Finance Report Summary, Financial Year 2023/24 - December 2023

Executive Summary

This report provides the year-to-date financial position for the nine month period to December 2023, along with the results of the latest financial forecast. The financial forecast currently reports a year end deficit of £0.3m which has reduced from the forecasted deficit position of £1.4m reported in November. The key movements in the forecast position from the prior month are as follows:

- Grant in Aid (GiA) forecast income has increased by £0.3m. Detailed work has now been undertaken to forecast the full year costs and this indicates additional cost pressures in Freedom of Information Act Appeals (FOIA within the legal appeals area).
- Other government funding income has reduced by £0.2m reflecting the proposed return of unutilised Network and Information Systems (NIS) ringfenced grant monies predominantly due to the NIS legislative changes not being progressed.
- Fine retention income has increased by £0.2m due to a revision in the forecast for the associated allowable expenditure.
- An increase in the use of reserves of £0.2m to utilise the approved maximum business case value of £9.1m.
- Office costs have increased by £0.2m to account for building dilapidations which are payable in the final quarter. These additional costs are being funded by a reduction in the professional fees forecast.
- Legal, professional and other costs have reduced by £0.3m to assist with the additional dilapidations as detailed above.
- Project costs and capital costs have reduced by £0.8m reflecting a detailed review of project spend which will be incurred in the 2023/24 financial year.

The following risks are noted in the forecast position:

- DP fee income is tracking below forecast and will likely outturn in the region of £0.6m lower. We will continue to monitor this forecast position closely.
- Funding to cover the cost of living payment and the additional costs pressures of £0.5m in FOIA are not yet confirmed for 2023/24. We continue to work with DSIT regarding this position.

- The experience in prior financial years is that the forecast position for the final quarter expenditure is optimistic and actual expenditure reports lower than estimated.
- There are therefore risks of reduced income and expenditure against the forecast position which, if they materialise, will offset each other to some extent. We will continue to work to address the remaining deficit over the final quarter.

Income

The budgeted income for the financial year is £85.3m, which includes DP fee income £67.2m, GiA £7.6m, Other Government Funding £0.6m, Fine Retention Income £2.8m and Regulatory Pioneers funding of £0.1m. We also budgeted to drawdown from our Reserves £6.9m to cover specific costs in relation to ICO25 transformation.

The revised income forecast is £90.3m reflecting an increase of £5.0m from budget as follows:

- £0.3m decrease in DP fee income due to lower acquisitions than budget.
- £2.2m increase in GiA to reflect the increased resource forecast to support our Freedom of Information Act appeals £0.5m, as well as the one off cost of living payment announced by Cabinet Office for employees which was not budgeted and amounts to £1.7m.
- £1.1m increase in fine retention income to reflect the latest expenditure forecasts associated with this agreement.
- £2.2m increase in Reserves drawdown to reflect more of the one off research and professional services costs associated with the delivery of both ICO25 and implementation of the DPDI Bill. The reserves forecast increase also offsets some increases in staff costs as we recruit to ensure that the ICO has the necessary capacity and capability to deliver our transformation and reform agenda. This objective was set out in the reserves case, and whilst these are recurring costs, we are also working with DSIT on the new fee model for 2024/25 and these recurring costs have all been included in our longer term projections as part of this longer term funding review work. The current forecast represents the maximum approved usage of £9.1m.
- £0.2m decrease in other government funding due to the proposed return of unutilised NIS ringfenced grant monies as the NIS legislative changes are not being progressed.

Year to date income is below budget by £4.8m due to:

- £0.2m – DP fee income acquisition being below budget.

- £4.6m - Fine income retention and reserves as Finance is working with the business to finalise costs relating to achieving the goals of these funding streams.

Expenditure

Full year expenditure is forecast to be £5.3m overspent against the budget, predominantly as a result of staff costs for the one off cost of living payment and higher than budgeted for pay guidance. Whilst there are variances against non-staff costs forecasts, these mostly net off against one another.

Year to date expenditure is £2.6m over budget largely due to the reasons detailed in the forecast (see above).

The full position is outlined in Table 1, with more detailed information thereafter.

Table 1 December Consolidated Management Accounts

December Consolidated Management Accounts	Year To Date				Full Year		
	Budget	Actual	Variance		Budget	Revised Forecast	Variance
	£m	£m	£m		£m	£m	£m
DP FEE INCOME	47.3	47.0	-0.2		67.2	66.9	-0.3
GRANT IN AID	5.7	5.7	0.0		7.6	9.8	2.2
OTHER GOVERNMENT FUNDING	0.5	0.5	0.0		0.6	0.4	-0.2
FINE RETENTION INCOME	2.1	1.2	-0.9		2.8	3.9	1.2
REGULATORY PIONEERS FUND	0.1	0.1	0.0		0.1	0.2	0.1
DRAWDOWN FROM RESERVES	5.0	1.3	-3.7		6.9	9.1	2.2
OTHER INCOME	0.0	0.0	0.0		0.0	0.0	0.0
TOTAL INCOME	**60.7**	**55.8**	**-4.9**		**85.3**	**90.3**	**5.0**
OFFICE COSTS	3.9	4.2	-0.3		5.2	5.6	-0.4
STAFF COSTS	45.1	51.0	-5.9		62.5	68.1	-5.6
TRAINING AND RECRUITMENT	1.6	0.8	0.8		2.0	1.7	0.3
IT COSTS	4.5	4.0	0.5		6.0	6.0	-0.0
PROJECT SPEND	0.5	0.2	0.3		0.7	1.6	-0.9
COMMUNICATIONS	0.4	0.2	0.2		0.5	0.5	-0.0
FINANCIAL COSTS	0.3	0.2	0.1		0.4	0.3	0.1
TRAVEL	0.4	0.5	-0.2		0.5	0.6	-0.1
LEGAL, PROFESSIONAL & OTHER	2.8	2.4	0.4		3.6	4.4	-0.8
TOTAL COSTS	**59.4**	**63.4**	**-4.0**		**81.3**	**88.7**	**-7.4**
Capital Spend	**2.5**	**1.1**	**1.4**		**4.0**	**1.9**	**2.1**
SURPLUS/(DEFICIT)	**-1.2**	**-8.7**	**-7.5**		**-0.0**	**-0.3**	**-0.3**

Income

DP Fee Income

The forecast of £66.9m is based on renewals target of 89.5% (budget 89.5%) for tier 1, 93.0% (budget 89.5%) for tier 2, and 97.5% (budget 100%) for tier 3 organisations. The revised forecast KPIs are based on the previous 12 month trends and allow for late renewals expected. There are also early renewals anticipated in the renewals forecast for 2024/25 and these are included in the forecast position.

The acquisitions target of 183,000 set during the budget has been reduced by 38,000. There is a recognised risk against this forecast due to diminishing returns against the Companies House data, and acquisitions performance may outturn closer to 131,000. There are opportunities in relation to a new government data sharing agreement being progressed, although we're not expecting to be able to pilot this until July next financial year. This new data source would provide an opportunity to work with new data on sole traders. Some sole traders will need to register, however, given their size, they may be less likely to need to register than the larger organisations on Companies House.

Grant in Aid

Grant in Aid funding is in place to fund our work supporting Freedom of Information (FOI), Network and Information Systems (NIS), Electronic Identification and Trust Services Regulations (eIDAS), the Investigatory Powers Act (IPA) and Adequacy Assessments.

Formal budget delegations remain outstanding from DSIT for this financial year, due to delays as a result of the machinery of government changes however we provide monthly reporting updates to DSIT aligned to our financial forecasts and actuals. The GiA drawdown to date is in line with budget.

As noted in the executive summary, we have increased the GiA forecast by £2.2m to reflect the overspends in relation to the one off cost of living payment to staff below SCS equivalent of £1.7m and for additional resource required to address a FOI legal appeals backlog of £0.5m .

Other Government Funding

Other government funding has been provided via Memorandum of Understanding letters to support the implementation of NIS Regulations in light of the increased focus on the security and resilience of digital service providers (£0.5m), and to support the transfer of the responsibility for maintenance and publishing of the Trusted List to the ICO under eIDAS

(£0.1m). Both of these funding streams are ringfenced to these specific activities.

Formal budget delegations remain outstanding from DSIT for this financial year, due to delays as a result of the machinery of government changes. The drawdown of funding is in line with budget, however we are anticipating returning £0.2m of this ringfenced grant and this is reflected in the forecast position.

Fine Income Retention

Prior to 2022/23 financial year, the legal costs incurred in the imposition and recovery of the monetary penalties, which are imposed by the ICO on organisations who breach the DPA or PECR, were fully borne by the ICO. The ICO proposed to Government that the legal costs incurred should be recovered from monetary penalty income, ensuring that these costs are not funded by fee-paying organisations. A similar cost recovery model is in practice at other UK regulators. This was approved by Government and has been in place since 2022/23.

This year's fine income retention forecast has been updated to reflect the latest expenditure forecasts for staff and non staff costs aligned to this agreement, increasing the expected fine income to be retained to £3.9m.

Year to date actuals are below budget as Finance is working with the business to identify costs incurred relating to the imposition and recovery of the monetary penalties.

Reserves

The ICO has cash reserves available from prior years as our management agreement with DSIT allows us to retain certain surpluses at the end of any financial year. The management agreement allows the ICO to utilise these funds in future years with the necessary non-cash budget approval. The ICO submitted a business case to DSIT and HMT to utilise Reserves in 2023/24 up to £9.1m (£7.0m with a +/-30% optimism bias) which was approved in June 2023. This is to assist us in delivering the commitments within the ICO25 plan as well as implementing the DPDI bill.

As noted in the executive summary, the latest forecast for reserves drawdown is maximum approved at £9.1m to reflect more of the one-off Research and Professional Services costs associated with the delivery of both ICO25 and implementation of the DPDI Bill. The Reserves forecast increase also offsets some increases in staff costs as we recruit to ensure that the ICO has the necessary capacity and capability to deliver our transformation and reform agenda.

Year to date actuals are below budget as Finance is working with the business to identify costs incurred relating to delivering the commitments within the ICO25 plan as well as implementing the DPDI bill.

Expenditure

The end of year forecast position currently shows an overspend against budget totalling £5.3m, including capital. The overspend is predominantly as a result of staff costs overspends as other forecast movements mostly offset one another.

Staff Costs

Staff costs are forecast to overspend by £5.6m due to:

- The one off cost of living payment announced by Cabinet Office and payable to all staff below SCS equivalent. This has created an un-budgeted pressure of £1.7m for which we have requested additional GiA to cover.
- The pay remit for 2023/24 was announced at 4.5% with an additional 0.5% for targeted increases. This is above the assumed 3% assumption allowed for in the budget, creating a further pressure of £1.0m.
- A differing profile for recruitment than assumed in the budget with more staff in post earlier than was assumed in the budget.

These pressures also explain the year to date overspend.

To avoid further pressures, and ensure we can meet our turnover savings targets there is currently a recruitment freeze across the remainder of the financial year.

Non-Staff Costs

Non-staff costs forecast movements mostly net off, with an underspend of £0.3m, with the main movements outlined below:

- Office costs – (£0.4m overspend) an increase in relation to some reactive maintenance to ensure our estates operate as needed, both of which arose after the budget was set. The variance is also affected by the increase in the dilapidations forecast due to the implementation of our accommodation strategy as we adjust our footprint of office space across the UK.
- Training and recruitment – (£0.3m underspend) in relation to reduced recruitment costs anticipated across the rest of the financial year with a recruitment freeze currently in place. Training costs have been reduced to assist with the financial position.
- Projects – (£0.9m overspend) as a result of budgeting ERP £0.2m as capital in error (offsets with capital underspend), as well as prioritising a revenue regulatory assurance review of £0.9m in place of other budgeted capital projects.

- Legal, professional and other – (£0.8m overspend) with numerous increases and decreases underpinning this. The main increases creating the financial overspend are:

    - Research (£0.2m) for a data controller study offset by funding from reserves.
    - Legal services - FOIA (£0.2m) for additional resource to reduce the backlog for which we have requested additional GiA to cover this.
    - Professional services (£0.2m) for an inward secondment in NiS.
    - Professional services (£0.1m) for DRCF costs missed from budget.
    - External legal costs (£0.5m) relating to enforcement activity.

- Capital spend has reduced by £2.1m due to revised forecasts against projects of a capital nature, both in terms of reduced estimates and reprioritisation of activity into revenue.