

## **Chapter 13**

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**Department of Health and Children**

## 13.1 Irish Blindcraft

The Board for the Employment of the Blind (trading as Irish Blindcraft) was established by the Department of Social and Family Affairs in 1957 as a voluntary association of individuals operating a private trust for the benefit of blind persons under powers conferred by the Blind Persons Act, 1920. It has operated under the aegis of the Department of Health and Children (the Department) since April 1972, receiving annual grants towards the deficit on its operations. By 2001 its annual deficits were of the order of €1m.

In June 2003 the Prospectus Report<sup>40</sup> had recommended that Irish Blindcraft be disbanded. In early 2004, the Minister for Health and Children appointed a Board for the period to 31 December 2007 with the remit to disband Irish Blindcraft and to seek alternative arrangements for the staff. A new Board was appointed by the Minister on 1 January 2008 for the period to 30 June 2009. The Minister had, in June 2007, appointed Trustees of Irish Blindcraft for a term of office to 30 June 2009.

Irish Blindcraft owns a property in Goldenbridge, approximately 3.2 kilometres from Dublin city centre. In December 2007 its sale value was estimated at between €5.0m and €5.5m.

In 2007 the Department paid €3.75m to Irish Blindcraft from Subhead F.1 to enable redundancy payments to be made to its former employees. Irish Blindcraft repaid the Department from the proceeds of a commercial loan guaranteed by the Minister.

The gross cost of the redundancy scheme was €4.68m comprising €4.54m for 31 staff<sup>41</sup> who did not opt for redeployment within the health sector and €0.14m for five staff who opted for redeployment.

### Bank Loan

The loan was for an amount up to €5.2m and was negotiated with Irish Blindcraft's existing bankers. No quotes were requested or received from other banks. Irish Blindcraft drew down €3.75m in December 2007 to repay the temporary funding supplied by the Department. A further €0.52m was drawn down in May 2008 to meet outstanding tax liabilities.

The liquidation of the loan is dependent upon the realisation of the value of the property. Consequently, no repayments have been made to date. The interest rate on the original loan was 5.84%. Up to June 2008 the interest accrued on the loan was €89,600. The total amount due to the bank stood at €4.364m at that date.

The Minister for Health and Children gave an undertaking to the bank, which holds the title deeds of the Goldenbridge property, that the Department would fund any shortfall between the proceeds from the sale of the premises and the loan plus accrued interest.

Members of the Board also received an indemnity from the Minister against any personal losses that might arise in the event of any civil proceeding taken against the Board in the discharge of the sale of property, the exit package or the loan.

### Legal Capacity of Board and Associated Trustees

There have been some doubts as to whether the Minister for Social and Family Affairs or the Minister for Health and Children has the legal capacity to appoint Board members. These were raised in legal

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<sup>40</sup> *Audit of Structures and Functions in the Health System.*

<sup>41</sup> Includes two deceased members of staff.

correspondence as far back as 1998. The concern was that the Board should have been appointed by the Minister for Social and Family Affairs and consequently might be acting *ultra vires* and any decisions made by it could be open to challenge. The issues were never fully clarified in the meantime. Legal advice also indicated that, while the Board owned the assets of Irish Blindcraft and the proceeds of the sale of any assets would be due to the Board, it was the trustees that had power to dispose of the assets with the consent of the Board.

### **Audit Concern**

I was concerned in the light of the foregoing as to whether the arrangements for the wind up of the Board could be brought to a speedy conclusion and the accumulation of interest at a rate in excess of the State borrowing cost minimised.

The Accounting Officer informed me that from the outset, the overarching concerns of the Department had been to wind up Irish Blindcraft which had been operating at a loss while, at the same time ensuring that adequate provision was made for the staff. The sale of the premises was designed to pay the cost of the bank loan which was used to fund the redundancy package. The Accounting Officer also said that on a yearly basis, a substantial subvention of well in excess of €1m has been saved by the Department.

In regard to the legal uncertainties he informed me that a decision was taken at the time not to go through a legislative process as the company was to be wound up. He informed me that the Board and the Trustees of Irish Blindcraft are appointed by the Minister for Health and Children in accordance with its Constitution and Regulations which he understands were last adopted in April 1989. He pointed out that the Board and the Trustees had successfully completed the sale of Irish Blindcraft's premises in Rathmines and the purchase of their current premises at Goldenbridge in 1990. He also informed me that the Board and Trustees will shortly complete the transfer of a strip of ground at the Goldenbridge site, which is the subject of a compulsory purchase order made by the Railway Procurement Agency in connection with the development of the Luas line. In the circumstances, the Accounting Officer concluded that the Board and the Trustees would seem to have the legal capacity to wind up the affairs of the organisation and deal with its property transactions.

### **Audit Conclusion**

The repayment of the commercial loan and the wind up of the affairs of Irish Blindcraft is dependent on the successful finalisation of the sale of its premises. In the meantime, the bridging finance made available from the Vote has been repaid in 2008 out of the proceeds of borrowing guaranteed by the Minister. This borrowing is attracting interest in excess of the cost of Exchequer borrowing. Ultimately, while there is some risk that capacity issues could arise in regard to the Board or the Trustees, and prolong the finalisation of the board's affairs – in that event the capacity risk can be managed in that the matter can be dealt with by legislation.

