

## **Appropriation Account 2021**

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### **Vote 5**

### **Office of the Director of Public Prosecutions**

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## **Introduction**

As Accounting Officer for Vote 5, I am required each year to prepare the appropriation account for the Vote, and to submit the account to the Comptroller and Auditor General for audit.

In accordance with this requirement, I have prepared the attached account of the amount expended in the year ended 31 December 2021 for the salaries and expenses of the Office of the Director of Public Prosecutions.

The expenditure outturn is compared with the sums granted by Dáil Éireann under the Appropriation Act 2021, including the amount that could be used as appropriations-in-aid of expenditure for the year.

A surplus of €232,000 is liable for surrender to the Exchequer.

The Statement of Accounting Policies and Principles and notes 1 to 5 form part of the account.

## **Statement of Accounting Policies and Principles**

The standard accounting policies and principles for the production of appropriation accounts, as set out by the Department of Public Expenditure and Reform in circulars 1 and 9 of 2022, have been applied in the preparation of the account with the following exceptions.

### ***Accrued general law expenses***

Accrued general law expenses are calculated using one of the following criteria:

- Bills of cost received before 28 February of the following year are fully accrued regardless of whether or not they have been agreed and settled.
- Costs which have been awarded where the bills of costs have not been received by 28 February are accrued based on an estimate from the costs officer taking into account the complexity of proceedings and the duration of the case.

### ***Accrued fees to counsel***

Accrued fees to counsel expenses include a general provision for hearings that have not been reported to the Office within two months of the year end. The calculation is based on the average level of such fees that arose in the previous three years.

## **Statement on Internal Financial Control**

### ***Responsibility for system of internal financial control***

As Accounting Officer, I acknowledge my responsibility for ensuring that an effective system of internal financial control is maintained and operated by the Office.

This responsibility is exercised in the context of the resources available to me and my other obligations as Head of Office. Also, any system of internal financial control can provide only reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely manner. Maintaining the system of internal financial controls is a continuous process and the system and its effectiveness are kept under ongoing review.

#### ***Shared services***

I have fulfilled my responsibilities in relation to the requirements of the service management agreement between this Office and the National Shared Services Office for the provision of HR/payroll shared service.

I rely on a letter of assurance from the Accounting Officer of the National Shared Services Office that the appropriate controls are exercised in the provision of shared services to this Office.

#### ***Financial control environment***

I confirm that a control environment containing the following elements is in place.

- Financial responsibilities have been assigned at management level with corresponding accountability.
- Reporting arrangements have been established at all levels where responsibility for financial management has been assigned.
- Formal procedures have been established for reporting significant control failures and ensuring appropriate corrective action.
- There is an Audit Committee to advise me in discharging my responsibilities for the internal financial control system.
- Procedures for all key business processes have been documented.
- There are systems in place to safeguard the assets.

#### ***Administrative controls and management reporting***

I confirm that a framework of administrative procedures and regular management reporting is in place, including segregation of duties and a system of delegation and accountability, and in particular, that

- there is an appropriate budgeting system with an annual budget which is kept under review by senior management
- there are regular reviews by senior management of periodic and annual financial reports which indicate financial performance against forecasts
- a risk management system operates within the Office
- there are systems aimed at ensuring the security of the ICT systems
- there are appropriate capital investment control guidelines and formal project management disciplines.

***Internal audit and Audit Committee***

I confirm that the Office has an internal audit function with appropriately trained personnel, which operates in accordance with a written charter which I have approved. Its work is informed by analysis of the financial risks to which the Office is exposed and its annual internal audit plans, approved by me, are based on this analysis. These plans aim to cover the key controls on a rolling basis over a reasonable period. The internal audit function is reviewed periodically by me and by the Audit Committee. I have put procedures in place to ensure that the reports of the internal audit function are followed up.

***Non-compliance with procurement rules***

The Office ensures that there is an appropriate focus on good practice in purchasing and that procedures are in place to ensure compliance with all relevant guidelines.

The Office complied with the guidelines with the exception of two contracts (in excess of €25,000), totalling €239,161 (excluding VAT).

- The first contract, for €56,548, was for weekly preventative decontamination of the Office premises as part of controls in place to maintain a safe working environment during the pandemic. A tender was not issued as there was no certainty as to how long the service would be required. It had been hoped that during 2021 the service might no longer be required. However, with the emergence of variants, it became necessary to continue with the service for the full year.
- The second contract, for €182,613, related to the provision of static guard security services. The previous contract expired at the end of June 2021. The Office embarked on a procurement process in April 2021 utilising an Office of Government Procurement (OGP) framework. This process was concluded by November and a new contract for these services was put in place in December 2021.

The Office has provided details of non-competitive contracts in the annual return in respect of Circular 40/2002 to the Comptroller and Auditor General and the Department of Public Expenditure and Reform. Both of the contracts highlighted above are included in this return

***Risk and control framework***

The Office has implemented a risk management system which identifies and reports key risks and the management actions being taken to address and, to the extent possible, to mitigate those risks.

A risk register is in place which identifies the key risks facing the Office and these have been identified, evaluated and graded according to their significance. The register is reviewed and updated by the Management Board on a twice yearly basis. The outcome of these assessments is used to plan and allocate resources to ensure risks are managed to an acceptable level.

The risk register details the controls and actions needed to mitigate risks and assigns responsibility for operation of controls assigned to specific staff.

***Ongoing monitoring and review***

Formal procedures have been established for monitoring control processes and control deficiencies are communicated in a timely way to those responsible for taking corrective action and to management and the Management Board, where relevant. I confirm that key risks and related controls have been identified and processes have been put in place to monitor the operation of those key controls and report any identified deficiencies.

***Review of effectiveness***

I confirm that the Office has procedures to monitor the effectiveness of its risk management and control procedures. The Office's monitoring and review of the effectiveness of the system of internal financial control is informed by the work of the internal and external auditors and the senior management within the Office responsible for the development and maintenance of the internal financial control framework.

***Internal financial control issues***

No weaknesses in internal financial control were identified in relation to 2021 that resulted in, or may result in, a material loss.

***Covid-19 control issues***

The onset of the Covid-19 pandemic in early 2020 did result in some changes to the working and control environment with remote and virtual working playing a major role in how the Office continued to discharge its functions. As a result, the Office introduced a number of procedural and control changes. Management assessed the risks posed by Covid-19 to the control environment and to the Office in general. The changes introduced have been reviewed by the Office's Audit Committee and are monitored by the Management Board on a regular basis. I confirm that the controls both existing and those introduced as a result of Covid-19 continue to be effective in 2021.

**Elizabeth Howlin**

Accounting Officer

Office of the Director of Public Prosecutions

31 March 2022

## **Comptroller and Auditor General**

### **Report for presentation to the Houses of the Oireachtas**

#### **Vote 5 Office of the Director of Public Prosecutions**

##### **Opinion on the appropriation account**

I have audited the appropriation account for Vote 5 Office of the Director of Public Prosecutions for the year ended 31 December 2021 under section 3 of the Comptroller and Auditor General (Amendment) Act 1993.

In my opinion, the appropriation account

- properly presents the receipts and expenditure of Vote 5 Office of the Director of Public Prosecutions for the year ended 31 December 2021, and
- has been prepared in the form prescribed by the Minister for Public Expenditure and Reform.

##### ***Basis of opinion***

I conducted my audit of the appropriation account in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. My responsibilities under those standards are described in the appendix to this report. I am independent of the Office of the Director of Public Prosecutions and have fulfilled my other ethical responsibilities in accordance with the standards.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

##### **Report on the statement on internal financial control, and on other matters**

The Accounting Officer has presented a statement on internal financial control together with the appropriation account. My responsibilities to report in relation to the information in the statement, and on certain other matters upon which I report by exception, are described in the appendix to this report.

I have nothing to report in that regard.

**Seamus McCarthy**

Comptroller and Auditor General

17 June 2022

## Appendix to the report

### Responsibilities of the Accounting Officer

The Accounting Officer is responsible for

- the preparation of the appropriation account in accordance with Section 22 of the Exchequer and Audit Departments Act 1866
- ensuring the appropriation account complies with the requirements of the Department of Public Expenditure and Reform's *Public Financial Procedures*, and with other directions of the Minister for Public Expenditure and Reform
- ensuring the regularity of transactions, and
- implementing such internal control as the Accounting Officer determines is necessary to enable the preparation of the appropriation account free from material misstatement, whether due to fraud or error.

### Responsibilities of the Comptroller and Auditor General

I am required under section 3 of the Comptroller and Auditor General (Amendment) Act 1993 to audit the appropriation account and to report thereon to the Houses of the Oireachtas stating whether, in my opinion, the account properly presents the receipts and expenditure related to the vote.

My objective in carrying out the audit is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement due to fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the appropriation account.

As part of an audit in accordance with the ISAs, I exercise professional judgment and maintain professional scepticism throughout the audit. In doing so,

- I identify and assess the risks of material misstatement of the financial statements whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- I obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- I assess whether the accounting provisions of the Department of Public Expenditure and Reform's *Public Financial Procedures* have been complied with.

I communicate with the Accounting Officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I report by exception if, in my opinion,

- I have not received all the information and explanations I required for my audit, or
- the accounting records were not sufficient to permit the appropriation account to be readily and properly audited, or
- the appropriation account is not in agreement with the accounting records.

### Reporting on the statement on internal financial control

My opinion on the appropriation account does not cover the Accounting Officer's statement on internal financial control, and I do not express any form of assurance conclusion thereon.

In connection with my audit of the appropriation account, I am required under the ISAs to read the statement on internal financial control and, in doing so, consider whether the information contained therein is materially inconsistent with the appropriation account or with knowledge obtained during the audit, or if it otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement, I am required to report that fact.

### Reporting on other matters

I seek to obtain evidence about the regularity of financial transactions in the course of audit. I am required to report under section 3 of the Comptroller and Auditor General (Amendment) Act 1993 if I identify any material instance where public money has not been applied for the purposes intended or where transactions did not conform to the authorities governing them.

I am also required under the 1993 Act to prepare, in each year, a report on such matters arising from my audits of the appropriation accounts as I consider appropriate. In such cases, the certificates of opinion on the relevant appropriation accounts refer to the relevant chapter(s) in my annual *Report on the Accounts of the Public Services*.

## Vote 5 Office of the Director of Public Prosecutions

### Appropriation Account 2021

	2021		2020
	Estimate provision	Outturn	Outturn
	€000	€000	€000
<b>Programme expenditure</b>			
A Provision of prosecution service	45,549	45,244	44,248
<b>Gross expenditure</b>	<b>45,549</b>	<b>45,244</b>	<b>44,248</b>
<i>Deduct</i>			
B Appropriations-in-aid	845	772	701
<b>Net expenditure</b>	<b>44,704</b>	<b>44,472</b>	<b>43,547</b>

#### Surplus

The surplus of the amount provided over the net amount applied is liable for surrender to the Exchequer.

	2021	2020
	€	€
<b>Surplus to be surrendered</b>	<b>231,875</b>	<b>421,070</b>

**Elizabeth Howlin**  
Accounting Officer  
Office of the Director of Public Prosecutions

31 March 2022



## Notes to the Appropriation Account

### Note 1 Operating Cost Statement 2021

		2021	2020
	€000	€000	€000
Programme cost		25,810	25,098
Pay		17,015	16,029
Non pay		2,419	3,121
<b>Gross expenditure</b>		<b>45,244</b>	<b>44,248</b>
<i>Deduct</i>			
<b>Appropriations-in-aid</b>		772	701
<b>Net expenditure</b>		<b>44,472</b>	<b>43,547</b>
<b>Changes in capital assets</b>			
Depreciation	171	171	150
<b>Changes in net current assets</b>			
Increase in closing accruals	195		
Decrease in stock	59	254	(1,479)
<b>Direct expenditure</b>		<b>44,897</b>	<b>42,218</b>
<b>Expenditure borne elsewhere</b>			
Net allied services expenditure (note 1.1)		2,757	2,069
Notional rents		2,025	2,025
<b>Net programme cost</b>		<b>49,679</b>	<b>46,312</b>

#### 1.1 Net allied services expenditure

The net allied services expenditure amount is made up of the following amounts in relation to Vote 5 borne elsewhere.

		2021	2020
		€000	€000
Vote 12	Superannuation and Retired Allowances	2,021	1,257
Vote 13	Office of Public Works	567	587
Vote 18	National Shared Services Office	21	20
Vote 20	Garda Síochána	148	205
		<b>2,757</b>	<b>2,069</b>

**Note 2 Statement of Financial Position as at 31 December 2021**

	<b>Note</b>	<b>2021 €000</b>	<b>2020 €000</b>
<b>Capital assets</b>	2.1	61	398
<b>Current assets</b>			
Bank and cash	2.2	837	307
Stocks	2.3	94	153
Prepayments	2.4	238	213
Other debit balances	2.5	367	382
<b>Total current assets</b>		<b>1,536</b>	<b>1,055</b>
<b>Less current liabilities</b>			
Accrued expenses	2.6	2,221	2,001
Other credit balances	2.7	1,190	1,099
Net Exchequer funding	2.8	14	(410)
<b>Total current liabilities</b>		<b>3,425</b>	<b>2,690</b>
<b>Net current liabilities</b>		<b>(1,889)</b>	<b>(1,635)</b>
<b>Net liabilities</b>		<b>(1,828)</b>	<b>(1,237)</b>
<b>Represented by:</b>			
<b>State funding account</b>	2.9	<b>(1,828)</b>	<b>(1,237)</b>

**2.1 Capital assets**

	<b>Office equipment €000</b>	<b>Furniture and fittings €000</b>	<b>Total €000</b>
<b>Gross assets</b>			
Cost or valuation at 1 January 2021	3,558	544	4,102
Adjustments <sup>a</sup>	(1,079)	(520)	(1,599)
Disposals	(28)	—	(28)
Cost or valuation at 31 December 2021	2,451	24	2,475
<b>Accumulated depreciation</b>			
Opening balance at 1 January 2021	3,218	486	3,704
Depreciation for the year	164	7	171
Adjustments <sup>a</sup>	(950)	(483)	(1,433)
Depreciation on disposals	(28)	—	(28)
Cumulative depreciation at 31 December 2021	2,404	10	2,414
<b>Net assets at 31 December 2021</b>	<b>47</b>	<b>14</b>	<b>61</b>
Net assets at 31 December 2020	340	58	398

Note <sup>a</sup> The adjustment of a net €166,000 relates to the removal of assets costing less than €10,000 from the asset register. This is reflected in the State funding account (see Note 2.9).

**2.2 Bank and cash**

at 31 December	<b>2021 €000</b>	<b>2020 €000</b>
PMG balance	836	283
Other bank account balance	1	24
	<b>837</b>	<b>307</b>

**2.3 Stocks**

at 31 December	<b>2021 €000</b>	<b>2020 €000</b>
Stationery	33	40
IT consumables	61	113
	<b>94</b>	<b>153</b>

**2.4 Prepayments**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Software and other maintenance	158	159
Information services	73	50
Travel and subsistence	7	4
	<b>238</b>	<b>213</b>

**2.5 Other debit balances**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Other debit suspense balances	<b>367</b>	<b>382</b>

**2.6 Accrued expenses**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Counsel fees	1,468	1,095
General law expenses	624	829
Other expenses	129	77
	<b>2,221</b>	<b>2,001</b>

**2.7 Other credit balances**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
<b>Amounts due to the State</b>		
Income tax	624	537
Pay related social insurance	184	169
Professional services withholding tax	359	370
Value added tax	23	21
	1,190	1,097
Other credit suspense items	—	2
	<b>1,190</b>	<b>1,099</b>

**2.8 Net Exchequer funding**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Surplus to be surrendered	232	421
Exchequer grant undrawn	(218)	(831)
<b>Net Exchequer funding</b>	<b>14</b>	<b>(410)</b>
<b>Represented by:</b>		
<b>Debtors</b>		
Bank and cash	837	307
Debit balances: suspense	367	382
	1,204	689
<b>Creditors</b>		
Due to the State	(1,190)	(1,097)
Credit balances: suspense	—	(2)
	(1,190)	(1,099)
	<b>14</b>	<b>(410)</b>

**2.9 State funding account**

	<b>Note</b>	<b>2021</b>	<b>2020</b>
		<b>€000</b>	<b>€000</b>
Balance at 1 January		(1,237)	(2,565)
Disbursements from the Vote			
Estimate provision	Account	44,704	
Surplus to be surrendered	Account	(232)	
Net vote		44,472	43,547
Expenditure (cash) borne elsewhere	1	2,757	2,069
Non-cash items – capital assets adjustment (net)	2.1	(166)	(1)
Non-cash expenditure – notional rent	1	2,025	2,025
Net programme cost	1	(49,679)	(46,312)
<b>Balance at 31 December</b>		<b>(1,828)</b>	<b>(1,237)</b>

**2.10 Commitments**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Procurement of goods and services	<b>31</b>	<b>50</b>

In addition to the above, the Office had commitments in respect of legal fees at the end of the year, but the value of these commitments is difficult to estimate accurately, due to the inherent uncertainties and status of outstanding cases.

**2.11 Matured liabilities**

at 31 December	<b>2021</b>	<b>2020</b>
	<b>€000</b>	<b>€000</b>
Estimate of matured liabilities not discharged at year end	<b>23</b>	<b>27</b>

### Note 3 Vote Expenditure

#### Analysis of administration expenditure

Administration expenditure set out below are included in Programme A to present complete programme costings.

		<b>2021</b>		<b>2020</b>
		<b>Estimate provision</b>	<b>Outturn</b>	<b>Outturn</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
i	Salaries, wages and allowances	17,218	17,015	16,029
ii	Travel and subsistence	186	144	131
iii	Training and development and incidental expenses	1,145	1,024	1,026
iv	Postal and telecommunications services	230	211	190
v	Office equipment and external IT services	731	525	1,010
vi	Office premises expenses	658	486	740
vii	Consultancy services and value for money and policy reviews	37	29	24
		<b>20,205</b>	<b>19,434</b>	<b>19,150</b>

#### Significant variations

The following outlines the reasons for significant variations in administration expenditure (+/- 25% and €100,000).

##### v Office equipment and external IT services

*Estimate provision €731,000; outturn €525,000*

Savings arose principally due to reduced expenditure on IT consumables. Furthermore, certain IT expenditure was delayed as some equipment could not be obtained before the year end due to supply chain issues.

##### vi Office premises expenses

*Estimate provision €658,000; outturn €486,000*

Savings arose because maintenance and improvement works to our premises which were planned to be carried out in 2021 did not proceed. This was due to restrictions and disruption caused by the pandemic.

**Programme A Provision of a Prosecution Service**

		<b>2021</b>		<b>2020</b>
		<b>Estimate provision</b>	<b>Outturn</b>	<b>Outturn</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
A.1	Administration – pay	17,218	17,015	16,029
A.2	Administration – non pay	2,987	2,419	3,121
A.3	Fees to counsel	16,528	17,143	15,785
A.4	General law expenses	1,446	918	2,130
A.5	Local State Solicitor service	7,370	7,749	7,183
		<b>45,549</b>	<b>45,244</b>	<b>44,248</b>

**Significant variations**

The following outlines the reasons for significant variations in programme expenditure (+/-5% and €100,000). Overall, the expenditure in relation to Programme A was €305,000 lower than provided. An underspend of €771,000 related to administration expenditure, and this has already been explained, leaving an overspend variance of €466,000 which was mainly due to the following;

**A.3 Fees to counsel**

*Estimate provision €16.528 million; outturn €17.143 million*

The increase in expenditure of €615,000 relative to the estimate provision was due to increased court activity as the backlog of cases arising from the Covid-19 pandemic was dealt with.

**A.4 General law expenses**

*Estimate provision €1.446 million; outturn €918,000*

Savings arose because higher levels of activity in settling claims reported in respect of 2020 impacted on the number of claims to be paid in 2021.

**A.5 Local State Solicitor service**

*Estimate provision €7.37 million; outturn €7.749 million*

Payments to State Solicitors are based on measured work levels. The excess in expenditure arose due to increase in workloads.



## Note 4 Receipts

### 4.1 Appropriations-in-aid

		<b>2021</b>		<b>2020</b>
		<b>Estimated</b>	<b>Realised</b>	<b>Realised</b>
		<b>€000</b>	<b>€000</b>	<b>€000</b>
1	Receipts from additional superannuation contributions deductions on public service remuneration	717	721	666
2	Miscellaneous	128	51	35
<b>Total</b>		<b>845</b>	<b>772</b>	<b>701</b>

## Note 5 Staffing and Remuneration

### 5.1 Employee numbers

Full time equivalents	2021	2020
Number of staff at year end	<u>220</u>	<u>209</u>

### 5.2 Pay

	2021	2020
	€000	€000
Pay	15,477	14,623
Higher, special or additional duties allowances	145	113
Overtime	2	1
Employer's PRSI	<u>1,391</u>	<u>1,292</u>
<b>Total pay</b>	<b><u>17,015</u></b>	<b><u>16,029</u></b>

### 5.3 Allowances and overtime payments

	Number of recipients	Recipients of €10,000 or more	Highest individual payment	
			2021	2020
			€	€
Higher, special or additional duties allowances	34	4	41,592	41,592
Overtime and extra attendance	7	—	724	506
Extra remuneration in more than one category	1	—	3,910	—

### 5.4 Other remuneration arrangements

This account includes expenditure of €154,150 (2020: €153,201) in respect of one officer who was serving outside the Office in 2021 and whose salary was paid from subhead A.1.

**5.5 Payroll overpayments**

at 31 December	Number of recipients	2021 €	2020 €
Overpayments	14	20,120	15,020
Recovery plans in place	1	126	1,562

**5.6 Salary of Accounting Officer**

As at 31 December 2021, the Accounting Officer's gross annual salary is €179,643 (as at 31 December 2020, €177,864).