

Appropriation Account 2022

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 2022 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 2022, including the amount that could be used as appropriations-in-aid of expenditure for the year.

A surplus of €5.212 million 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, National Development Plan Delivery and Reform in Circular 22 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 a robust and comprehensive 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 percentage (based on the average mark-down percentage 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 2022.

Procurement

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 has provided details of ten 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, National Development Plan Delivery and Reform.

Non-compliance with procurement rules

The Office complied with the guidelines in 2022 with the exception of two contracts (in excess of €25,000), totalling €182,199 (excluding VAT).

- One contract with a value of €119,889 (excluding VAT) in respect of the provision of legal agency clerking, searching and certain other services continued without a competitive process in 2022, having been extended beyond its original contract dates. The Office is currently in the process of issuing a new Request for Tender.
- One contract with a value of €62,310 (excluding VAT) in respect of the annual renewal of licences to facilitate remote working. These licences were originally purchased as part of an emergency purchase of a remote working solution in 2020. For 2023, the Office will review the licence renewal to ensure we buy from the most cost effective agent.

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 2022 that resulted in, or may result in, a material loss.

Covid-19 Control Issues

I can confirm that the controls both existing and those introduced as a result of Covid-19 continue to be effective.

Maria Browne

Accounting Officer

Office of the Chief State Solicitor

31 March 2023

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 2022 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 2022, and
- has been prepared in the form prescribed by the Minister for Public Expenditure National Development Plan Delivery 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

24 July 2023

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, National Development Plan Delivery and Reform's *Public Financial Procedures*, and with other directions of the Minister for Public Expenditure, National Development Plan Delivery 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 appropriation account is 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 appropriation account 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, National Development Plan Delivery 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 audit reports 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 2022

	2022		2021
	Estimate provision	Outturn	Outturn
	€000	€000	€000
Programme expenditure			
A Provision of legal services	50,508	45,442	41,432
Gross expenditure	50,508	45,442	41,432
<i>Deduct</i>			
B Appropriations-in-aid	850	996	1,530
Net expenditure	49,658	44,446	39,902

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

	2022	2021
	€	€
Surplus to be surrendered	5,211,700	783,138

Maria Browne
Accounting Officer
Office of the Chief State Solicitor

31 March 2023

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2022

		2022	2021
	€000	€000	€000
Programme cost		20,069	18,405
Pay		22,538	20,275
Non-pay		2,835	2,752
Gross expenditure		45,442	41,432
<i>Deduct</i>			
Appropriations-in-aid		996	1,530
Net expenditure		44,446	39,902
Changes in capital assets			
Purchases cash	(101)		
Depreciation	222		
Loss on disposal	17	138	79
Changes in net current assets			
Decrease in closing accruals	(382)		
Decrease in inventories	38	(344)	(1,694)
Direct expenditure		44,240	38,287
Expenditure borne elsewhere			
Net allied services expenditure (note 1.1)		4,850	4,778
Notional rents		865	865
Net programme cost		49,955	43,930

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.

		2022	2021
		€000	€000
Vote 12	Superannuation and Retired Allowances	3,390	3,254
Vote 13	Office of Public Works	1,373	1,447
Vote 18	National Shared Services Office	35	31
Vote 43	Office of the Government Chief Information Officer	52	46
		4,850	4,778

Note 2 Statement of Financial Position as at 31 December 2022

	Note	2022 €000	2021 €000
Capital assets	2.1	521	659
Current assets			
Bank and cash	2.2	1,300	1,548
Inventories	2.3	—	38
Prepayments	2.4	347	308
Accrued income	2.5	9,728	9,770
Other debit balances	2.6	513	45
Net Exchequer funding	2.7	505	24
Total current assets		12,393	11,733
Less current liabilities			
Accrued expenses	2.8	4,256	4,641
Other credit balances	2.9	2,318	1,617
Total current liabilities		6,574	6,258
Net current assets		5,819	5,475
Net assets		6,340	6,134
Represented by:			
State funding account	2.10	6,340	6,134

2.1 Capital assets

	Office equipment €000	Furniture and fittings €000	Total €000
Gross assets			
Cost or valuation at 1 January 2022	5,360	1,748	7,108
Additions	101	—	101
Disposals	(2,161)	(14)	(2,175)
Cost or valuation at 31 December 2022	3,300	1,734	5,034
Accumulated depreciation			
Opening balance at 1 January 2022	4,805	1,644	6,449
Depreciation for the year	204	18	222
Depreciation on disposals	(2,144)	(14)	(2,158)
Cumulative depreciation at 31 December 2022	2,865	1,648	4,513
Net assets at 31 December 2022	435	86	521
Net assets at 31 December 2021	555	104	659

2.2 Bank and cash

at 31 December	2022 €000	2021 €000
PMG balances and cash	1,299	1,547
Commercial bank account balance	1	1
	1,300	1,548

Non-vote bank accounts

The CSSO maintains a number of bank accounts 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 2022 was €2.95 million (2021: €11.47 million) and this is not included in the appropriation account.

2.3 Inventories

at 31 December	2022^a	2021
	€000	€000
Stationery	—	38

Note ^a Commencing in 2022, high-volume, low-value items are fully expensed in the year and no longer classified as stock items.

2.4 Prepayments

at 31 December	2022	2021
	€000	€000
Software and other maintenance	219	179
Information services	50	87
Other prepayments	78	42
	347	308

2.5 Accrued income

at 31 December	2022	2021
	€000	€000
Opening balance 1 January	9,770	9,818
Cash receipts	(42)	(48)
Closing balance 31 December	9,728	9,770

2.6 Other debit balances

at 31 December	2022	2021
	€000	€000
Recoupable salaries	469	—
Recoupable travel pass scheme	15	14
Recoupable cycle to work scheme	4	6
State solicitors	25	25
	513	45

2.7 Net Exchequer funding

at 31 December	2022	2021
	€000	€000
Surplus to be surrendered	5,212	783
Exchequer grant undrawn	(5,717)	(807)
Net Exchequer funding	(505)	(24)
Represented by:		
Debtors		
Bank and cash	1,300	1,548
Debit balances: suspense	513	45
	1,813	1,593
Creditors		
Due to the State	(1,425)	(1,304)
Credit balances: suspense	(893)	(313)
	(2,318)	(1,617)
	(505)	(24)

2.8 Accrued expenses

at 31 December	2022	2021
	€000	€000
Counsel fees	3,955	4,488
General law expenses	103	33
Incidental expenses	64	43
Office machinery	78	34
Post and telecommunications	25	16
Other expenses	31	27
	4,256	4,641

2.9 Other credit balances

at 31 December	2022	2021
	€000	€000
Amounts due to the State		
Income tax	426	379
Pay related social insurance	236	213
Professional services withholding tax	668	622
Pension contributions	91	84
Value added tax	3	5
Local property tax	1	1
	<u>1,425</u>	<u>1,304</u>
State property: escheated estates ^a	893	313
	<u>2,318</u>	<u>1,617</u>

Note ^a This balance is also payable to the State. It is shown separately in the table above because all of the other amounts due to the State arise from the on-going operations of 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	2022	2021
		€000	€000
Balance at 1 January		6,134	4,519
Disbursements from the Vote			
Estimate provision	Account	49,658	
Surplus to be surrendered	Account	<u>(5,212)</u>	
Net vote		44,446	39,902
Expenditure (cash) borne elsewhere	1.1	4,850	4,778
Non cash expenditure – notional rent	1	865	865
Net programme cost	1	<u>(49,955)</u>	<u>(43,930)</u>
Balance at 31 December		<u>6,340</u>	<u>6,134</u>

2.11 Commitments

at 31 December	2022	2021
	€000	€000
Procurement of goods and services	<u>1,379</u>	<u>1,161</u>

2.12 Matured liabilities

at 31 December	2022	2021
	€000	€000
Estimate of matured liabilities not discharged at year end	54	21

Vote 3 Vote Expenditure

Analysis of administration expenditure

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

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
i	Salaries, wages and allowances	24,795	22,538	20,275
ii	Travel and subsistence	90	63	26
iii	Training and development and incidental expenses	1,038	1,075	958
iv	Postal and telecommunications services	310	333	349
v	Office equipment and external IT services	1,005	1,163	1,199
vi	Office premises expenses	250	123	170
vii	Consultancy services and value for money and policy reviews	100	78	50
		27,588	25,373	23,027

Significant variations

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

i Salaries, wages and allowances

Estimate provision €24.795 million; outturn €22.538 million

The saving of €2.257 million in this subhead was due to a combination of (i) the higher than anticipated number of leavers arising from increased mobility and promotion opportunities across the public service and increased retirements and (ii) slower recruitment due to both challenging market conditions and the time lag in hiring replacement staff.

vi Office premises expenses

Estimate provision €250,000; outturn €123,000

The saving of €127,000 in this subhead was due to lower repair, maintenance and refurbishment costs and reduced purchases of furniture.

Programme A Provision of legal services

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay	24,795	22,538	20,275
A.2	Administration – non pay	2,793	2,835	2,752
A.3	External legal services ^a	220	221	162
A.4	Fees to counsel ^a	21,500	19,143	17,537
A.5	General law expenses ^a	1,200	705	706
		50,508	45,442	41,432

Note ^a Of the legal expenditure incurred under A.3 to A.5 above €19.23 million was paid out on behalf of 28 Departments/Votes in 2022 (2021: €17.5 million, 27 Departments/Votes).

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 €5.066 million lower than originally provided. This comprised the aggregate of (a) a saving of €2.215 million relating to administration expenditure that has already been explained and (b) a net saving of €2.851 million in non-administrative expenditure, which was mainly due to the following:

A.4 Fees to counsel

Estimate provision: €21.5 million, outturn €19.143 million

For 2022, the Office was given an allocation of €3.5 million to cover specific projects and cases only €2.02 million of this amount had been spent by year end. The €877,000 balance of the total saving (€2.357 million) related to fee notes due by year end where payments were being processed.

A.5 General law expenses

Estimate provision: €1.2 million, outturn €705,000

The saving in expenditure of €495,000 relative to the estimate provision was due to the unpredictability of how legal cases progress through the courts.

Note 4 Receipts

4.1 Appropriations-in-aid

		2022		2021
		Estimated	Realised	Realised
		€000	€000	€000
1	Costs and fees received by the Office of the Chief State Solicitor	100	204	812
2	Receipts from additional superannuation contributions on public service remuneration	750	792	718
Total		850	996	1,530

Significant variations

The following outlines the reasons for significant variations in appropriations-in-aid (+/- 5% and €100,000). Overall, appropriations-in-aid were €146,000 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 provision: €100,000, outturn €204,000

The excess receipts of €104,000 for 2022 was due to a higher than expected level of cost recovery, particularly in three cases totalling €65,000.

4.2 Extra receipts payable to the Exchequer

	2022	2021
	€000	€000
Balance at 1 January	—	—
Receipts under Sections 10 and 28 of the State Property Act 1954	50	387
Receipts under Section 31 of the State Property Act 1954	—	1
Transferred to the Exchequer	(50)	(388)
Balance at 31 December	—	—

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents	2022	2021
CSSO staff focused on core activities	308	288
CSSO staff working on projects for other departments/offices	10	15
	318	303

5.2 Pay

	2022	2021
	€000	€000
Pay	21,143	19,473
Higher, special or additional duties allowances	120	158
Other allowances	9	8
Overtime	21	16
Employer's PRSI	2,062	1,872
Total gross pay	23,355	21,527
Recoveries from other departments/offices	(817)	(1,252)
Total net pay	22,538	20,275

5.3 Allowances and overtime payments

	Number of recipients	Recipients of €10,000 or more	Highest individual payment	
			2022	2021
			€	€
Higher, special or additional duties	46	1	12,046	16,465
Other allowances	4	—	2,039	1,917
Overtime	22	—	3,133	3,764
Extra remuneration in more than one category	5	—	7,824	10,479

5.4 Office staffing by pay band

The number of Office employees whose total employee benefits (including basic pay, allowances, overtime; excluding employer PRSI, employer pension costs) for the financial year fell between €20,000 and €59,999 and within each band of €10,000 from €60,000 upwards are as follows.

Pay bands (€)		Number of employees	
From	To	2022	2021
20,000	59,999	203	164
60,000	69,999	16	21
70,000	79,999	27	49
80,000	89,999	74	56
90,000	99,999	30	18
100,000	109,999	8	9
110,000	119,999	10	10
120,000	129,999	4	—
130,000	139,999	—	2
140,000	149,999	2	—
150,000	159,999	—	1
160,000	169,999	2	2
170,000	179,999	1	—
180,000	189,999	—	—
190,000	199,999	—	1
200,000	209,999	1	—

5.5 Other remuneration arrangements

This account does not include expenditure in respect of eight officers who were serving outside the Office for all or part of 2022 in other Government Departments/Offices and whose salaries were not recouped by the Office.

5.6 Payroll overpayments

	Number of recipients	2022 €	2021 €
Overpayments	25	38,438	24,627
Recovery plans in place	22	29,819	11,973

5.7 Remuneration and benefits of Accounting Officer

The Accounting Officer's remuneration and taxable benefits for the financial year was as follows:

	2022	2021
	€	€
Basic pay	<u>201,843</u>	<u>190,349</u>

The value of retirement benefits earned in the period are not included above. The Accounting Officer is a member of the pre-1995 superannuation scheme for established civil servants, and her entitlements in that regard do not extend beyond the standard terms of that scheme.