

DEPARTMENTAL AUDIT COMMITTEE: 2 MARCH 2016

**TITLE OF PAPER: BYTEL MEMORANDUM OF REPLY
IMPLEMENTATION PLAN**

Paper presented by: Terry Coyne

KEY ISSUES

- The Memorandum of Reply to the Committee's report on the Bytel project was laid before the Assembly on 2 October 2016. The MOR sets out the Department's responses to the Committee's recommendations.
- The Committee made a total of eight recommendations. The attached Implementation Plan sets out the action the Department has taken or intends to take in relation to the Committee's recommendations. The Committee will note that a number of actions have been implemented.
- Progress will be reported to the Departmental Audit Committee until implementation is complete.

DECISION REQUIRED

- None.

ACTION REQUIRED

- The Departmental Audit Committee is asked to note the position in relation to the actions that have been taken, or are currently being taken.

TIMESCALE

- Implementation to proceed in accordance with the timescale in the plan.

Corporate Governance Guidance

For Period: 30 November 2015 – 2 March 2016

Circulated by Accountability & Casework Branch

Date Issued	Issued To	Details
30 November 2015	HODs, HOUs, NDPBs, TIL, ITI & NI-CO	<u>DAO(DFP) 10/15</u> Public Accountability Process: Commenting on NIAO Reports, PAC Reports and Matters under Consideration by PAC
6 January 2016	HODs, HOUs, NDPBs, TIL, ITI & NI-CO	<u>FD(DFP) 10/15</u> The Need for all Contracts, Contract Exclusions and Procurement Projects to be Supported by Suitable Appraisals and Business Cases – Updated DFP Guidance
2 February 2016	HODs, HOUs, NDPBs, TIL, ITI & NI-CO	<u>DAO(DFP) 04/16</u> Annual Theft and Fraud Report 2014-15
26 February 2016	HODs, HOUs, NDPBs, TIL, ITI & NI-CO	<u>Minute from DFP</u> Circulation of DFP responses to the Bytel Public Accounts Committee Report which are of wider application.

Circulated by Accounts Branch

Date Issued	Issued To	Details
January 2016	NDPB's and David Beck	<u>FD (DFP) 01/16</u> Government financial Reporting Manual (FReM) 2015/16

Dear Accounting Officer Letter Recently Issued by DFP

Date Issued	Details
12 February 2016	<u>DAO (DFP) 05/16</u> Departmental Restructuring – Assurance Arrangements for 2015-16 Departmental Annual Report and Accounts. This DAO is being considered internally at present.

BYTEL MEMORANDUM OF REPLY: ACTIONS TAKEN AND PLANNED BY THE DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT - FEBRUARY 2016 ¹

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>1. Where a project is heavily dependent on the support of a partner, the Committee recommends that the strength of the partner's commitment is fully tested before funding is approved. Furthermore, where the proposed specification or costs of a project are subject to change, it should be re-appraised immediately to confirm that it remains viable and represents value for money. Eligible grant assistance levels should also be re-assessed where appropriate.</p>	<p>The Department of Enterprise, Trade and Investment (DETI) accepts this recommendation. DETI's staff and those in its Arm's Length Bodies (ALBs) have been reminded of the requirement to ensure that sufficient and proportionate evidence is obtained of the commitment of a project partner to the project before funding is approved for projects which are dependent on the support of a project partner.</p> <p>Guidance issued to DETI staff in January 2012 (updated in May 2013) clearly highlights the circumstances in which changes in project specifications, costs, or other conditions which increase risk would require a re-appraisal of the project. Re-appraisal would also include, where appropriate, a re-assessment of eligible grant assistance levels.</p>	<p>Staff were reminded on 1 October 2015, of the requirement to ensure that sufficient and proportionate evidence is obtained of the commitment of a project partner to the project before funding is approved for projects which are dependent on the support of a project partner.</p> <p>DFP issued a minute to Departmental and Agency Accounting Officers and Finance Directors on 29 January 2016 drawing attention to a number of recommendations in the PAC report, including this recommendation. The minute drew the attention of Departmental and Agency Accounting Officers and Finance Directors to DFP's amendment of guidance contained in the Northern Ireland Guide to Economic Appraisal and Evaluation (NIGEAE) to reflect the points raised by the Committee. The DFP minute has been circulated within the Department and to sponsored bodies.</p>	<p>Recommendation Implemented.</p>	<p>Iain McFarlane / Economists.</p>

¹ Note: This Implementation Plan relates exclusively to actions taken and planned by DETI. It does not include actions which are the responsibility of DFP.

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>2. For all complex technical projects, the Committee recommends that independent and reliable technical expertise is engaged at the outset to provide advice on appraising and managing such projects.</p>	<p>DETI accepts this recommendation. Current practice in DETI is for appropriate independent and reliable technical expertise to be engaged at the outset of complex technical projects to provide advice on appraisal and managing such projects. This requirement will be included in the six monthly assurance statements used within DETI and its ALBs.</p>	<p>Assurance to be sought, through the inclusion of a question in the checklist produced as part of the six monthly assurance statement process, that appropriate independent and reliable technical expertise is engaged at the outset of complex technical projects to provide advice on appraisal and managing such projects.</p> <p>A question in relation to this issue was included in the six monthly assurance statement checklist for the six month period ending 30 September 2015. No issues were raised during the assurance statement process.</p>	<p>Recommendation Implemented.</p>	<p>Terry Coyne</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>3. The Committee recommends that grant checking and vouching procedures are reviewed within six months to determine whether these are sufficiently robust to ensure that only valid and eligible expenditure is approved for payment. Specifically, checks must determine whether: items claimed for are eligible for support; the existence and valuation of assisted items is properly verified; and reliable third party evidence is obtained to show the valuation and source of items which have been supplied by related companies. The risks created by the submission of claims close to payment deadlines must be recognised and managed effectively.</p>	<p>DETI accepts this recommendation.</p> <p>DETI's internal audit service will undertake risk based reviews of the main grant funding areas of the Department over the next six months. These reviews will include grant checking and vouching procedures to provide assurance that they are sufficiently robust to ensure that only valid and eligible expenditure is approved for payment. Internal audit will also consider if the procedures and controls are appropriate to ensure that items claimed for are eligible for support; the existence and valuation of assisted items is properly verified; and reliable third party evidence is obtained to confirm/support the valuation and source of items which have been supplied by related companies.</p> <p>DETI concurs fully with the Committee's view that the risks created by the submission of claims close to payment deadlines must be recognised and managed effectively. Grants should only be paid in circumstances where it can fully be justified under the terms of the grant scheme or letter of offer. DETI's internal audit service regularly reviews compliance with the terms of grant schemes and letters of offer in relation to the payment of grant.</p>	<p>Internal audit service is currently undertaking risk based reviews of the main grant funding areas of the Department covering the issues referred to in the Memorandum of Reply. The main grant areas of Invest NI have been examined including claims inspectorate. Reviews of Renewable Heat Incentive are currently underway and a review of Tourism NI's TDS scheme is scheduled for the first quarter of 2016/2017</p>	<p>May 2016</p>	<p>Michael Woods</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>4. The Committee has stated previously that fraud investigations can only be effective where investigators have an appropriate level of expertise and understanding of the law. Public bodies should ensure that only suitably qualified and experienced staff lead fraud investigations. All investigations should be commenced on a timely basis.</p>	<p>DETI intends to utilise the services of the Group's trained fraud investigators in future fraud investigation cases.</p> <p>Note: DFP established a Group Internal Audit and Fraud Investigation Service with effect from 1 April 2015</p>	<p>Ensure that future fraud investigation cases are referred to DFP's Group Internal Audit and Fraud Investigation Service.</p> <p>A Service Level Agreement with DFP's Fraud Investigation Service, which provides for fraud referrals to be made, is in place. Referrals to the Fraud Investigation Service will be referenced in the Fraud Response Plan which is currently being drafted for the Department for the Economy.</p>	<p>Arrangements have been put in place for doing so</p> <p>May 2016</p>	<p>Michael Woods</p> <p>Terry Coyne</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>5. The Committee recommends that all key stakeholders are notified immediately when serious allegations are received or concerns arise over the conduct of public business. An action plan for investigating such concerns should be established as a matter of priority</p>	<p>DETI also accepts this recommendation and in future will ensure that key stakeholders are notified immediately when serious allegations are received or concerns arise over the conduct of public business. DETI will also ensure that an action plan for investigating concerns is drawn up on each occasion when serious allegations or concerns are raised.</p>	<p>DFP issued a minute to Departmental and Agency Accounting Officers and Finance Directors on 29 January 2016 drawing attention to a number of recommendations in the PAC report, including this recommendation. The minute drew the attention of Departmental and Agency Accounting Officers and Finance Directors to the need to notify stakeholders when serious allegations or concerns arise over the conduct of public business and the need to establish an action plan for investigating such concerns. DFP will include these points in anti-fraud guidance in due course.</p> <p>The DFP minute has been circulated within the Department and to sponsored bodies.</p> <p>The need to notify stakeholders and to establish an action plan will be referenced in the Fraud Response Plan which is currently being drafted for the Department for the Economy.</p>	<p>Arrangements have been put in place for doing so.</p> <p>May 2016</p>	<p>Terry Coyne</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>6. Too much reliance was placed on whistleblowers to identify concerns over the mismanagement of public money in this case. The Committee recommends annual 'test drilling' on a small number of funded projects to provide assurance that all expenditure incurred is valid and eligible. This work should be undertaken by individuals independent of the management and oversight of projects.</p>	<p>DETI accepts this recommendation.</p> <p>DETI already undertakes an annual test drilling exercise to test compliance with guidance on economic appraisals and post project evaluations. This will be supplemented with an annual "test drilling" exercise on a small number of projects to ensure that all expenditure incurred is valid and eligible. Review of the eligibility of grant expenditure is also an element of the programme of internal audit activity undertaken by DETI's internal audit service.</p>	<p>EU funded projects are already subject to independent checks to provide assurance on the validity and eligibility of expenditure. Grant payments made by Invest NI are similarly subject to independent checks by its Claims Inspectorate Team.</p> <p>With regard to DETI and Tourism NI, a "test drill" of a small number of funded projects will be undertaken to ensure the validity and eligibility of expenditure.</p>	<p>March 2017</p>	<p>Michael Woods</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>7. The Committee recommends that DETI commissions a PACE investigation of the Bytel project as a matter of urgency. This investigation should focus on establishing whether any individuals bear responsibility for the shortcomings within the project and whether there is any evidence of misconduct or criminal activity either inside or outside the Department.</p>	<p>DETI partially accepts this recommendation, and will consider it further in light of all the relevant evidence, some of which is not yet available.</p> <p>The Committee is aware that there have already been several investigations conducted in past years in relation to the Bytel project. Prior to the publication of the Committee's recommendations, DETI also commissioned a preliminary investigation into the handling of particular correspondence received by departmental officials in July 2006. This correspondence contains the Bytel internal email material referred to by the Committee at the hearing on 18 March 2015. This investigation is a preliminary fact finding investigation, and is currently being undertaken by the Group Internal Audit and Fraud Investigation Service based in DFP. DETI will consider the findings arising from this latest investigation and liaise with the Police Service of Northern Ireland (PSNI) as appropriate to determine if any further investigation work, such as a wider Police and Criminal Evidence (PACE) investigation of the Bytel project, needs to be undertaken. DETI will also consider the findings to determine what other action it should take if there are no grounds to suspect criminal activity, but there is evidence of misconduct.</p> <p>DETI has already written to PSNI and made them aware of the issues surrounding the Bytel project and the current investigation. DETI will update Northern Ireland Audit Office and the Committee when it has been possible to consider all the relevant evidence.</p>	<p>Consider findings of the investigation undertaken by DFP's Group Internal Audit and Fraud Investigation Service into the handling of the 2006 correspondence relating to the Bytel project. The next stage is to update the Northern Ireland Audit Office.</p>	<p>As soon as practicable.</p>	<p>Andrew McCormick (supported by other officials as appropriate)</p>

Recommendation	MOR Response	Actions Taken or Planned by DETI	Timescale	Action By
<p>8. The Committee recommends that DETI improves its systems for tracking the ownership status of grant-funded assets to facilitate the exercise of clawback.</p>	<p>DETI accepts the Committee's recommendation. DETI will review its existing systems for tracking the ownership status of grant funded assets and improve these where necessary in order to facilitate the exercise of clawback.</p>	<p>Internal Audit Service is undertaking reviews of the controls established over grant funding. As part of these risk based reviews internal audit will assess the controls established by management to confirm the existence of grant funded assets during the Letter of Offer control period.</p>	<p>March 2017</p>	<p>Michael Woods</p>

Other Issues – Not in MOR	DETI Actions Taken or Planned	Timescale	Action By
<p>Paragraph 48 PAC Report:</p> <p>The Committee expects to be advised promptly of the final outcome of the legal proceedings.</p>	<p>Conclude legal proceedings in consultation with legal advisers.</p>	<p>As soon as possible after conclusion of legal process.</p>	<p>Andrew McCormick to provide response on basis of draft supplied by Terry Coyne.</p>
<p>Letter from Committee dated 15 October 2015 requesting update on implementation of recommendations in 12 months time.</p>	<p>Provide update to PAC.</p>	<p>October 2016</p>	<p>Andrew McCormick to provide response on basis of draft supplied by Terry Coyne.</p>