearly 69 per cent from £3.2 million in 2015-16 to £5.4 million in 2016-17. As official errors arise from mistakes by the Housing Executive these errors are within its control and it is best placed to reduce them. The Housing Executive has attributed this increase to staffing issues and the Accounting Officer has provided comprehensive detail on the various measures being taken to address fraud and error in his Annual Governance Statement.

39 Twenty-two (2015: 14) of these cases are "passported" housing benefit claims. Passported benefits are benefits which some claimants are entitled to because of their entitlement to other benefits. In these cases the fraud relates to a claim for a different social security benefit but still affects the housing benefit award

## Section Three: Other Matters

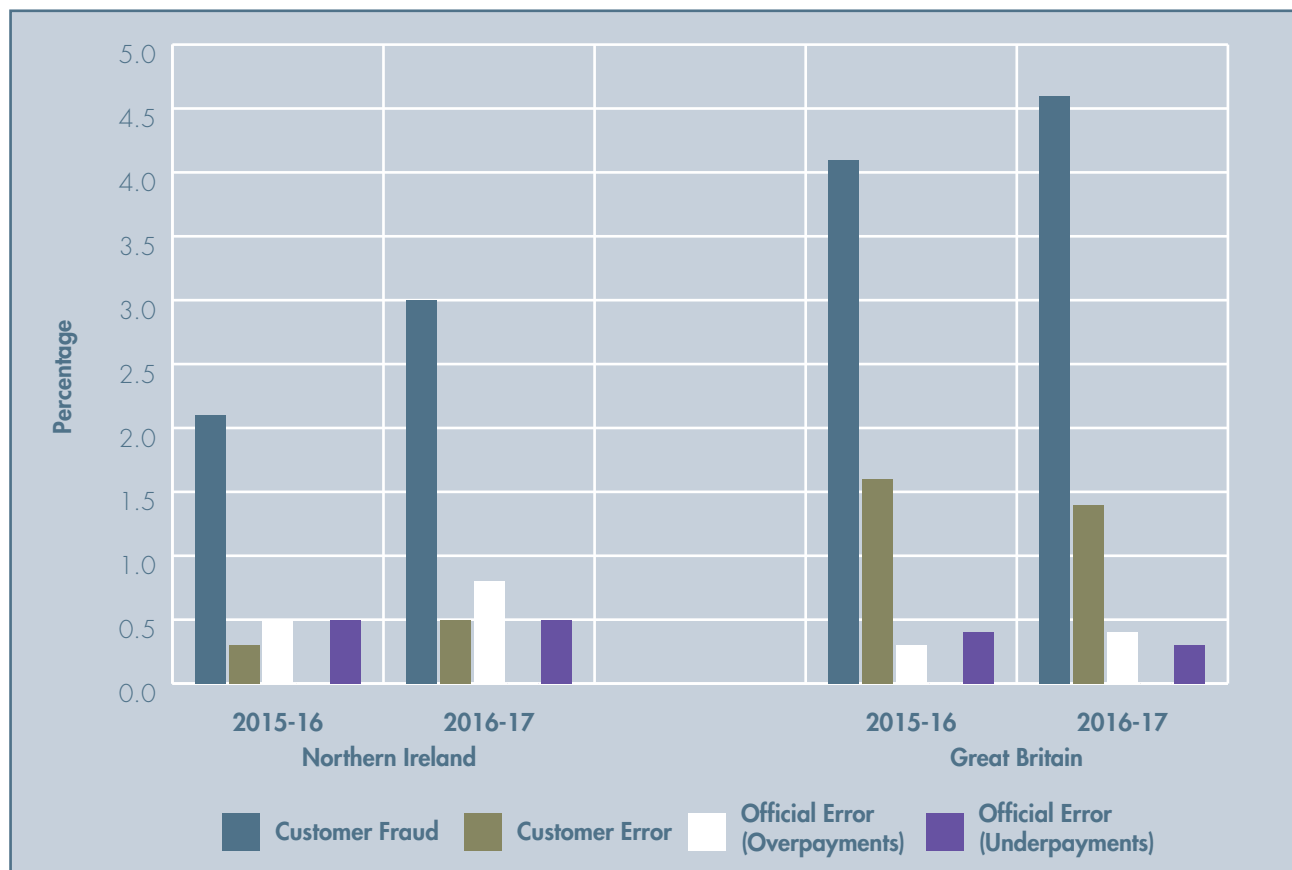
### Comparison with other GB jurisdictions

3.230 While welfare powers have been devolved to the Assembly they have not been devolved to the Scottish or Welsh governments. Accordingly, the Department for Work and Pensions (DWP) reports estimated fraud and error figures for GB as a whole and statistics for the individual jurisdictions are not available. **Figure 24** compares estimated fraud and error rates for over and underpayment of housing benefit in Northern Ireland with those in GB.

It shows that benefit overpayment rates were higher in both areas in 2016-17 than in 2015-16. As is the case in Northern Ireland the main cause of customer fraud and error in GB is the failure to declare earnings and employment.

3.231 The DWP has reported that for 2016-17 the estimated customer fraud overpayment rate of 4.6 per cent for GB is the highest recorded rate, while the customer error overpayment rate of 1.4 per cent is the lowest recorded rate. The DWP has attributed this to the change in

**Figure 24: Comparison of the rate of estimated levels of fraud and error between Northern Ireland and GB for 2015-16 and 2016-17**



Source: DfC and DWP



	Northern Ireland		GB <sup>39</sup>	
	2016-17	2015-16	2016-17	2015-16
<b>Total Housing Benefit Expenditure</b>	<b>£665m</b>	<b>£666m</b>	<b>£23.5bn</b>	<b>£24.2bn</b>
Overpayments due to:	%	%	%	%
Customer Fraud	3	<b>2.1</b>	4.6	<b>4.1</b>
Customer Error	0.5	<b>0.3</b>	1.4	<b>1.6</b>
Official Error	0.8	<b>0.5</b>	0.4	<b>0.3</b>
% of overpayments	4.3	<b>2.9</b>	6.4	<b>6</b>
Official Error				
% of underpayments	0.5	<b>0.5</b>	0.3	<b>0.4</b>

Source: DfC and DWP

the way it has categorised overpayments which has had a particularly marked impact on housing benefit. I asked the Housing Executive whether this change had been applied in Northern Ireland and had a similar impact. The Housing Executive told me that it was not aware of the change in methodology adopted by the DWP and could not say what impact that this change would have had to outcomes of the SAU findings for Northern Ireland.<sup>40</sup>

estimated rate of fraud and error further from its current level.

3.233 Nevertheless, the estimated levels of fraud and error in housing benefit expenditure remain material at £32.1 million, and I consider this to be irregular as this expenditure has not been applied in accordance with the purposes intended by the Northern Ireland Assembly. Therefore, I have again qualified my regularity audit opinion for 2016-17 in this area.

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

3.232 In reaching the decision to qualify my audit opinion, I recognise that there is an inherent risk of fraud and error in the administration of a complex benefit system which makes it difficult for the Housing Executive to reduce the

## Part 3: Other matters: Review of Whistleblowing Allegations

### Background

3.234 In July 2015 my staff forwarded a letter we had received from an MLA to the former Department for Social

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- 3.235 Development (DSD) (now the Department for Communities) enclosing a number of anonymous whistleblowing allegations regarding the Housing Executive and its former Acting Chief Executive (Mags Lightbody). The DSD asked its Internal Audit unit to undertake a review of those allegations. The purpose of the review was to establish the facts and associated supporting information in respect of the specific questions and allegations made in the anonymous letter.
- 3.236 Internal Audit completed its review in August 2016 and issued a Report to the Housing Executive and DfC. This Report is referred to in the Accounting Officer's Annual Governance Statement. The Report concluded on the extent to which each allegation was supported by evidence, made 24 recommendations arising from Internal Audit's findings, and included an action plan to address each recommendation. The Housing Executive has advised that all recommendations have been implemented.
- 3.237 I considered the findings of Internal Audit on allegations surrounding the appointment and resignation of senior members of staff significant: namely;
- the Housing Executive's compliance with policies and procedures in respect of the appointment and use of an Asset Consultant;
  - the circumstances and authorisation of "gardening leave"/suspension of an identifiable (but unnamed) member of staff; and,
- the Housing Executive Board's compliance with Human Resources (HR) policies and procedures in respect of the Acting Chief Executive.
- 3.238 Internal Audit findings in respect of each of these allegations have been included in this Report. In addition my Report extends to issues with the Housing Executive's response to the Internal Audit review and its handling of the completed Internal Audit Report.
- 3.239 Internal Audit did not find evidence to substantiate allegations made in respect of the establishment of the Housing Executive's Transformation Programme, the management and approval processes for hotels and subsistence, the management of the budgetary control process or the selection of staff for the VES. Some recommendations arose from the allegations made in respect of hotels and subsistence, budgetary control and VES but I will monitor their progress as part of my future audit work.

### **Housing Executive compliance with policies and procedures in respect of the appointment and use of an Asset Consultant <sup>41</sup>**

- 3.240 In July 2013, a recruitment exercise to appoint a Director of Asset Management did not secure a suitable candidate and the responsibilities from this vacant post passed to another Director. As an interim measure, it was decided to support that Director with an agency employee under a staff substitution arrangement for the

41 The Housing Executive told me the appointment was for an Asset Management Advisor. We have used the terminology referred to in the Internal Audit Report – an Asset Consultant

vacant post. The agency employee was appointed in July 2014 for an initial six month period. Mags Lightbody told me that based on advice from the Housing Executive's HR team she believed this process was in line with the Housing Executive's HR policies and procedures.

3.241 While the Director vacancy was subsequently filled in June 2015 the agency employee was retained until December 2015 (a total employment period of 17 months). Internal Audit found there were no evidence of the rationale for, or the formal approval, of the extension to the agency employee's initial six month contract, particularly the extension following the filling of the Director vacancy in June 2015. The Housing Executive told me that the engagement was kept under review until it was considered that the support was no longer required.

3.242 DoF's guidance on the "Use of Professional Services including Consultants" sets out conditions attaching to staff substitution including the use of agency staff. As these include providing additional resource until a new member of staff is recruited, the Housing Executive viewed the period July 2014 to June 2015 as staff substitution. However after the filling of the Director vacancy in June 2015 the agency employee was not a staff substitute and the Housing Executive should have considered if this was now an external consultancy appointment. Such a consultancy appointment would have required Departmental approval which was never sought. Internal Audit noted issues in relation to the rationale supporting the appointment of an Asset

Consultant as staff substitution and not an external consultant. The Housing Executive told me it considers the role of the Asset Consultant and the reporting line for the post clearly demonstrate that this engagement was not a consultancy appointment.

3.243 Internal Audit noted the following additional issues with the documentation to support the agency employee's appointment:

- The successful candidate had visited the Housing Executive, before it had approached a recruitment agency for a suitable candidate, and had submitted an email to its Acting Chief Executive (Mags Lightbody which included "let me know if you need a CV or such like?") and a proposed daily rate.
- The successful candidate had previously worked with Mags Lightbody.
- No interviews took place with the three candidates who applied and it appeared to Internal Audit that Mags Lightbody was the sole decision maker in the appointment of the successful candidate and that the decision had been taken before the recruitment agency had been approached.

3.244 The Housing Executive told me the process for engaging agency workers is not the same as that for the appointment of directly recruited employees. A formal panel interview is not required as it is considered this could obfuscate the distinction between directly employed

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staff and agency workers who then claim entitlement to employment status with the Housing Executive. The selection of an agency worker is therefore normally made by the line manager alone, in this particular case the former Acting Chief Executive, and that this reflected normal practice across the Housing Executive. It added that under its Staff Code of Conduct, the Housing Executive places a responsibility on all staff to remove themselves from selection decisions where a personal or family relationship is deemed to exist and, to underline this, its recruitment documentation explicitly refers to these requirements.

3.245 No evidence was held by the Housing Executive to confirm that the assessment of the agreed daily rate was in line with the requirements of the role and as such there is a lack of evidence to demonstrate value for money. The cost to the Housing Executive of the agency employee was £133,000. The Housing Executive told me that given the nature and volume of work that the Asset Consultant was to deliver it does not deem the rate of pay as excessive. However it does accept that limits are important in ensuring that value for money can be demonstrated. The Housing Executive has informed me that a formal value for money test will be applied should a similar engagement be required in the future with relevant documentation retained as supporting evidence.

3.246 I asked the Housing Executive why there were so many gaps in the

documentation held by its HR function to support appointing the agency employee to such a key post. The Housing Executive told me that reported gaps in the initial appointment process should not detract from the considerable contribution made to the management team. However, it fully accepts that a complete documentation trail should be available for all appointments and clearly there was a lack of compliance in this case which can only be explained by the relevant individuals not following proper procedures. This will not be accepted in future.

3.247 Internal Audit concluded that this was a potential conflict of interest for Mags Lightbody in the appointment of the successful candidate and that deficiencies in the appointment process increased the risk of reputational damage to the Housing Executive. The latter told me that in accordance with its Staff Code of Conduct officers involved in making staff appointments must at all times act in accordance with the Housing Executive's Appointments and Promotions Procedure and must act with strict impartiality.

3.248 Ms Lightbody told me that she was aware of a few individuals in the housing sector that had the experience to deliver what was needed at the Housing Executive, one of which was the agency employee. She added that this employee did not approach her nor was he seeking work but agreed to meet her as a professional courtesy to provide insight on what was needed.

Furthermore the Chair, as well as the full Executive Team at the Housing Executive were fully aware of her meeting and her past working knowledge of this individual. Mags Lightbody said, “I can confirm that my relationship with the agency employee was purely as a former colleague and someone I knew to have a proven track record in the area of expertise we sought. I did not work directly or closely with him in our previous work environment, nor did I have any personal or relevant family relationship”.

- 3.249 I note that as at 31 March 2017 the Housing Executive employed 2,536 full time staff including 521 agency staff who had been in post for the periods listed below:

**Figure 25: Length of Time Agency Staff were employed as at 31 March 2017**

Less than 2 years	309
Between 2 & 4 years	162
Between 4 & 6 years	48
Between 6 & 8 years	1
Greater than 8 years	1
<b>TOTAL</b>	<b>521</b>

Source: NIHE

- 3.250 I appreciate there are occasions where it is appropriate that agency employees are engaged on a temporary basis to cover a number of roles. As each period of employment extends, I consider the value for money balance tilts away from an agency employee solution. I asked the Housing Executive why agency staff had been employed for long periods of time and if this approach to staffing

issues was consistent with best practice. It told me that the use of agency workers has provided it with flexibility to maintain key services to its customers and tenants through protracted periods of instability arising from long term budgetary pressures and significant public sector reform programmes including Universal Credit/Welfare Reform. Some of these programmes have been, or are, protracted thereby requiring longer than desirable periods of appointment of agency staff.

### **The circumstances and authorisation of “gardening leave”/suspension of an identifiable (but unnamed) member of staff**

- 3.251 Following the merger of two positions in June 2014 a Housing Executive employee was considered surplus and the employee accepted a redundancy package from 31 March 2015. The redundancy and secondment arrangement, to cover the intervening period, was approved by the CXBC following the submission of a paper noting the employee had volunteered for redundancy. The Housing Executive advised Internal Audit that the employee had not been suspended or placed on gardening leave during this period.

- 3.252 Internal Audit found that the employee’s file contained a number of letters addressed to the employee setting out the redundancy and secondment arrangements. However the letters were unsigned and in some cases marked as draft. Housing Executive

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staff told Internal Audit the employee had confirmed contentment with the arrangements at meetings. There was no note of these meetings on the file, nor any other written confirmation on file of the employee volunteering for redundancy.

3.253 The Housing Executive advised Internal Audit that the employee was offered two alternative positions within it but these were declined. There was no evidence to support the offer or refusal of these positions. The employee told us that they had been offered one position in March 2014 but a week later this offer had been withdrawn by the Housing Executive. The employee added that they had not declined the position.

3.254 The paper provided to CXBC stated that the secondment arrangement agreed with the employee, was to provide advice and guidance to bodies associated with a housing body (independent of the Housing Executive) for the period 1 August 2014 to 31 March 2015. In the preceding six week period the Housing Executive approved "administrative leave" for the employee to work at home to enable research of the role and for administrative arrangements to be agreed. An email attaching to a draft letter to the employee notes that "gardening leave" has not been used as it "tends to be viewed as quite a loaded term".

3.255 The housing body requested that the secondment arrangement be changed to a placement arrangement with the employee not working directly to them.

Instead the housing body would facilitate introductions to associated bodies.

3.256 Despite the change from a secondment to a placement arrangement the Housing Executive monitoring role remained unchanged and Internal Audit noted the following issues:

- None of the parties signed the placement agreement and there was no evidence of it issuing to them.
- It is not clear when the placement commenced. A letter from the Housing Executive employee (2 September 2014) indicates it had not commenced and they expressed concern as to its viability. The Housing Executive advised the employee to contact the housing body and an update meeting would be held in October 2014. There was no evidence on file that this meeting took place.

3.257 Although progress meetings were to be bi-monthly, these only took place in response to issues raised by the employee or the housing body. No records of these meetings were retained. The Housing Executive employee was to maintain a record of hours worked. There was no evidence of this record on file or a request to the Housing Executive employee to submit the record. Internal Audit noted a lack of evidence as to the work intended or completed. The employee told us that they contacted the Housing Executive with concerns regarding the placement but received no response.

3.258 The Housing Executive employee's redundancy date was delayed from 31 March 2015 to 31 July 2015. There was, however, no evidence that the placement arrangement had been extended. I asked the Housing Executive why it sought to arrange a secondment for the Housing Executive employee prior to their redundancy rather than going straight to redundancy. The Housing Executive told me the employee's post had been declared surplus. Alternative positions within the Housing Executive were offered to the employee but rejected because the employee did not consider them to be suitable. The employee volunteered for redundancy but stated that they did not wish to leave until 2015 due to personal circumstances. Given the employee's area of expertise, it was agreed that in advance of the redundancy taking effect from an agreed date, the employee would be placed with the housing body.

3.259 Internal Audit concluded that the lack of evidence to support the Housing Executive's request for redundancy limits both the audit trail and the transparency of the discussions held. Internal Audit also noted the ambiguity in relation to the purpose of administration leave with references to gardening leave in draft letters but as signed finalised letters were not on the Housing Executive files it is unclear if gardening or administrative leave was awarded.

3.260 As in the case of the agency appointment noted above, this is another example of significant gaps in the records held by the Housing Executive's

HR function. I asked the Housing Executive why the documentation in support of its action with regards to the secondment, placement and redundancy of the member of staff was so clearly deficient. The Housing Executive told me it accepts that:

- the documentation for this case was not as complete as it should have been but can confirm that the identifiable (but unnamed) member of staff did volunteer for redundancy; and
- its responsibility for overall monitoring of the placement was not discharged as intended and valuable lessons have been learned as a consequence.

3.261 In response to my 2014-15 audit, the Housing Executive accepted that it did not recoup the cost of the employee from the housing body and that this should have occurred. That cost was £81,000.

### **Housing Executive compliance with its HR policies and procedures in respect of the Acting Chief Executive (Mags Lightbody)**

3.262 In January 2013 Minister McCausland launched the Social Housing Reform Programme. To align with this work DSD told me that the Housing Executive decided to appoint a Director of Transformation and used the Strategic Investment Board (SIB) to fill the position. We note that the former Chairman, Donald Hoodless attributes both of

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these decisions to DSD. Amongst other services SIB place staff with specialist experience, knowledge and skills into senior roles in the public sector. Staff are employed by SIB and then seconded to public sector bodies with a recharge for employment costs. SIB undertook a recruitment process and subsequently recommended Mags Lightbody who took up post in November 2013 (for a fixed period term of four years).

- 3.263 The previous Chief Executive had tendered his resignation in June 2013 and left the Housing Executive on 31 March 2014. The Housing Executive agreed to appoint an Acting Chief Executive on a short term basis (6-9 months). Mr Hoodless provided Internal Audit with applications received from eligible Housing Executive Directors but noted there was no written documentation which had been retained in relation to the rationale of the eligibility criteria used and the decision taken by the Selection Panel<sup>42</sup>. Mags Lightbody was appointed Acting Chief Executive from 1 April 2014 and continued her duties as Director of Transformation with no additional salary until her resignation in June 2015.
- 3.264 Internal Audit noted that the absence of documented evidence to support the appointment of Mags Lightbody as Acting Chief Executive was not in line with best practice. This limited the openness and transparency of the process, particularly given the unique circumstances where a seconded member of staff (in post for three months) was deemed eligible for such a senior

and strategic position. Mr Hoodless told us that in his view the process of recruitment was open and transparent and that after the Housing Executive recommended the appointment of Mags Lightbody to DSD her appointment was approved. Internal Audit concluded that Mags Lightbody's eligibility, as a seconded member of staff, to apply for the position of Acting Chief Executive was at odds with best practice in the public sector with seconded staff unable to apply for internal boards/promotion competitions as they are not employees of the organisation. Mr Hoodless told us that it was DSD who spoke to SIB to ask if it had any objections to the secondees applying for the post. DSD told me that it does not hold any records that substantiate this claim.

- 3.265 The Housing Executive did not provide any feedback on Mags Lightbody's role as Director of Transformation during her time with it as required by SIB. An agreement for SIB and the Housing Executive to meet twice a year to review the appointment did not happen. Internal Audit expected the Housing Executive to have undertaken some form of assessment or feedback on the value for money of the arrangement.
- 3.266 Mr Hoodless told me the Housing Executive had not been informed of this agreement. Furthermore that as the Director of Transformation post had been set up by DSD he believed it was incumbent on DSD to evaluate the value for money of this arrangement. The SIB told us that it had agreed with the Housing Executive and DSD that

42 The Selection Panel comprised the Chairman, Vice-Chairman and two Housing Executive board members



once Mags Lightbody assumed the role of Chief Executive at the Housing Executive she would no longer be accountable to SIB. SIB also informed us that Mags Lightbody had fulfilled the role of Transformation Director for less than six months (her probation period) before becoming Chief Executive so no feedback would have been expected before then.

- 3.267 DSD has reiterated that it did not set up the post of Director of Transformation. DSD notes that the appointment of Mags Lightbody was governed by an Operational Partnering Agreement between SIB and the Housing Executive which was signed by both Chief Executives. Paragraph 7 of this Agreement sets out the undertaking by the Housing Executive to meet with SIB every six months.
- 3.268 Internal Audit met with the Housing Executive Chairman and Vice-Chairman to document the circumstances that gave rise to Mags Lightbody's resignation. Internal Audit were advised that Mags Lightbody's resignation was voluntary and that she was not asked to leave as alleged by the anonymous whistleblower. The then Chairman explained to Internal Audit that he met Mags Lightbody prior to her resignation to advise that the Housing Executive wanted to fill the Chief Executive role on a permanent basis and she opted to resign her position at this point. No record exists of this meeting or of the Housing Executive Board's decision to appoint a permanent Chief Executive and terminate the Director of Transformation position.
- 3.269 The Housing Executive informed SIB that Mags Lightbody would cease to be Acting Chief Executive from 19 June 2015 but would be retained until 31 July 2015 to complete a report. This end date was extended to 21 September 2015 but the reason for the extension is unclear. The Housing Executive met Mags Lightbody's employment costs over this period.
- 3.270 The then Housing Executive Vice-Chairman informed Internal Audit that the Housing Executive Board decided the Director of Transformation position was no longer needed but there was no documentation to support this decision. Internal Audit expected the Housing Executive Board to formally document its rationale for not filling the Director of Transformation post as well as the mitigating actions to manage the Transformation Programme.
- 3.271 The Housing Executive received an Assembly Question in June 2015 asking: *"whether any (i) formal complaints or (ii) informal complaints about the behaviour in the workplace of the retiring Acting Chief Executive of the Housing Executive (Mags Lightbody) had been received"*.
- 3.272 The Housing Executive responded: *"we have not received any formal or informal complaints in relation to this"*.
- 3.273 Internal Audit noted that the Housing Executive's HR had advised that as informal complaints are resolved locally HR would not hold details of any such complaints. On this basis, Internal

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Audit were unable to confirm if there were informal complaints made in relation to Mags Lightbody's behaviour and were unclear on what basis the Housing Executive formed its response to the Assembly Question. In response to Internal Audit the then Chairman and then Vice-Chairman (the nominated contacts, in accordance with Housing Executive procedures, in relation to complaints by Senior Managers regarding the Chief Executive) indicated they had received no complaints in relation to Mags Lightbody.

- 3.274 In its report on the Governance of Land and Property in NIHE (February 2016), the Public Accounts Committee noted an inaccurate response by the Housing Executive to an Assembly Question. The Committee observed:

*"Assembly Questions are a key accountability mechanism in the democratic system of Government and Assembly Members have a legitimate expectation that responses are open, honest and accurate".*

- 3.275 I am disappointed that Internal Audit uncovered a further example where the Housing Executive has been unable to meet Assembly Members' expectations of the standard that should apply when responding to an Assembly Question. The Housing Executive told me that the response to the Assembly Question was open, honest and accurate and that it fully accepts and complies with the need to ensure that information provided to the Assembly is correct,

complete and reliable at all times. The Housing Executive points out that, the then Chairman and the then Vice Chairman told Internal Audit that they had received no complaints in relation to Mags Lightbody and that this was also the basis on which the response was provided to the Assembly Question. It is NIAO's view that the Housing Executive's Assembly Question response should have been that it had received no formal complaints but, consistent with the Housing Executive policies, it did not retain details of informal complaints.

### The Housing Executive response to the Internal Audit Review

- 3.276 Internal Audit noted that the then Housing Executive Chairman had stated in a meeting that he was not prepared to discuss conversations held with the Housing Executive member of staff (Mags Lightbody). This matter was not pursued. On the basis of this Internal Audit were unable to conclude on the specific whistleblowing allegation being investigated, that is, if complaints were raised in relation to Mags Lightbody and if they were handled appropriately. Mr Hoodless told us that he would have been happy to answer specific questions to the best of his ability but no specific questions were set down or asked. DfC has advised that a specific question to confirm if any grievances/complaints were received in relation to Mags Lightbody, was asked but Mr Hoodless refused to answer it.

- 3.277 It is concerning that the work of Internal Audit was constrained in this way. All activities within an Arm's Length Body, such as the Housing Executive, must be subject to scrutiny by its parent department. DfC told me that it agrees that any Arm's Length Body must be fully co-operative with any investigation by its parent department into any matter of concern. The then Chairman informed the DfC of his intention to resign on 5 October 2016.
- 3.278 The Internal Audit Report (completed in August 2016) included a recommendation that progress on implementing recommendations should be reported to the Housing Executive's ARAC. The Committee was not updated at either of its meetings on 20 September 2016 or 6 December 2016. It was only in February 2017 (when following up progress with DfC on the initial whistleblowing allegations) that the completion of the Internal Audit review was drawn to the attention of my staff. Following a query by my staff with the Housing Executive, as to the failure to bring the Internal Audit report to the attention of the Housing Executive's ARAC, this oversight was noted at the Committee's 14 March 2017 meeting. A commitment was also given to provide a progress report to the next meeting. Members present at the March meeting were unaware of the allegations that had been made in the Report. The progress report was tabled at the ARAC meeting of 26 June 2017.
- 3.279 I am concerned that without NIAO intervention, the contents of the Internal Audit Report and the Housing Executive's commitment to implement recommendations from the Report, would have been withheld from the Housing Executive's ARAC. There is no evidence this course of action was discussed with DfC. I asked the Housing Executive why it had not brought the Internal Audit Report to its ARAC until this action was queried by my staff. The Housing Executive told me that there was no untoward reason for the delay in reporting progress in implementing the recommendations made in the Internal Audit report to the ARAC and, once the unfortunate oversight had been realised, the omission was rectified.
- 3.280 Furthermore the Report itself had been presented to the then Chair of the ARAC by Internal Audit, in keeping with the arrangements established by the then Chairman. The contents and findings of the Report were known at this very senior level. The Housing Executive acknowledges that there was an obvious failure in that the Report was not shared with other members of the ARAC in a timely manner although, again, this was simply due to administrative oversight. The Housing Executive also told me it regrets these oversights and remains committed to good, effective governance, including the scrutiny provided by a fully and timeously informed ARAC.
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## Section Three:

### Other Matters

#### Conclusions

- 3.281 Whistleblowers have an important role to play in bringing information to light but their contribution is dependent upon the actions of those who examine and assess the information which is provided. I commend the DfC for the comprehensive response to whistleblowing allegations brought to my staff from an MLA. This includes the decision to use the departmental Internal Audit unit which ensured allegations that went to the most senior levels in the Housing Executive were reviewed with transparent independence.
- 3.282 The Departmental Internal Audit unit correctly identified that the recommendations from their work should be reported to the Housing Executive ARAC. While the Housing Executive have responded to the recommendations I am concerned that, by failing to bring this matter to the Housing Executive ARAC, the Committee received no assurances on this process until the matter was raised by my staff. As a matter of principle any request, from whatever source, that an issue should be raised with the Housing Executive ARAC must be complied with. It is for the Committee alone to decide its agenda and priorities. There can be no question that the whistleblowing allegations and the review by DfC's Internal Audit unit should have been brought promptly to the Housing Executive ARAC.
- 3.283 A consistent theme in the review of the allegations was the poor quality of HR records, including missing information to support the appointment and resignation of senior staff members. Good practices in respect of record keeping are fundamental to the public sector and should always be viewed as an integral part of decision making. Only through appropriate records can public sector bodies demonstrate both the rationale for and the appropriateness of their actions. The extent to which the Housing Executive's HR record keeping fell short of good practice is a matter of concern. The Housing Executive told me some of these gaps in HR record keeping resulted from decisions being taken without the direct involvement of the HR Department. These issues are being addressed and a review of the HR function, to be undertaken by the Housing Executive's Internal Audit unit, will provide an overall assessment and make recommendations for further improvement to ensure compliance, at all levels within the Housing Executive.
- 3.284 I recognise the significance and value of the Housing Executive's Transformation Programme and I intend to review its impact in future audits.
- 3.285 For the Housing Executive, as for any public sector organisation, it is important that a focus on change management should not divert attention from the need to ensure that key decisions are properly documented. In this case the standard of record keeping fell far short of the standards required.

## H: Direct Award Contracts in Departments

### Assembly concerns about procurement practices resulted in new arrangements to improve transparency and accountability

3.286 Competitive tendering is the cornerstone of good public procurement. The NIAO and the PAC have highlighted on various occasions the scope and extent of non-competitive procurement, now referred to as Direct Award Contracts (DACs) but previously referred to as Single Tender Actions.

3.287 In 2011, the PAC reported on Procurement and Governance at Northern Ireland Water (NIW)<sup>43</sup>. This followed the Committee's request for the NIAO to conduct an examination of procurement breaches raised by NIW's Internal Auditors. Our examination<sup>44</sup> included a confirmation of 74 procurement breaches, which included 44 DACs (not approved by the Chief Executive), though many of these originated within Water Service, prior to the formation of NIW.

3.288 Also in 2011, an NIAO report on the use of external consultants<sup>45</sup> found that one in five consultancy contracts had not been tendered competitively, although the DAC had been approved by the Accounting Officer in just over half of those contracts. In its subsequent

report<sup>46</sup>, the PAC concluded that the number of non-competitive contracts was too high. They should be very much the exception and, where they occur, they must be fully justified, subject to a challenge process and reported transparently. The PAC recommended that:

- Departments and their sponsored bodies ensure that all DACs are reviewed by the Management Board and signed off only by the Accounting Officer.
- To improve transparency and accountability, each departmental Accounting Officer should make details of non-competitive contracts publicly available. This is the public's money and they have a right to know the details of the subject or purpose of single tender contracts, their value and the reasons for not having a competitive process.

3.289 In response, the Permanent Secretaries Group of senior civil servants agreed to implement both recommendations for all contracts (not just those related to consultancy) and to make public the details of all awards without competition valued above £30,000, beginning in April 2013. In response to the concerns expressed by the PAC in relation to NIW, the former Department of Finance and Personnel (DFP) had already agreed that each departmental Accounting Officer should maintain a record of all

43 *Measuring the Performance of NI Water and Procurement and Governance in NI Water*; Public Accounts Committee, 03 March 2011

44 *Examination of Procurement Breaches in Northern Ireland Water*; Northern Ireland Audit Office, 14 December 2010

45 *Use of External Consultants by Northern Ireland Departments: Follow up Report*; Northern Ireland Audit Office, 15 June 2011

46 NIA 43/11-15. *Use of External Consultants by Northern Ireland Departments: Follow-Up Report*; Public Accounts Committee, 18 April 2012

## Section Three:

### Other Matters

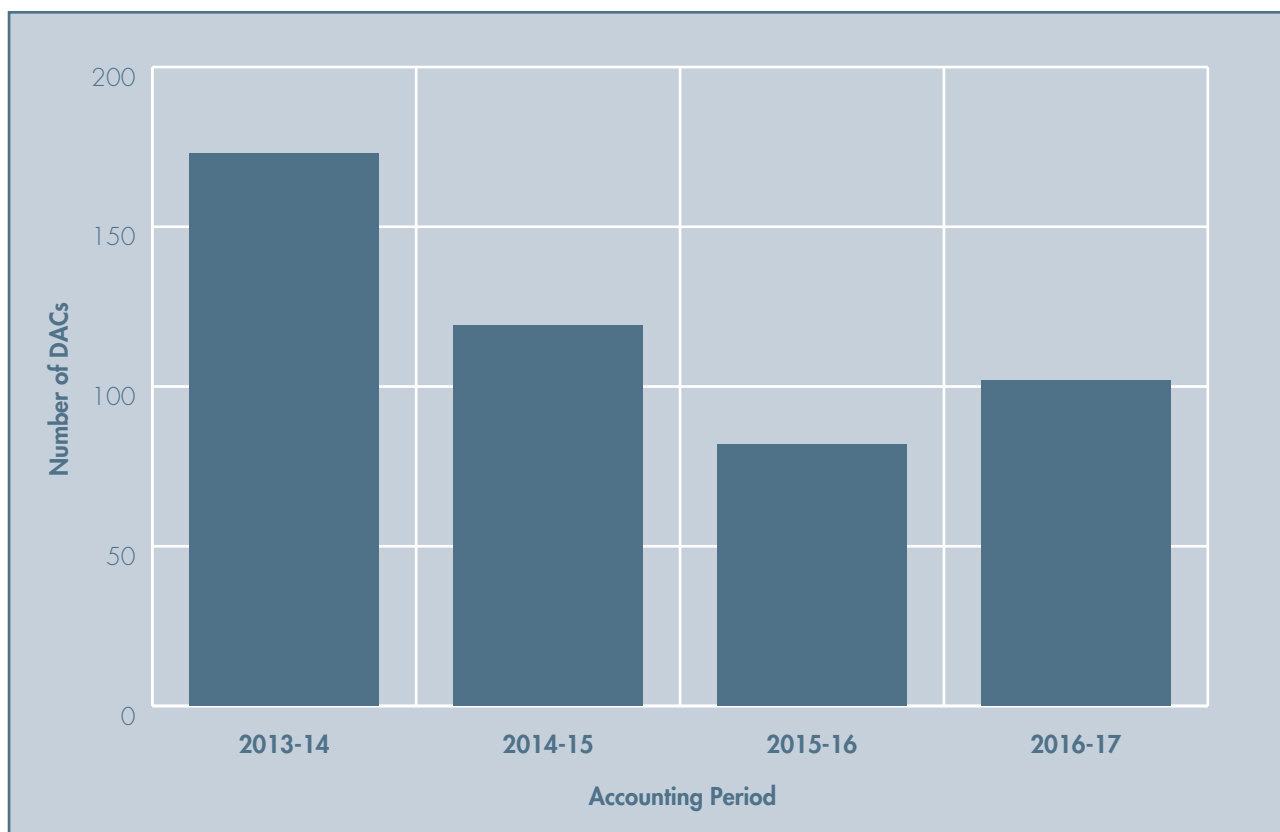
non-competitive contracts in respect of their department and sponsored bodies, setting out details of the subject or purpose of the contract, its value and the reasons for not having a competitive process. Earlier in 2010, DFP had issued guidance making it clear that the use of DACs should be 'limited to a few defined circumstances in which it is considered strictly necessary'. Further guidance as to these circumstances was developed and issued in 2011<sup>47</sup> by DFP's CPD.

### In recent years there has been a reduction in the number and overall value of Directly Awarded Contracts

3.290 Over the last two years there were significantly fewer DACs awarded by departments and their executive agencies compared to 2013-14 and 2014-15 (**Figure 26**), shows 102 such contracts in 2016-17 compared to 173 in 2013-14. Most of the reduction occurred within two departments (DoF and DoJ), with 35 such awards in 2016-17 compared to 92 in 2013-14.

3.291 There has also been a significant reduction in the aggregate value of contracts awarded without competition (**Figure 27**). In 2016-17, DACs totalled £10.5 million compared to £27.6 million in 2013-14. Most of the contracts over the four years reviewed

**Figure 26: Number of Directly Awarded Contracts by Departments and Executive Agencies 2013-14 to 2016-17**



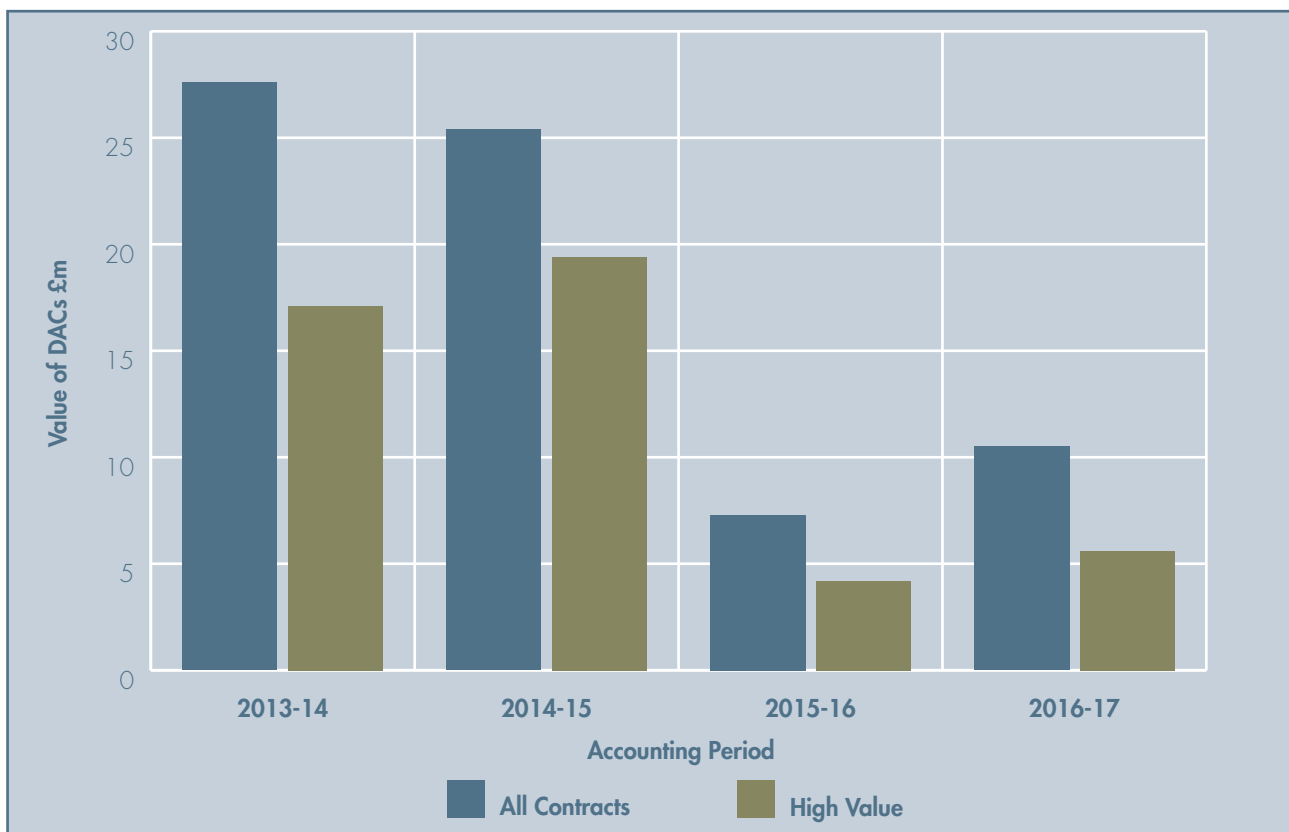
Source: NICS Departments

47 Central Procurement Directorate, *Procurement Guidance Note 03/11 – Award of Contracts Without A Competition*. This guidance (with minor revisions) is still extant

were relatively low value, with two-thirds being less than £50,000. During the same period, there were 27 contracts over £500,000 in value and in 2016-17, high value DACs accounted for £5.6 million compared to £17.1 million in 2013-14 and £19.4 million in 2014-15 (Figure 27). There is also evidence in papers supporting the award of DACs that departments, where applicable, were planning that subsequent procurements of the service would be subject to competition. Reasons for non-competitive awards of high value contracts include:

- the complexity and critical nature of systems, which means that only the existing supplier can support or maintain it;
- delays in completing tendering processes for new procurements, resulted in contract extensions to current supplier(s);
- the need to maintain the delivery of a statutory scheme, or deliver urgent schemes in the context of procurement processes being impacted by legal or contractual disputes; and
- a competitive tendering process failed to deliver either a provider or a viable solution.

**Figure 27: Total Value of Directly Awarded Contracts 2013-14 to 2016-17**



Source: NICS Departments

## Section Three:

### Other Matters

While competitive tendering is not always possible, the process of ensuring that exceptions are properly documented and approved is now well established in departments. I also welcome the reduction in the volume and value of DACs that departments have been able to achieve for services within their direct control.

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# Appendices

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## Appendix 1: NI Supply Figures by Department in 2016-17

Department	Supply £m
DoH	4,635.0
DfC	4093.4
DE	2,344.8
DoJ	1,269.3
DfE	1,168.8
DfI	772.9
DoF	244.3
DAERA	239.0
TEO	64.0
NIAC	38.0
PPSNI	33.9
FSA	7.9
NIAO	7.7
AOCC	2.2
NIAUR	1.4
<b>TOTAL</b>	<b>14,922.6</b>

**Note:** NI Departments received £14,898.7 million in Supply in 2015-16. Comparisons at departmental level are not possible due to a major reorganisation of the NICS and a reduction in the number of departments in May 2016.

## Appendix 2:

### NICTS Trust Statement

#### Financial Penalties Definitions

(source: NICTS)

<b>FIXED PENALTY NOTICES (FPNs)</b>	FPNs are imposed by PSNI and DVA. FPNs are issued for traffic violations and other vehicle rule violations. FPNs that remain unpaid for 45 days are uplifted by 50% and registered as court imposed fines that are sent to the court to be enforced by the NICTS.
<b>PENALTY NOTICES for Disorder (PNDs)</b>	Since 6 June 2012 Sections 59-70 and Schedule 4 of the Justice Act (NI) 2011 gave PSNI the power to issue a defendant with PNDs for specified offences. These notices are issued as an alternative to a court prosecution. If a penalty notice remains unpaid after 28 days the value will be uplifted by 50% and imposed as a court fine (similar to FPNs).
<b>COURT IMPOSED MONETARY PENALTIES</b>	Include fines; extra costs and other party costs awarded in court to cover prosecution costs such as summons server fees and court appearance fees; other party compensation which is awarded in court to victims of crime or may be awarded in relation to injury or damage to property etc; and fixed penalty enforcement fines and unpaid PNDs which are FPNs and PNDs that have remained unpaid after 45 days and 28 days respectively and have been registered as a court imposed fine. These penalty notices are uplifted by 50% of the value of the original penalty notice when registered as a court imposed fine on ICOS.
<b>CONFISCATION ORDERS</b>	This is an order directing the payment of money obtained by a defendant as a result of his/her criminal conduct, to the Crown. Confiscation orders are generally larger in value than other monetary penalties but smaller in volume. Interest accrues at a rate of 8 per cent per annum on those confiscation orders that have a balance remaining unpaid after the payment date has expired.

## Appendix 2: NICTS Trust Statement

<b>OFFENDER LEVY</b>	From 6 June 2012, an offender levy has been imposed on fines and immediate custodial sentences for offences committed on or after that date. The receipts obtained from the collection of these levies are collected by the NICTS and transferred to the DoJ Victim of Crime Fund. These will then be used to pay for projects that support victims and witnesses in the criminal justice system as well as local initiatives taken forward by groups working with victims in the community.
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## Appendix 3: NICTS Trust Statement

### PAC Recommendations

#### PAC Recommendation 1

The Committee recommends that NICTS should put in place a robust system to identify an individual's ability to pay before a fine is imposed. This would allow the court to consider options at the outset to prevent fine default, including instalment orders, non-monetary supervised activity orders and other measures, such as deductions from earnings or benefits.

#### Memorandum of Reply Commitment

The NICTS and the Department of Justice (DoJ) accept this recommendation.

#### June 2016 position

This recommendation has been fully implemented.

The recommendation to identify an individual's ability to pay before a fine is imposed has been fully implemented.

NICTS has written to the Office of Lord Chief Justice advising of the continued availability of the offender's fine history record to the court, post-conviction and in advance of sentencing.

NICTS wrote to the Law Society and the Bar Library to request that an e-alert reminder issue to members or that a note is placed in the Writ (Law Society magazine) to encourage the completion of the necessary Means Enquiry Forms in respect of defendants.

#### PAC Recommendation 2

The governance arrangements and control structures in place over fine collection and enforcement are unacceptable. The Committee recommends that, roles and responsibilities are well defined and accountability and reporting lines should be clear. NICTS should monitor all warrants issued and PSNI should ensure that robust reconciliations are undertaken between warrants executed and cash collected. In the Committee's opinion the Department should be providing effective oversight and co-ordination, with regular reporting of performance to Senior Management and the Board.

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## Appendix 3: NICTS Trust Statement

### Memorandum of Reply Commitment

DOJ, NICTS and the PSNI have implemented this recommendation.

### June 2016 position

This recommendation has been fully implemented.

Fine Collection and Enforcement Programme Board meet on a quarterly basis and receive information on warrant enforcement.

Regular reconciliations of warrants issued to PSNI are now being performed. Since August 2014 PSNI receive a monthly list of new outstanding fine warrants from NICTS and both organisations liaise to reconcile this list to PSNI records.

PSNI and NICTS have also implemented a Service Level Agreement (SLA) to govern police delivery of warrants. This became operational on 31 August 2015.

### PAC Recommendation 3

The Committee recommends that targets should be set to ensure that all warrants are executed on a timely basis. NICTS should undertake regular reconciliations of all warrants issued to the PSNI and should seek explanations for warrants that have been outstanding for more than six months.

### Memorandum of Reply Commitment

NICTS and PSNI partially accept this recommendation.

### June 2016 position

The part of this recommendation which was accepted has been fully implemented. Since August 2014 PSNI receive a monthly list of new outstanding fine warrants from NICTS and both organisations liaise to reconcile this list to PSNI records.

The SLA in place to govern police delivery of warrants was signed and became operational on 31 August 2015. The SLA outlines the responsibilities of both PSNI and NICTS to facilitate the provision of regularly reconciled records. It sets out targets for the timely execution of fine default warrants within the specified period of time for enforcement and also sets targets for transferring warrant monies from PSNI to NICTS within a specified timeframe taking into account the demands on both organisations.

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## Appendix 3: NICTS Trust Statement

### **PAC Recommendation 4**

The Committee recommends that the Department ensures that alternative methods for collecting outstanding fines are implemented immediately, ahead of the wider reform programme. The new measures should include a system for making payment by a debit card at a police station. This would help to eliminate the risk associated with cash collection. Where cash collection is unavoidable rigorous controls should be implemented to help mitigate the risks.

### **Memorandum of Reply Commitment**

DOJ and NICTS are in the process of implementing this recommendation.

### **August 2017 position**

PSNI has put together a process for cashless payments using the NICTS portal and online payment system. The process is being trialled in Musgrave Station in Belfast to ensure that controls and guidance are operating as expected. This will be reviewed with a view to full rollout within the coming months.

It is still unclear as to whether there will be a significant uptake in the use of card payments when it is in place.

### **PAC Recommendation 5**

The costs associated with fine enforcement are, in the Committee's view, excessive and the current system is neither efficient nor effective. The Committee strongly recommends that the system is reviewed as a matter of urgency with a view to largely removing PSNI from the process and replacing it with a civilian collection service. This would help to release resources for front line police work. Further, the Committee recommends that consideration should be given to whether committal remains an appropriate sanction and a greater emphasis should be placed on ensuring that defendants pay the fine imposed rather than serving a prison sentence.

### **Memorandum of Reply Commitment**

DOJ is in the process of implementing this recommendation.

### **June 2016 position**

Legislative provisions to allow for a civilianised Fine Collection and Enforcement Service (FCES) are included in the Justice (No. 2) Bill. This legislation achieved Royal Assent on 12 May 2016 and is now

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## Appendix 3: NICTS Trust Statement

known as the Justice Act (NI) 2016. This legislation, and related regulations, is required to enable the new service to be operational by the end of 2016-17.

An internal project board has been established to oversee the implementation of the new FCES. An implementation date of 1 March 2017 has been agreed, this should allow time for the required significant IT changes to be made. It is intended that staff will be in post from January 2017 for training purposes.

### **August 2017 position**

The Justice Act (NI) 2016 received Royal Assent in May 2016. However, the implementation of the new Fine Collection and Enforcement Service has been delayed due to the inability to progress the required secondary legislation until the NI Executive/Assembly is restored.

At the Fine Collection and Enforcement Programme Board meeting in May a revised implementation date of November 2017, at the earliest, was agreed however, this was dependent on the return of the NI Executive/Assembly.

Once the NI Executive/Assembly is restored the progression of the required secondary legislation will be treated as a priority by the Department.

At this stage it is difficult to anticipate a new implementation date and dates will be reviewed again at Programme Board meetings.

### **PAC Recommendation 6**

The timetable for reform has already slipped and the Committee recommends that the Department takes all steps necessary to re-examine the current legislative timeframe and, at the very least, take all the necessary steps to ensure that there is no further slippage. A key objective of reform should be to ensure the system represents value for money and makes the best use of the limited public resources available.

### **Memorandum of Reply Commitment**

DOJ is in the process of implementing this recommendation.

### **June 2016 position**

All steps are being taken to monitor the timeframe for fine enforcement reform and ensure no slippage occurs. The Justice (No. 2) Bill was introduced in the Assembly on 30 June 2015 and passed all stages as planned. The Bill achieved Royal Assent on 12 May 2016 and is now known as the Justice Act (NI)

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## Appendix 3: NICTS Trust Statement

2016.

The progression of supporting regulations will be closely monitored to ensure the new service will be operational by the end of 2016-17.

### **August 2017 position**

The Justice Act (NI) 2016 received Royal Assent in May 2016. However, the implementation of the new Fine Collection and Enforcement Service has been delayed due to the inability to progress the required secondary legislation until the NI Executive/Assembly is restored.

At the Fine Collection and Enforcement Programme Board meeting in May a revised implementation date of November 2017, at the earliest, was agreed however, this was dependent on the return of the NI Executive/Assembly.

Once the NI Executive/Assembly is restored the progression of the required secondary legislation will be treated as a priority by the Department.

At this stage it is difficult to anticipate a new implementation date and dates will be reviewed again at Programme Board meetings.

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## Appendix 4

### LPS Fraud

#### Timeline of Events from discovery of the first irregularities by the staff member

<b>13 November 2015</b>	Unusual transactions connected with a refund identified by member of staff and queried with the ABRR Team.
<b>16 November 2015</b>	Initial follow-up from the ABRR Team with the Regional Office.
<b>30 November 2015</b>	Further discussions between the ABRR Team and the Regional Office regarding the unusual transactions.
<b>2 December 2015</b>	Staff member drew the attention of their line manager to the unusual transactions.
<b>9 December 2015</b>	ABRR Team Manager contacted member of staff in the Regional Office.
<b>14 December 2015</b>	Matter was drawn to the attention of senior management in LPS Revenues and Benefits after the identification of supplementary documentation which appeared to be forged.
<b>15 December 2015</b>	Fraud was confirmed and the Fraud Risk and Response Plan was triggered with relevant personnel including the LPS Chief Executive, Permanent Secretary of DoF, GFIS and the C&AG being advised. GFIS appointed an investigator.
<b>18 December 2015</b>	Mr Davidson was immediately suspended without pay.
<b>22 December 2015</b>	GFIS compiled a full report outlining the case, plus details of witnesses and evidence, and this was formally referred to the PSNI for investigation.
<b>Early January 2016</b>	Independent staff member with audit experience was tasked with examining the work undertaken by the perpetrator of the fraud with a view to determining the extent and scope of the fraud.
<b>27 January 2016</b>	Investigation report presented to Senior Management and communicated to GFIS, PSNI and Departmental Human Resources.
<b>21 March 2016</b>	Independent staff member who conducted the internal investigation, was temporarily appointed as an independent manager to the ABRR Team to carry out a review of processes and controls operated by the Team.
<b>24 March 2016</b>	Results of the internal investigation considered by GFIS with the subsequent production of a separate report with a series of recommendations.
<b>28 April 2016</b>	Paper submitted to Departmental Board on emerging lessons learnt from the investigation.
<b>8 June 2016</b>	He was charged with the fraud at Laganside Court.
<b>26 September 2016</b>	He pleaded guilty to the fraud.
<b>28 October 2016</b>	He was sentenced to two and a half years imprisonment, suspended for two years and a confiscation plan instigated to recoup the amounts stolen.
<b>10 March 2017</b>	At the Confiscation Order court hearing he was ordered to pay back monies to LPS from the sale of his asset, namely property, within six months or the suspension of his sentencing would be lifted.
<b>19 August 2017</b>	A cheque from the sale of his property was received by LPS to set against the monies which were misappropriated.

## Appendix 5: LPS Fraud

### Recommendations highlighted by the LPS investigation report

Recommendations	Update <sup>47</sup>
<p>Short Term (3 – 6 months)</p> <p>Monthly reconciliation between Operational Finance records of refunds posted with the applications processed by the ABRR Team.</p> <p>Improved communication within teams and delivery of training as to the appropriate authorisation levels and procedures and required supporting documentation.</p> <p>Supporting documentation and evidence of actual vacancy to be sought, (supplemented by vacancy inspections) rather than relying on phone calls from ratepayers, prior to awarding of NDVR rebate</p> <p>Performance of a review of ratepayer account adjustments to ensure they are properly completed, authorised and supported by appropriate documentation.</p>	<p><b>IMPLEMENTED</b></p> <p>The ABRR Team is now processing all applications on the Abbacus system and receiving reports from the Diver Finance system on a monthly basis for reconciliation back to Abbacus to ensure that there are no issues regarding completeness or accuracy.</p> <p><b>IMPLEMENTED</b></p> <p>Discussed with Management and raised at team briefs to remind staff.</p> <p><b>PARTIALLY IMPLEMENTED – SHORT TERM</b></p> <p>There has been a rotation of teams and Management structures within ABRR which has led to the disbandment of the NDVR Team.</p> <p>However on review of these issues it was noted that the staff dealing with these claims do request supporting documentation e.g. leases, contract from owners etc.</p> <p><b>ONGOING but LONG TERM</b></p> <p>LPS is in the process of procuring a new Rating digital solution which will require all applications for vacancy to be completed through on-line self-service. In addition, LPS is in the process of strengthening the Rating legislation to compel ratepayers to advise LPS of occupancy status changes.</p>

Recommendations	Update <sup>47</sup>
	<p><b>ONGOING</b></p> <p>This is an ongoing review in line with the move to a new Rating System and Senior Management is gathering details of the individual account adjustments that its teams use and we will then review these in line with the reasons for the account adjustments and see if there are other ways to complete the necessary work. The new Rating digital solution will specify that all Rating processes are integral parts of the system functionality.</p>
<p>Medium Term (6 – 12 months)</p> <p>Introduction of a new team to assist in the review of processes and controls.</p> <p>Introduction of job rotation to minimise over-reliance on specific staff members.</p> <p>Inclusion of articles in the monthly team briefs to highlight the importance of the whistleblowing policy and remind staff of their responsibilities.</p>	<p><b>ONGOING</b></p> <p>Work is underway to restructure Revenues and Benefits to include a Quality and Governance function. Once set up, work will commence on the establishment of a new quality function and team.</p> <p><b>IMPLEMENTED</b></p> <p>There has been a significant reorganisation of the ABRR Team in the past year with new Line Management and team reorganisation.</p> <p>Similarly this has recently been completed in the Landlords/Central Collection teams as well and new Line Management has been installed over the Regional Offices.</p> <p><b>IMPLEMENTED</b></p> <p>DoF has also updated their Standards of Conduct and Whistle blowing Policy in January 2017 and published it on the intranet for staff review.</p>
<p>Review of the segregation of duties between those who process changes and those who authorise them across all rating functions.</p>	<p><b>ONGOING</b></p> <p>This is currently ongoing as part of the 'PADS' review.</p>

Recommendations	Update <sup>47</sup>
<p data-bbox="161 524 416 562">Long Term (1 year +)</p> <p data-bbox="161 611 798 797">Amendment to standard roles within Abbacus to address the need for staff to have access to multiple areas of the rating system which ensures the correct controls are in place and any segregation of duties issues are mitigated.</p> <p data-bbox="161 887 786 1072">Ensure the replacement of the LPS IT Systems, scheduled in the coming years, is fully integrated with additional automation of review and approval to minimise the risk of incomplete data and segregation of duties.</p>	<p data-bbox="828 562 975 595"><b>ONGOING</b></p> <p data-bbox="828 611 1398 759">The dual roles within the system are being monitored on a monthly basis but the standard roles are being reviewed as part of the implementation of the new Rating System.</p> <p data-bbox="828 831 975 864"><b>ONGOING</b></p> <p data-bbox="828 887 1398 992">There is an ongoing 'NOVA' project regarding the requirements and functionality of the new Rating System which will address these issues.</p>

# NIAO Reports 2017 and 2018

Title	Date Published
<b>2017</b>	
Continuous improvement arrangements in policing	04 April 2017
Management of the Transforming Your Care Reform Programme	11 April 2017
Special Educational Needs	27 June 2017
Local Government Auditor's Report	05 July 2017
Managing children who offend	06 July 2017
Access to finance for small and medium-sized enterprises (SME's) in Northern Ireland	26 September 2017
Managing the Risk of Bribery and Corruption: A Good Practice Guide for the Northern Ireland Public Sector	14 November 2017
Homelessness in Northern Ireland	21 November 2017
Managing the Central Government Estate	30 November 2017
<b>2018</b>	
Continuous improvement arrangements in policing	27 February 2018
Type 2 diabetes prevention and care	06 March 2018





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