House of Commons

Committee of Public Accounts

Excess votes 2020–21: Serious Fraud Office

Fortieth Report of Session 2021–22

Report, together with formal minutes relating to the report

Ordered by the House of Commons to be printed 21 February 2022

HC 1099
Published on 22 February 2022
by authority of the House of Commons

The Committee of Public Accounts

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Publication

Committee reports are published on the Committee's website and in print by Order of the House.

Committee staff

The current staff of the Committee are Jessica Bridges-Palmer (Media Officer), Ameet Chudasama (Committee Operations Manager), Richard Cooke (Clerk), Rose Leach (Committee Operations Officer), Heather Nathoo (Chair Liaison), Ben Rayner (Second Clerk).

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Summary

The Committee of Public Accounts scrutinises, on behalf of Parliament, the reasons individual departments exceeded their allocated resources, and reports to the House of Commons on whether it has any objection to the amounts needed to rectify the reported excesses.

In 2020–21, the Local Government Boundary Commission for England breached its Resource Annually Managed Expenditure Limit by £53,000 against a limit of £0. The breach was as a result of the Commission needing to recognise a provision relating to office accommodation which was not foreseen in time to include within the Supplementary Estimates as the Commission believed its remaining Resource Departmental Expenditure budget would accommodate any provision.

In 2020–21, the Department for Environment, Food and Rural Affairs was authorised a Non-Budget provision of £10 million but reported Non-Budget expenditure of £151.89 million, breaching the authorised limit by £141.89 million. This was because of the correction of a prior period error in valuing the liability arising from Reservoir Operating Agreements.

In 2020–21, the Serious Fraud Office exceeded its Resource Annual Managed Expenditure limit of £1 million by £2.55 million as a result of the SFO being directed in April 2021 by the courts to settle the legal costs in respect of a particular case. As this liability was an adjusting event after the financial reporting period, the SFO was unable to seek additional Resource Annually Managed Expenditure through the Supplementary Estimates process.

On the basis of our examination of the reasons why these bodies exceeded their voted provisions, we have no objection to Parliament providing the necessary amounts by means of an Excess Vote.

Conclusions and Recommendations

1. **The Local Government Boundary Commission for England breached its Resource Annually Managed Expenditure Limit by £53,000.** In November 2020, the Government Property Agency notified the Local Government Boundary Commission for England (the Commission) that the Commission should recognise a provision related to its share of the remediation costs for its office accommodation at the end of its lease. In preparing its Main Estimate prior to the 2020–21 financial year, the Commission requested a Resource Annually Managed Expenditure budget of zero. When the Commission was advised of the dilapidations provision, it should have applied for budgetary cover in the Supplementary Estimate. However, the Commission did not realise that the new provision was subject to such budgetary cover and believed it had sufficient Resource Departmental Expenditure budget cover to accommodate any provision. As a result, the Commission incurred £53,000 of Resource Annually Managed Resource expenditure, such that the Estimate was breached by £53,000.

   Recommendation:

   Under the terms of the Standing Order of the House of Commons number 55(2)(d), we recommend that Parliament provides the additional resources by means of an Excess Vote, as set out in Figure 1 on Page 7.

2. **The Department for Environment, Food and Rural Affairs breached its Non-Budget Expenditure Limit by £141.89 million.** During the year, the Department revalued liabilities relating to reservoir operating agreements with water companies which had previously not been valued in accordance with current accounting standards. The revised liability, as at 31 March 2021, was calculated to be £409.5 million, an increase of £267.9 million in total, of which £262.7 million related to prior periods. Under HM Treasury's budgeting rules, the prior year adjustments would only be corrected from 2001–02, when resource accounting was implemented. This meant that the budgeting impact arising from these prior period corrections was limited to £151.89 million, leading to an excess of £141.89 million against the Non-Budget expenditure limit of £10 million.

   Recommendation:

   Under the terms of the Standing Order of the House of Commons number 55(2)(d), we recommend that Parliament provides the additional resources by means of an Excess Vote, as set out in Figure 1 on Page 7.

3. **The Serious Fraud Office breached its Resource Annually Managed Expenditure by £2.55 million.** In July 2019, the Serious Fraud Office (SFO) entered into a Deferred Prosecution Agreement with Serco Geografix Limited following its investigation into electronic monitoring services Serco had provided to the Ministry of Justice between 2005 and 2013. The SFO separately charged two former Serco Directors in connection with the investigation and the case came to trial in March 2021. On 26 April 2021, the SFO offered no evidence at the trial after a review of the disclosure process. The judge directed the jury to return verdicts of not guilty and directed the SFO to settle the legal costs incurred in respect of the trial. The liability for

costs is an adjusting event after the reporting period as the disclosure challenges occurred prior to 31 March 2021. As a result, the SFO estimated the costs it will have to pay and included a provision in its accounts alongside other provisions for legal costs. Due to the timing of the verdict, it was too late in the year for the SFO to obtain Parliamentary approval for this additional spending and, as a result, there was no budget cover for this provision to settle these costs. This meant that the SFO breached its Resource Annually Managed Expenditure total of £1 million by £2.55 million.

4. **We took evidence from the SFO on 9 February 2022 and raised our concerns over the loss of taxpayer's money arising from its failure in prosecuting this particular case.** The SFO set out that it had commissioned an independent review by Mr Brian Altman QC to make recommendations to prevent such issues arising in future cases. We look forward to seeing the review and the additional actions the SFO is taking forward to address the issues identified.

Recommendations:

Under the terms of the Standing Order of the House of Commons number 55(2)(d), we recommend that Parliament provides the additional resources by means of an Excess Vote, as set out in Figure 1 on Page 7.

The SFO should write to us within a month of receiving the Altman review setting out its response and plans to take the recommendations forward.

The SFO should also write to us setting out its findings from its own internal review of control failures and the steps it is taking more immediately to address the issues arising from this case.

Excess Votes in 2020–21

Introduction

1. This Report is part of the framework of control over government spending. Resource-based Supply requires Departments to estimate and manage the financial resources they need during each financial year on an accruals basis for commitments to provide services, and on a cash basis to meet commitments as they mature. Parliament authorises Departments' proposed cash spending and use of resources.

2. HM Treasury is responsible for monitoring and overseeing Departments' compliance with the limits authorised by Parliament and for controlling adjustments to the approved limits during the financial year. If a Department needs to adjust its budget during the year it has one opportunity to do so via a Supplementary Estimate, which is approved by Parliament towards the end of the financial year.[1]

3. Resource-based Estimates reflect accruals and non-cash consumption of resources, such as depreciation. A cash limit is also voted by Parliament together with a non-budget line, through which departments are required to record adjustments to their prior year costs. Parliament expects Departments to stay within the limits they are voted. Any expenditure outside the limits authorised by Parliament potentially undermines parliamentary control over public spending. A breach of any of the budgetary control limits, the cash limit or the non-budget line results in the need for the expenditure to be regularised through the Parliamentary Excess Votes process.

4. Under Standing Order of the House of Commons number 55(2) (d), the Committee of Public Accounts scrutinises the reasons behind any individual bodies exceeding their allocated resources, and reports to the House of Commons on whether it has any objection to making good the reported excesses. Once the Committee has reported, Statements of Excesses will be presented to Parliament, to be voted into the Supply and Appropriation (Anticipation and Adjustments) Act. The passing of this Act authorises the additional grant by Parliament to regularise the excesses incurred by departments.

5. **Figure 1** shows the excesses incurred in 2020–21. Parliament is being asked to approve additional budget for the excesses reported in the table.

1 Central Government Supply Estimates 2020–21: Main Supply Estimates for the year ending 31 March 2021, May 2020, HC 293; and Central Government Supply Estimates 2020–21: Supplementary Estimates, February 2021, HC 1227

Figure 1: Summary of 2020–21 Excesses

Department	Resource AME		Non-Budget	
	Excess £	Amount to be voted £	Excess £	Amount to be voted £
Local Government Boundary Commission for England	53,000	53,000		
Department for Environment, Food and Rural Affairs			141,891,000	141,891,000
Serious Fraud Office	2,550,000	2,550,000		

Local Government Boundary Commission for England

6. The Local Government Boundary Commission for England (the Commission) is a statutory body that carries out reviews of the electoral arrangements of local authorities across England and makes recommendations for change. In 2020–21, the Commission was responsible for £2.2 million of UK public expenditure, all related to its administration costs. Parliament authorised a Resource Annually Managed Expenditure (RAME) limit of £0 for the Commission in 2020–21. This limit means that the Commission was not permitted to incur any RAME expenditure.[2]

7. The Commission leases its office accommodation from the Government Property Agency (GPA). The GPA manages the property on behalf of the Commission and other tenants and, in turn, has a head lease agreement with the landlord who owns the property. The Commission is liable, at the end of the lease period, for the costs of returning the property back to the condition it was in when the Commission first occupied it.

8. In 2019–20, both GPA and the Commission disclosed a contingent liability in respect of office accommodation as at 31 March 2020. Both parties were of the view that, because there had been a significant level of improvements made to the property, the probability of a dilapidation liability arising was possible but not likely.

9. In November 2020, GPA notified the Commission that its view had changed and that the Commission should recognise a dilapidation provision for its share of the remediation costs for the accommodation. The provision agreed by both parties is £53,000, which is recognised as a cost in the Commission's Statement of Comprehensive Net Expenditure for 2020–21 and as a liability as at 31 March 2021 in the Statement of Financial Position.

10. In preparing its Main Estimate prior to the 2020–21 financial year, the Commission believed that it would not be incurring any liabilities in respect of dilapidation charges so requested a RAME budget of zero. When the Commission was advised of the dilapidations

2 (HC 330) – LGBCE Annual Report and Accounts – 202021.pdf

provision in November 2020, the Commission should have applied for RAME budgetary cover in the Supplementary Estimate. However, the Commission did not realise that the new provision was subject to RAME budgetary cover and believed it had sufficient Resource Departmental Expenditure Limit budgetary cover to accommodate any provision. As a result, the Commission incurred £53,000 of Resource Annually Managed Resource expenditure, such that the Estimate was breached by £53,000.

The Department for Environment, Food and Rural Affairs

11. The Environment Agency is an executive non-departmental public body within the Departmental boundary of the Department for Environment, Food and Rural Affairs. In 1989, the predecessor body to the Environment Agency entered into several reservoir operating agreements with water companies. The agreements, approved by HM Treasury included payments by the Agency, indexed upwards annually based on the RPI, and which are payable in perpetuity. The approach taken to valuing the liability arising from the Reservoir Operating Agreements was not in accordance with the requirements of the relevant financial reporting standard (IFRS 9).[3]

12. The liability recorded in the 2019–20 Departmental Group's financial statements as at 31 March 2020 was £141.6 million. The revised liability as at 31 March 2021, taking into account the requirements of IFRS 9, was calculated to be £409.5 million, an increase of £267.9 million in total, of which £262.7 million related to prior periods. Under HM Treasury's budgeting rules, the prior year adjustments would only be corrected from 2001–02, when resource accounting was implemented. This meant that the budgeting impact arising from the impact of these prior period corrections was limited to £151.89 million leading to an excess of £141.89 million against the Non-Budget expenditure limit of £10 million.

13. This issue was only identified after the Supplementary Estimates had been submitted and as such the Department was unable to seek cover for the excess.

The Serious Fraud Office

14. The Serious Fraud Office (SFO) is a non-ministerial department that investigates and prosecutes serious or complex fraud, bribery and corruption. It forms one of the Law Officers' Departments and constitutes a public arm's length body sponsored by the Attorney General's Office. In 2020–21 the SFO exceeded its Resource Annual Managed Expenditure limit of £1 million by £2.55 million. This overspend was a result of a single failed court case in April 2021, which went so badly wrong that the SFO was directed by a judge to cover the other side's legal costs. Due to the SFO's failings in the disclosure process during its prosecution of two former employees of Serco, the judge directed the jury to return verdicts of not guilty and for the SFO to settle the legal costs incurred. As this liability was an adjusting event after the financial reporting period, the SFO was unable to seek additional Resource Annually Managed Expenditure through the Supplementary Estimates process.

3 Defra Annual Report and Accounts 2020–21 (publishing.service.gov.uk)

15. We took evidence from the SFO on 9 February 2022.[4] We asked what had led to the disclosure failures in April 2021 and whether lessons had been learned. SFO stated that it was working in a very challenging disclosure regime, working with huge amounts of data and digital material. In the Serco case, the SFO told us that it had been required to review 1.9 million documents.

16. The SFO told us that it will need to focus on technology as a means to help avoid problems of disclosure going forwards. It stated that upskilling had been part of its Spending Review bid as it was looking to invest further in its own technology and to attract and retain staff with the right expertise. SFO also outlined that, whilst it had prioritised its workload and was confident that it could deliver its caseload for the year, it was at a critical tipping point and was concerned with operating with a large volume of digital material in a system that was developed in an analogue age.

17. We questioned the SFO whether, given resourcing pressures and the volume of work and documentation involved in its cases, it had considered outsourcing to specialist firms. SFO confirmed that it was considering outsourcing, but said that this would carry considerable risk and cost a significant amount of money.

18. The SFO said that it saw the collapse of the Serco case as "*a real call for change and strengthening our controls.*" It told us that it had undertaken a belt-and-braces review of its internal quality assurance controls around its disclosure processes, including rolling out an advanced disclosure course to their staff. The SFO also commissioned an independent report by Mr Brian Altman QC to get to the bottom of what happened and told us that his report is due in May 2022. The SFO stated that it was comfortable with sharing Mr Altman's report with this Committee. The Attorney General has also requested that Sir David Calvert-Smith lead a review of the SFO's handling of the Unaoil case, which the SFO told us it expects to be produced in Spring 2022. We look forward to hearing the outcomes from both these independent reviews and the SFO's progress in addressing those areas for improvement that it has identified so far.

4 Public Accounts Committee, Oral evidence: Excess votes 2020–21: Serious Fraud Office, HC 1099, 9 February 2022

Formal minutes

Monday 21 February 2022

Members present:

Dame Meg Hillier, in the Chair

Dan Carden

Sir Geoffrey Clifton-Brown

Mr Mark Francois

Kate Green

Craig Mackinlay

Sarah Olney

Nick Smith

James Wild

Draft Report (*Excess Votes 2020–21*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 18 read and agreed to.

Summary agreed to.

Conclusions and recommendations agreed to.

Resolved, That the Report be the Fortieth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Adjournment

[Adjourned till Wednesday 23 February at 1:30pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 9 February 2022

Lisa Osofsky, Director, Serious Fraud Office; **Michelle Crotty**, Chief Capability Officer, Serious Fraud Office; **Liz Corrin**, Head of Corporate Services and Chief Financial Officer, Serious Fraud Office Q1–66

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All publications from the Committee are available on the publications page of the Committee's website.

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