

Appropriation Account 2022

Vote 3

Office of the Attorney General

Introduction

As Accounting Officer for Vote 3, 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 Attorney General, including a grant.

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 €13.472 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.

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 Director General/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

Payroll and human resource functions are provided on a shared service basis by the National Shared Services Office (Vote 18). The Accounting Officer of the National Shared Services Office is responsible for the operation of controls within the Shared Services Centres.

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 human resources and payroll shared services.

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 information and communications technology systems
- there are appropriate capital investment control guidelines and formal project management disciplines 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.

Procurement

I confirm that 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 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 with the exception of one contract (in excess of €25,000). A contract with a value of €100,237 for parliamentary drafting services was awarded without a competitive process. It was deemed non-compliant, as the contract was not subjected to a competitive process in the year due to the specialised nature of the work involved, the extreme urgency of legislation required and the necessity to deliver on the Government's legislative programme.

The above contract has been included in the 40/2002 annual return referenced above.

The Office has engaged in a number of tendering processes over the last number of years to attract suitably qualified individuals.

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 Advisory Committee (MAC) on a bi-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 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 which are communicated to those responsible for taking corrective action, to management and the MAC, 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 require disclosure in the appropriation account.

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.

Damien Moloney
Accounting Officer
Office of the Attorney General

23 March 2023

Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Vote 3 Office of the Attorney General

Opinion on the appropriation account

I have audited the appropriation account for Vote 3 Office of the Attorney General 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 3 Office of the Attorney General 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 Attorney General 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

27 June 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 3 Office of the Attorney General

Appropriation Account 2022

	Estimate provision €000	2022 Outturn €000	2021 Outturn €000
Programme expenditure			
A Delivery of professional legal services to Government, Departments and Offices.	33,991	20,445	16,707
Gross expenditure	33,991	20,445	16,707
<i>Deduct</i>			
B Appropriations-in-aid	705	631	556
Net expenditure	33,286	19,814	16,151

Surplus

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

	2022 €	2021 €
Surplus to be surrendered	13,471,619	602,635

Damien Moloney
Accounting Officer
Office of the Attorney General

23 March 2023

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2022

		2022	2021
	€000	€000	€000
Programme cost		2,316	2,460
Pay		13,007	11,601
Non pay		5,122	2,646
Gross expenditure		20,445	16,707
<i>Deduct</i>			
Appropriations-in-aid		631	556
Net expenditure		19,814	16,151
Changes in capital assets			
Purchases cash	(189)		
Gain on disposal	(6)		
Disposals cash	6		
Depreciation	181	(8)	123
Changes in net current assets			
Increase in closing accruals	81		
Decrease in inventories	38	119	176
Direct expenditure		19,925	16,450
Expenditure borne elsewhere			
Net allied services expenditure (note 1.1)		2,786	3,510
Notional rents		791	791
Net programme cost		23,502	20,751

1.1 Net allied services expenditure

The net allied services expenditure amount is made up of the following amounts in relation to Vote 3 borne elsewhere.

		2022	2021
		€000	€000
Vote 12	Superannuation and Retired Allowances	2,251	2,809
Vote 13	Office of Public Works	189	357
Vote 18	National Shared Services Office	14	14
Vote 43	Office of the Government Chief Information Officer	24	24
Central Fund: pensions in respect of former Attorneys General		308	306
		2,786	3,510

Note 2 Statement of Financial Position as at 31 December 2022

	Note	2022 €000	2021 €000
Capital assets	2.1	376	368
Current assets			
Inventories	2.2	—	38
Prepayments	2.3	274	354
Accrued income	2.4	1	—
Other debit balances	2.5	119	50
Net Exchequer funding	2.8	340	58
Total current assets		734	500
Less current liabilities			
Bank and cash		459	18
Accrued expenses	2.6	400	398
Other credit balances	2.7	—	90
Total current liabilities		859	506
Net current assets		(125)	(6)
Net assets		251	362
Represented by:			
State funding account	2.9	251	362

2.1 Capital assets

	Furniture and fittings €000	Office equipment €000	Total €000
Gross assets			
Cost or valuation at 1 January 2022	1,692	5,204	6,896
Additions	12	177	189
Disposals	(10)	(3,527)	(3,537)
Cost or valuation at 31 December 2022	1,694	1,854	3,548
Accumulated depreciation			
Opening balance at 1 January 2022	1,659	4,869	6,528
Depreciation for the year	7	174	181
Depreciation on disposals	(10)	(3,527)	(3,537)
Cumulative depreciation at 31 December 2022	1,656	1,516	3,172
Net assets at 31 December 2022	38	338	376
Net assets at 31 December 2021	33	335	368

2.2 Inventories

at 31 December	2022 ^a €000	2021 €000
Stationery	—	16
IT consumables	—	22
	—	38

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

2.3 Prepayments

	2022 €000	2021 €000
Software support	198	192
Library services	76	158
Other prepayments	—	4
	274	354

2.4 Accrued income

at 31 December	2022	2021
	€000	€000
Social Protection refunds	1	—

2.5 Other debit balances

at 31 December	2022	2021
	€000	€000
Office of Public Works	99	37
Travel imprests	—	1
Recoupable travel pass scheme	8	9
Shared costs account	9	—
Other debit suspense items	3	3
	119	50

2.6 Accrued expenses

at 31 December	2022	2021
	€000	€000
Contract legal expertise ^a	312	363
Other administration expenses	88	35
	400	398

Note ^a Accruals of €247,000 in respect of payments due to members of the working group undertaking work on the review and revision of planning laws project are included in the contract legal expertise figure above. However, the Office has additional potential liabilities in respect of work carried out on this project in 2022 because a number of fee notes from counsel have not yet been submitted. The potential liability associated with these outstanding fee notes is not expected to exceed €193,000.

2.7 Other credit balances

at 31 December	2022	2021
	€000	€000
Amounts due to the State		
Professional services withholding tax	—	41
Value added tax	—	49
	—	90

2.8 Net Exchequer funding

at 31 December	2022	2021
	€000	€000
Surplus to be surrendered	13,472	603
Exchequer grant undrawn	(13,812)	(661)
Net Exchequer funding	(340)	(58)
Represented by:		
Debtors		
Debit balances: suspense	119	50
	119	50
Creditors		
Due to the State	—	(90)
Bank and cash	(459)	(18)
	(459)	(108)
	(340)	(58)

2.9 State funding account

	Note	2022	2021
		€000	€000
Balance at 1 January		362	661
Disbursements from the Vote			
Estimate provision	Account	33,286	
Surplus to be surrendered	Account	13,472	
Net vote		19,814	16,151
Expenditure (cash) borne elsewhere	1.1	2,786	3,510
Non cash expenditure – notional rent	1	791	791
Net programme cost	1	(23,502)	(20,751)
Balance at 31 December		251	362

2.10 Commitments

Global commitments	2022	2021
at 31 December	€000	€000
Procurement of goods and services	986	495

Note 3 Vote Expenditure

Analysis of administration expenditure

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

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
i	Salaries, wages and allowances	14,308	13,007	11,601
ii	Travel and subsistence	240	110	70
iii	Training and development and incidental expenses	700	551	543
iv	Postal and telecommunications services	125	92	116
v	Office equipment and external IT services	700	1,007	839
vi	Office premises expenses	208	116	98
vii	Consultancy services and value for money and policy reviews	35	22	21
viii	Contract legal expertise	2,710	447	873
		19,026	15,352	14,161

Significant variations

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

i Salaries, wages and allowances

Estimate provision €14.308 million; outturn €13.007 million

The savings of €1.301 million arose as all posts within the Office were not filled during the year with one senior post being vacant for almost the entire year.

ii Travel and subsistence

Estimate provision €240,000; outturn €110,000

Savings of €130,000 arose due to a lack of travel at the beginning of the year due to the pandemic.

v Office equipment and external IT services

Estimate provision €700,000; outturn €1.007 million

The excess of €307,000 arose due to the ongoing up-grading of IT systems to allow for remote working and also due to the installation of Office Wi-Fi.

vi Office premises expenses

Estimate provision €208,000; outturn €116,000

The savings of €92,000 arose because work on the upgrading of the Office security cameras was deferred until 2023 as OPW were unable to undertake the work in 2022.

viii Contract legal expertise

Estimate provision €2.71 million; outturn €447,000

The savings of €2.263m arose as payments to external counsel and consultant parliamentary counsel were much less than anticipated.

Funding was provided for the year under this subhead to allow the Office to seek advice from external counsel who would specialise in a particular area of law thus freeing up Office staff to undertake other daily tasks. The additional funding was also to allow the Office and the State to appropriately address and where necessary defend litigation. Ultimately, expenditure on requests from external counsel for advice under specific areas of law and the need to address and defend litigation during 2022 did not materialise for the Office. Payments to consultant parliamentary counsel for the year were some €267,000 less than anticipated as all fee sheets for 2022 were not received by year end and the need to engage consultancy parliamentary consultants in 2022 was slightly less than originally expected.

Programme A Delivery of professional legal services to Government, Departments and Offices

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay	14,308	13,007	11,601
A.2	Administration – non pay	4,718	2,345	2,560
A.3	Contributions to international organisations	54	57	53
A.4	Law Reform Commission	2,781	2,316	2,460
A.5	General law expenses	130	36	33
A.6	Consolidation and revision of planning regulations	12,000	2,684	—
		33,991	20,445	16,707

Significant variations

The following outlines the reasons for significant variations in programme expenditure. Overall the expenditure in Programme A was €13.546 million lower than originally provided. €3.674 million of this related to administration expenditure and has already been explained and the balance of the variance of €9.872 million was mainly due to the following.

A.4 Law Reform Commission

Estimate €2.781 million; realised €2.316 million

The shortfall in expenditure of €465,000 relative to the estimate provision was mainly due to savings under pay in the Commission as all posts were not filled at all times during the year.

A.6 Consolidation and revision of planning regulations

Estimate €12 million; realised €2.684 million

Government decision S180/20/10/2665 agreed, following on from the agreement under *Housing for All*, to undertake a comprehensive review and consolidation of planning legislation. In all, funding of €15 million was provided to undertake this project, €12 million of which was allocated in the 2022 estimate provision for the Office. The shortfall in expenditure of €9.316 million relative to the estimate provision was partly due to lower than anticipated costs associated with members of the working group on the project to review and redraft the planning legislation as up to 28 fee sheets from counsel have not yet been submitted for payment. In addition, €5.85 million had been allocated for the anticipated use of external counsel on the project who would specialise in specific areas of legislation and who may have been required to undertake specific areas of work on the project relevant to their specific area of expertise. In the event, these services were not required.

Note 4 Receipts

4.1 Appropriations-in-aid

		2022		2021
		Estimated	Realised	Realised
		€000	€000	€000
1	Receipts from additional superannuation contributions on public service remuneration	697	631	549
2	Miscellaneous	8	—	7
Total		705	631	556

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents at year end	2022	2021
Office of the Attorney General	137	145
Agency - Law Reform Commission	20	20
Total	157	165

5.2 Pay – Office of the Attorney General

	2022	2021
	€000	€000
Pay	11,788	10,506
Higher, special or additional duties allowances	73	62
Other allowances	14	14
Overtime	12	13
Employer's PRSI	1,120	1,006
Total pay	13,007	11,601

5.2 Pay – Law Reform Commission

	2022	2021
	€000	€000
Pay	1,162	1,466
Higher, special or additional duties allowances	—	3
Employer's PRSI	110	103
Total pay ^a	1,272	1,572

Note ^a The Law Reform Commission received a grant of €2.781 million under subhead A.4 Law Reform Commission (€2.46 million in 2021). The pay figures reported above were provided by the Law Reform Commission.

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 allowances	6	3	28,889	27,946
Other allowances	7	—	8,825	8,989
Overtime	1	1	12,204	10,147
Extra remuneration in more than one category	2	1	28,889	28,044

5.4 Office staffing by pay band

The number of Office employees whose total 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	41	48
60,000	69,999	11	17
70,000	79,999	18	18
80,000	89,999	11	8
90,000	99,999	8	12
100,000	109,999	8	10
110,000	119,999	14	13
120,000	129,999	13	6
130,000	139,999	—	—
140,000	149,999	—	4
150,000	159,999	3	2
160,000	169,999	3	5
170,000	179,999	4	—
180,000	189,999	—	—
190,000	199,999	1	—
200,000	209,999	—	2
210,000	219,999	—	—
220,000	229,999	2	—

5.5 Other remuneration arrangements

This account includes expenditure of €121,207 in respect of the salary costs of three officers who were serving outside the Office for all or part of 2022 and whose salaries were paid by the Office.

This account does not include expenditure in respect of 37 officers who were serving outside the Office for all or part of 2022 in other Government departments/offices and whose salaries were paid by the host department/office.

5.6 Payroll overpayments

at 31 December	Number of recipients	2022 €	2021 €
Overpayments	11	16,833	—
Recovery plans in place	4	4,993	—

5.7 Remuneration and benefits of Accounting Officer

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

	2022 €000	2021 €000
Basic pay	<u>214</u>	<u>203</u>

The value of retirement benefits earned in the period is not included above. The Accounting Officer is a member of the post 1995 superannuation scheme for established civil servants and his entitlements in that regard do not extend beyond the terms of that pension scheme.

Appendix A Accounts under the aegis of the Office of the Attorney General

The following table lists the bodies under the aegis of the Office of the Attorney General where the Office has an obligation to present financial statements. It indicates, (as at the account signing date), the period to which the last audited financial statements relate and the period in which they were presented to the Oireachtas.

Body	Last accounting period	Date of audit report	Date received by Minister	Date presented to the Oireachtas
Law Reform Commission	2021	22 Sep 2022	9 Nov 2022	25 Nov 2022