

Appropriation Account 2021

Vote 6

Office of the Chief State Solicitor

Introduction

As Accounting Officer for Vote 6, 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 Chief State Solicitor.

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 €783,000 is liable for surrender to the Exchequer.

The Statement of Accounting Policies and Principles and notes 1 to 6 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 except for the following:

Accrued income

Accrued income represents taxed costs due to the State not yet recovered. It is the policy of the Office to pursue the recovery of all taxed costs awarded in favour of the State.

Accrued counsel fees

Fee notes received from counsel are subject to an evaluation and assessment process to determine the level of fees due. The end-of-year accrual in respect of counsel fee liabilities is determined by applying an estimated mark-down rate (based on the overall mark-down rate achieved during the evaluation and assessment process in the year of account) to counsel fee notes on hand at the year end.

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 are 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

The National Shared Services Office provides human resource and payroll services to the Office of the Chief State Solicitor.

I rely on the letter of assurance from the Accounting Officer of the Vote for the National Shared Services Office that the appropriate controls are exercised in the provision of the 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 are adhered to.

Internal audit and Audit Committee

I confirm that the Office retains an internal audit function through a contract agreement with a professional auditing company 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.

An internal audit function for the Office was in place during 2021.

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 in 2021 with the exception of three contracts (in excess of €25,000), totalling €232,145 (excluding VAT). Details are set out below.

- One contract with a value of €130,414 (excluding VAT) in respect of legal agency services (relating to *inter alia*, conveyancing, probate, property and planning searches) continued without finalising a competitive process in 2021, having been extended beyond its original contract date. The Office intends to regularise this matter and intends to issue for RFT in Q2 2022.
- One contract with a value of €39,381 (excluding VAT) in respect of a document exchange service was awarded without a competitive process as the supplier is widely used by legal offices in the State.
- One contract with a value of €62,350 (excluding VAT) related to user licence renewal in 2021 for a remote working application installed on an emergency non-competitive basis in 2020 due to Covid-19.

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 to the Department of Public Expenditure and Reform. The three contracts referenced above are included in this annual return.

Information and communications technology security

The Office applies good practice controls to mitigate against key security risks associated with information and communications technology (ICT). Review and upgrade, where necessary, of ICT security systems is an ongoing process.

Administrative and financial controls

The Management Board and the Audit Committee regularly review controls. All internal audit reports are considered by the Audit Committee.

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 semi-annual 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 to specific staff.

Ongoing monitoring and review

Formal procedures have been established for monitoring control processes and control deficiencies are communicated to those responsible for taking corrective action and to management and the Management Board, where relevant, in a timely way. 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

Assessments of the 2021 impact of Covid-19 were carried out and the Office has identified Covid-19 related costs of €190,950 comprising office equipment and external IT services to facilitate remote working from home (€136,750) and extra office cleaning costs (€54,200).

Maria Browne
Accounting Officer
Office of the Chief State Solicitor

30 March 2022

Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Vote 6 Office of the Chief State Solicitor

Opinion on the appropriation account

I have audited the appropriation account for Vote 6 Office of the Chief State Solicitor 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 6 Office of the Chief State Solicitor 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 Chief State Solicitor 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

29 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,
- 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, the auditor is 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 6 Office of the Chief State Solicitor

Appropriation Account 2021

			2021	2020
		Estimate provision	Outturn	Outturn
		€000	€000	€000
Programme expenditure				
A Provision of legal services				
	<i>Original</i>	38,495		
	<i>Supplementary</i>	<u>3,000</u>		
			41,495	38,050
			41,432	
Gross Expenditure			41,495	38,050
	<i>Deduct</i>			
B Appropriations-in-aid			810	904
			<u>1,530</u>	<u></u>
Net expenditure				
	<i>Original</i>	37,685		
	<i>Supplementary</i>	<u>3,000</u>		
			40,685	37,146
			<u>39,902</u>	<u></u>

Surplus

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

	2021	2020
	€	€
Surplus to be surrendered	783,138	234,806
	<u></u>	<u></u>

Maria Browne
Accounting Officer
Office of the Chief State Solicitor

30 March 2022

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2021

	2021	2020
	€000	€000
Programme cost	18,405	16,088
Pay	20,275	19,183
Non-pay	2,752	2,779
Gross expenditure	41,432	38,050
<i>Deduct</i>		
Appropriations-in-aid	1,530	904
Net expenditure	39,902	37,146
Changes in capital assets		
Purchases cash	(217)	
Depreciation	296	79
		(227)
Changes in net current assets		
Decrease in closing accruals	(1,689)	
Increase in stock	(5)	(1,694)
		3,333
Direct expenditure	38,287	40,252
Expenditure borne elsewhere		
Net allied services expenditure (note 1.1)	4,778	3,612
Notional rents	865	865
Net programme cost	43,930	44,729

1.1 Net allied services expenditure

The net allied services expenditure amount is made up of the following amounts in relation to Vote 6 borne elsewhere.

	2021	2020
	€000	€000
Vote 12 Superannuation and Retired Allowances	3,254	2,091
Vote 13 Office of Public Works	1,447	1,493
Vote 18 National Shared Services Office	31	28
Vote 43 Office of the Government Chief Information Officer	46	—
	4,778	3,612

Note 2 Statement of Financial Position as at 31 December 2021

	Note	2021 €000	2020 €000
Capital assets	2.1	659	738
Current assets			
Bank and cash	2.2	1,548	1,381
Stocks	2.3	38	33
Prepayments	2.4	308	330
Accrued income	2.5	9,770	9,818
Other debit balances	2.6	45	117
Net Exchequer funding	2.7	24	(43)
Total current assets		11,733	11,636
Less current liabilities			
Accrued expenses	2.8	4,641	6,400
Other credit balances	2.9	1,617	1,455
Total current liabilities		6,258	7,855
Net current assets		5,475	3,781
Net assets		6,134	4,519
Represented by:			
State funding account	2.10	6,134	4,519

2.1 Capital assets

	Office equipment €000	Furniture and fittings €000	Total €000
Gross assets			
Cost or valuation at 1 January 2021	5,151	1,748	6,899
Additions	217	—	217
Disposals	(8)	—	(8)
Cost or valuation at 31 December 2021	5,360	1,748	7,108
Accumulated depreciation			
Opening balance at 1 January 2021	4,537	1,624	6,161
Depreciation for the year	276	20	296
Depreciation on disposals	(8)	—	(8)
Cumulative depreciation at 31 December 2021	4,805	1,644	6,449
Net assets at 31 December 2021	555	104	659
Net assets at 31 December 2020	614	124	738

2.2 Bank and cash

at 31 December	2021 €000	2020 €000
PMG balances and cash	1,547	1,378
Commercial bank account balance	1	3
	1,548	1,381

Non-vote bank accounts

The CSSO maintains a number of bank accounts containing moneys which are held in trust on behalf of client departments and offices and third parties who are involved primarily in property transactions. No moneys due to or paid from the CSSO Vote are transmitted through these bank accounts. The amount held in such accounts at the end of 2021 was €11.47 million (2020: €7.67 million) and this is not included in the appropriation account.

2.3 Stocks

at 31 December	2021 €000	2020 €000
Stationery	38	33

2.4 Prepayments

at 31 December	2021	2020
	€000	€000
Software and other maintenance	179	208
Information services	87	84
Other	42	38
	308	330

2.5 Accrued income

at 31 December	2021	2020
	€000	€000
Opening balance 1 January	9,818	9,829
Cash receipts	(48)	(21)
Settlements	—	(54)
Additions	—	64
Closing balance 31 December	9,770	9,818

2.6 Other debit balances

at 31 December	2021	2020
	€000	€000
Recoupable salaries	—	26
Recoupable travel pass scheme	14	13
Recoupable cycle to work scheme	6	9
State solicitors	25	69
	45	117

2.7 Net Exchequer funding

at 31 December	2021	2020
	€000	€000
Surplus to be surrendered	783	235
Exchequer grant undrawn	(807)	(192)
Net Exchequer funding	(24)	43
Represented by:		
Debtors		
Bank and cash	1,548	1,381
Debit balances: suspense	45	117
	1,593	1,498
Creditors		
Due to the State	(1,304)	(1,034)
Credit balances: suspense	(313)	(421)
	(1,617)	(1,455)
	(24)	43

2.8 Accrued expenses

at 31 December	2021	2020
	€000	€000
Counsel fees	4,488	6,206
General law expenses	33	75
Incidental expenses	43	61
Office machinery	34	17
Post and telecommunications	16	13
Other expenses	27	28
	4,641	6,400

2.9 Other credit balances

at 31 December	2021	2020
	€000	€000
Amounts due to the State		
Income tax	379	364
Pay related social insurance	213	194
Professional services withholding tax	622	395
Pension contributions	84	78
Value added tax	5	2
Local property tax	1	1
	<u>1,304</u>	<u>1,034</u>
State property: escheated estates ^a	313	421
	<u>1,617</u>	<u>1,455</u>

Note ^a This balance is also due to the State. It is shown separately in the table above because all other amounts due to the State arise from the on-going operations of the CSSO while the escheated estates figure relates to cash collected from external third parties where the CSSO is awaiting disposition instructions.

2.10 State funding account

	Note	2021	2020
		€000	€000
Balance at 1 January		4,519	7,625
Disbursements from the Vote			
Estimate provision	Account	40,685	
Surplus to be surrendered	Account	<u>(783)</u>	
Net vote		39,902	37,146
Expenditure (cash) borne elsewhere	1.1	4,778	3,612
Non cash expenditure – notional rent	1	865	865
Net programme cost	1	<u>(43,930)</u>	<u>(44,729)</u>
Balance at 31 December		<u>6,134</u>	<u>4,519</u>

2.11 Commitments

at 31 December	2021	2020
	€000	€000
Procurement of goods and services	1,161	832

2.12 Matured liabilities

at 31 December	2021	2020
	€000	€000
Estimate of matured liabilities not discharged at year end	21	69

Note 3 Vote Expenditure

Analysis of administration expenditure

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

		Estimate provision		2021	2020
		€000	€000	Outturn	Outturn
				€000	€000
i	Salaries, wages and allowances				
	<i>Original</i>	19,537			
	<i>Supplementary</i>	<u>772</u>			
			20,309	20,275	19,183
li	Travel and subsistence				
	<i>Original</i>	90			
	<i>Supplementary</i>	<u>(65)</u>			
			25	26	35
iii	Training and development and incidental expenses				
	<i>Original</i>	1,038			
	<i>Supplementary</i>	<u>(32)</u>			
			1,006	958	954
iv	Postal and telecommunications services				
	<i>Original</i>	310			
	<i>Supplementary</i>	<u>40</u>			
			350	349	341
v	Office equipment and external IT services				
	<i>Original</i>	750			
	<i>Supplementary</i>	<u>362</u>			
			1,112	1,199	1,225
vi	Office premises expenses				
	<i>Original</i>	250			
	<i>Supplementary</i>	<u>(62)</u>			
			188	170	181
vii	Consultancy services and value for money and policy reviews				
	<i>Original</i>	100			
	<i>Supplementary</i>	<u>(30)</u>			
			70	50	63
			23,060	23,027	21,962

Significant variations

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

i Salaries, wages and allowances

Estimate provision €19.537 million; outturn €20.275 million

The excess of €738,000 in this subhead was due (i) to the need to backfill legal staff on maternity leave and (ii) the net effect of DPER Circulars 07/2019 and 04/2020 relating to incremental credit and the implementation of the Public Service Stability Agreement 2018-2020.

v Office equipment and external IT services

Estimate provision €750,000; outturn €1.199 million

The excess of €449,000 in this subhead was due to a combination of expenditure on upgrades to the case/records management system, the financial management system, the roll out of Windows 10 and new mobile phones/licences.

Programme A Provision of legal services

		2021		2020
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay			
	<i>Original</i>	19,537		
	<i>Supplementary</i>	<u>772</u>		
			20,309	19,183
A.2	Administration – non pay			
	<i>Original</i>	2,538		
	<i>Supplementary</i>	<u>213</u>		
			2,751	2,779
A.3	External legal services ^a			
	<i>Original</i>	220		
	<i>Supplementary</i>	<u>(66)</u>		
			154	142
A.4	Fees to counsel ^a			
	<i>Original</i>	15,000		
	<i>Supplementary</i>	<u>2,600</u>		
			17,600	15,246
A.5	General law expenses ^a			
	<i>Original</i>	1,200		
	<i>Supplementary</i>	<u>(519)</u>		
			681	700
		41,495	41,432	38,050

Note ^a Of the legal services expenditure incurred under A.3 to A.5 above, €17.5 million was paid out on behalf of 27 departments/offices in 2021 (2020; €15.44 million, 29 departments/offices).

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 €2.937 million higher than originally provided. €952,000 of this related to administration expenditure and has already been explained and the balance of the variance of €1.985 million was mainly due to the following.

A.4 Fees to counsel

Estimate provision €15 million; outturn €17.537 million

The excess of €2.537 million over the original estimate provision was due to the Office making significant efforts to reduce the level of overdue fee notes.

A.5 General law expenses

Estimate provision €1.2 million; outturn €706,000

The saving in expenditure of €494,000 relative the original estimate provision was due to the unpredictability of how legal cases progress through the courts.

Note 4 Receipts

4.1 Appropriations-in-aid

		2021		2020
		Estimated €000	Realised €000	Realised €000
1	Costs and fees received by the Office of the Chief State Solicitor	200	812	221
2	Receipts from additional superannuation contributions on public service remuneration	610	718	683
Total		810	1,530	904

Significant variations

The following outlines the reasons for significant variations in appropriations-in-aid (+/- 5% and €100,000). Overall, appropriations-in-aid were €720,000 more than the original estimate. Explanations for variances are set out below:

1 Costs and fees received by the Office of the Chief State Solicitor

Estimate €200,000; realised €812,000

The excess receipts of €612,000 for 2021 was due to the unexpected recovery of costs in five cases, totalling €644,000 (with the largest recovery being €295,000).

2 Receipts from additional superannuation contributions on public service remuneration

Estimate €610,000; realised €718,000

The excess receipts of €108,000 for 2021 was due to the increase in staff numbers.

4.2 Extra receipts payable to the Exchequer

	2021 €000	2020 €000
Balance at 1 January	—	—
Receipts under Section 10 of the State Property Act 1954	387	899
Receipts under Section 31 of the State Property Act 1954	1	—
Transferred to the Exchequer	(388)	(899)
Balance at 31 December	—	—

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents at year end	2021	2020
CSSO staff focused on core activities	288	271
CSSO staff working on projects for other departments/offices	15	13
	303	284

5.2 Pay

	2021 €000	2020 €000
Pay	19,473	18,413
Higher, special or additional duties allowances	158	101
Other allowances	8	8
Overtime	16	21
Employer's PRSI	1,872	1,726
Total pay	21,527	20,269
Recoveries from other departments/offices	(1,252)	(1,086)
Total pay cost incurred by the Vote	20,275	19,183

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	54	2	16,465	11,047
Other allowances	4	—	1,917	1,870
Overtime	14	—	3,764	10,137
Extra remuneration in more than one category	5	1	10,479	13,112

5.4 Payroll overpayments

at 31 December	Number of recipients	2021 €	2020 €
Overpayments	21	24,627	23,104
Recovery plans in place	14	11,973	12,497

5.5 Salary of Accounting Officer

As at 31 December 2021 the Accounting Officer's current salary is at the grade of Secretary General Level III, with an annual gross salary of €192,474 (as at 31 December 2020, €190,568).

Note 6 Miscellaneous**6.1 Write Offs**

The following sums were written off in the year:

	2021 €000	2020 €000
State Solicitors	44	—

Note The amount written off represents unvouched expenditure by local State Solicitors during the period 2004 to 2007 which is considered irrecoverable as those concerned are no longer local State Solicitors.