

Report of the Comptroller and Auditor General on the 2010-11 accounts of the Equality and Human Rights Commission

Introduction

1. The Equality Act 2006 established a new Commission for Equality and Human Rights (the Commission). On 1 October 2007, this Commission took up its new powers and assumed the responsibilities for three legacy equality Commissions: the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission, as well as taking responsibility for protection against discrimination on the grounds of age, religion or belief, sexual orientation and the promotion of human rights in the United Kingdom.

Unqualified Opinion on Regularity

2. My regularity opinion for the year ended 31 March 2010 was qualified because the Commission had incurred expenditure in respect of procurement of goods and services (£1,059,000), pay costs (£570,000) and write off losses (£874,000), which I concluded were not in conformity with the authorities which governed them, and was therefore irregular. In addition, the Commission was unable to provide me with sufficient evidence to support the regularity of £2,621,000 of legal grant expenditure. Further details of the reasoning for qualification are in my report dated 15 June 2011.
3. My audit opinion on the financial statements for the year ended 31 March 2011 is unqualified. The purpose of this Report is to outline the improvements made by the Commission which have led me to conclude that an unqualified regularity opinion is appropriate.

My obligations as Auditor

4. Under the Equality Act 2006, I am required to examine, certify and report on each statement of account that I receive. In addition to the requirements to obtain evidence to give reasonable assurance that the Commission's financial statements are free from material misstatement, I am also required to give an opinion that the transactions are, in all material respects, in conformity with the authorities which govern them (a regularity opinion).

Irregular Expenditure as a Result of Breaches of Procurement Delegations

5. During the year ended 31 March 2011, the Commission operated under the remit of a Framework Document with the Government Equalities Office, as its sponsor Department which sets out a requirement that the Commission seek the GEO's approval for any Single Tender Procurement Actions (STAs) above £50,000.
6. In previous years, the Commission identified a number of cases where it procured goods and services of more than £50,000 using Single Tender Procurement Actions that were not authorised by the GEO. As this expenditure, totalling £1,059,000 in 2009-10, did not have the required authority I qualified my regularity opinion on the Commission's accounts.
7. My audit testing of 2010-11 procurement activity has not identified any instances of non-compliance with the framework agreement within the 2010-11 year, and approval has been sought and received for one required STA over £50,000 undertaken in year.
8. During the year the Commission has revised its procurement guidance, and all Directors and above have now been trained in the proper procedures to be followed when procuring goods and services. Furthermore, the Procurement team now provides regular reports on procurement activity to the weekly meetings of the Senior Management Team, and has introduced a

programme of contract management reviews to ensure that procurement activity is in accordance with the Commission's guidance.

9. While I welcome the considerable improvements that the Commission has made in its controls over procurement, there are still areas where it needs to make improvements. In particular, up to 35% of the Commission's purchase orders are still not raised until after the Commission has received an invoice for goods and services. This means that Commission staff are committing funds without going through proper processes and are avoiding some of the checking processes. Consequently the Commission does not have an accurate understanding of its committed expenditure at any one point in time. The Chief Executive has made it clear that he takes non-compliance with these processes seriously such that in cases of repeated non-compliance delegations will be withdrawn.

Pay Remits

10. All non departmental public bodies, such as the Commission, are required to agree annual pay remits with their sponsor Department and the Treasury, which set out the maximum level of pay increases for permanent employees. In my Report on the Commission's 2009-10 accounts, in June 2011, I noted that the Commission had not agreed a pay remit for 2009-10 or beyond with its sponsor Department, the Government Equalities Office (GEO), and the Treasury.
11. The Commission have sought, under the sponsorship of their new Sponsor Department, the Home Office, to agree their 2010-11 pay remit on a more timely basis, and this was in place by July 2011. My testing did not identify any staff costs payments in 2010-11 that are outwith the agreed 2010-11 pay remit.

Losses Delegations

12. In accordance with its Framework Document, the Commission is required to seek the GEO's approval to write off total losses of over £100,000 in any one financial year. The Commission did not seek approval from the GEO at the time of the write off of losses of £874k predominately relating to the cost of its website and decided not to seek retrospective authority for this write off. I considered the write off to be irregular, and qualified my 2009-10 audit opinion in this regard.
13. There have been no further write offs during 2010-11, and no evidence of any other breaches of delegation per the framework agreement.

Evidence to Support the Regularity of Expenditure on Legal Grants

14. I qualified my regularity opinion on the Commission's 2009-10 accounts as I considered that the Commission did not have a sufficiently rigorous programme of monitoring or assurance gathering for legal grants in 2009-10, and could not assure itself that around £2,621k of grants were used for the purposes intended. I could not, therefore, confirm that there was sufficient appropriate audit evidence for me to confirm the regularity of those legal grants.
15. The Commission have worked to put in place a revised control framework for legal grants and my review of a sample of 2010-11 legal grant payments showed that improvements have been made in the monitoring of legal grant payments. Although new, more rigorous procedures were not fully in place until November 2010, the evidence obtained as part of my audit has provided sufficient, appropriate evidence over the regularity of legal grant expenditure.
16. I did note that the evidence held on file although much more detailed than in 2009-10, was not always consistent between projects, and that further improvements also need to be made to controls over the verification of legal grantees' reported expenditure, which impacts on the Commission's ability to identify underspends or unauthorised expenditure, although this risk is

minimised due to the types of organisations these grants are paid to and the types of costs being funded.

Conclusions

17. The Commission continues to have difficulties in budgeting and forecasting effectively, and this prevents it from exercising full control over its resources. Many of these difficulties, especially around forecasting, result from the continuing problem of Commission staff not raising purchase orders on a timely basis. If the Commission does not have a clear idea of its spending commitments at any point of time, it is difficult to accurately forecast its future expenditure.
18. Many of the improvements that the Commission has put in place have been delivered by interim staff brought in by the Commission. In general the Commission is over-reliant on interim staff. I am concerned that once these interim staff depart, there is a risk that the improvements in controls that they have delivered will lapse. The Commission will need to ensure that not only does it appoint properly qualified and experienced staff to fill these posts, but that there is a proper transfer of knowledge to these staff.
19. I remain concerned, too, about the culture of the Commission with regard to financial and administrative controls. It is imperative that the Commission Board and the Senior Management Team, led by the Chief Executive, are clear and unequivocal in their expectations that staff will comply with the laid down financial procedures and manage public funds effectively, and that such expectations are reflected through active performance management.
20. As this report indicates, improvements are finally starting to take effect and reflect an improvement in the overall control environment resulting in the first clear audit opinion on the Commission's financial statements since its formation in 2007. However, while the Commission has made improvements in its financial controls, these are the first steps and it needs to build on this and embed a culture of compliance with administrative procedures and to ensure that the Commission Board and senior management actively take responsibility for the proper governance and effective administration of the Commission, and in particular to ensure that improved procedures are embedded and to protect against any return to prior years' weaknesses, particularly if the Commission starts to lose its key interim staff.

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