

Appropriation Account 2022

Vote 5

Office of the Director of Public Prosecutions

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

A surplus of €1.23 million 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, National Development Plan Delivery and Reform in circular 22 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.

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 six 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), totalling €26,618 (ex. VAT).

The contract 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. This contract ceased in June 2022.

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

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 2022 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 were monitored by the Management Board. I confirm that the controls both existing and those introduced as a result of Covid-19 continue to be effective in 2022.

Marion Berry

Accounting Officer
Office of the Director of Public Prosecutions

31 March 2023

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 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 5 Office of the Director of Public Prosecutions 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 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

14 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 5 Office of the Director of Public Prosecutions

Appropriation Account 2022

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
Programme expenditure				
A	Provision of prosecution service			
	<i>Original</i>	48,652		
	<i>Supplementary</i>	<u>3,445</u>		
		52,097	50,878	45,244
Gross expenditure		52,097	50,878	45,244
	<i>Deduct</i>			
B	Appropriations-in-aid	<u>820</u>	<u>831</u>	<u>772</u>
Net expenditure				
	<i>Original</i>	47,832		
	<i>Supplementary</i>	<u>3,445</u>		
		<u>51,277</u>	<u>50,047</u>	<u>44,472</u>

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	<u>1,229,759</u>	<u>231,875</u>

Marion Berry

Accounting Officer

Office of the Director of Public Prosecutions

31 March 2023

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2022

		2022	2021
	€000	€000	€000
Programme cost		29,500	25,810
Pay		18,483	17,015
Non pay		2,895	2,419
Gross expenditure		50,878	45,244
<i>Deduct</i>			
Appropriations-in-aid		831	772
Net expenditure		50,047	44,472
Changes in capital assets			
Purchases cash	(114)		
Depreciation	46	(68)	171
Changes in net current assets			
Increase in closing accruals	948		
Decrease in inventories	27	975	254
Direct expenditure		50,954	44,897
Expenditure borne elsewhere			
Net allied services expenditure (note 1.1)		3,145	2,757
Notional rents		2,025	2,025
Net programme cost		56,124	49,679

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.

		2022	2021
		€000	€000
Vote 12	Superannuation and Retired Allowances	2,431	2,021
Vote 13	Office of Public Works	468	567
Vote 18	National Shared Services Office	22	21
Vote 20	Garda Síochána	224	148
		3,145	2,757

Note 2 Statement of Financial Position as at 31 December 2022

	Note	2022 €000	2021 €000
Capital assets	2.1	129	61
Current assets			
Bank and cash	2.2	952	837
Inventories	2.3	67	94
Prepayments	2.4	244	238
Other debit balances	2.5	390	367
Total current assets		1,653	1,536
Less current liabilities			
Accrued expenses	2.6	3,175	2,221
Other credit balances	2.7	1,326	1,190
Net Exchequer funding	2.8	16	14
Total current liabilities		4,517	3,425
Net current liabilities		(2,864)	(1,889)
Net liabilities		(2,735)	(1,828)
Represented by:			
State funding account	2.9	(2,735)	(1,828)

2.1 Capital assets

	Office equipment €000	Furniture and fittings €000	Total €000
Gross assets			
Cost or valuation at 1 January 2022	2,451	24	2,475
Additions	114	—	114
Disposals	(38)	—	(38)
Cost or valuation at 31 December 2022	2,527	24	2,551
Accumulated depreciation			
Opening balance at 1 January 2022	2,404	10	2,414
Depreciation for the year	46	—	46
Depreciation on disposals	(38)	—	(38)
Cumulative depreciation at 31 December 2022	2,412	10	2,422
Net assets at 31 December 2022	115	14	129
Net assets at 31 December 2021	47	14	61

2.2 Bank and cash

at 31 December	2022 €000	2021 €000
PMG balance	948	836
Other bank account balance	4	1
	952	837

2.3 Inventories

at 31 December	2022 €000	2021 €000
Stationery ^a	—	33
IT consumables	67	61
	67	94

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

2.4 Prepayments

at 31 December	2022	2021
	€000	€000
Software and other maintenance	181	158
Information services	63	73
Travel and subsistence	—	7
	244	238

2.5 Other debit balances

at 31 December	2022	2021
	€000	€000
Other debit suspense balances	390	367

2.6 Accrued expenses

at 31 December	2022	2021
	€000	€000
Counsel fees	1,467	1,468
General law expenses	1,563	624
Other expenses	145	129
	3,175	2,221

2.7 Other credit balances

at 31 December	2022	2021
	€000	€000
Amounts due to the State		
Income tax	619	624
Pay related social insurance	200	184
Professional services withholding tax	453	359
Value added tax	30	23
	1,302	1,190
Other credit suspense items	24	—
	1,326	1,190

2.8 Net Exchequer funding

at 31 December	2022	2021
	€000	€000
Surplus to be surrendered	1,230	232
Exchequer grant undrawn	(1,214)	(218)
Net Exchequer funding	16	14

Represented by:

Debtors

Bank and cash	952	837
Debit balances: suspense	390	367
	1,342	1,204

Creditors

Due to the State	(1,302)	(1,190)
Credit balances: suspense	(24)	—
	(1,326)	(1,190)
	16	14

2.9 State funding account

	Note	2022	2021
		€000	€000
Balance at 1 January		(1,828)	(1,237)
Disbursements from the Vote			
Estimate provision	Account	51,277	
Surplus to be surrendered	Account	(1,230)	
Net vote		50,047	44,472
Expenditure (cash) borne elsewhere	1	3,145	2,757
Non-cash items – capital assets adjustment (net)	2.1	—	(166)
Non-cash expenditure – notional rent	1	2,025	2,025
Net programme cost	1	(56,124)	(49,679)
Balance at 31 December		(2,735)	(1,828)

2.10 Commitments

at 31 December	2022	2021
	€000	€000
Procurement of goods and services	27	31

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	2022	2021
	€000	€000
Estimate of matured liabilities not discharged at year end	21	23

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			
	<i>Original</i>	19,321		
	<i>Supplementary</i>	(500)		
		18,821	18,483	17,015
ii	Travel and subsistence	186	174	144
iii	Training and development and incidental expenses	1,145	1,034	1,024
iv	Postal and telecommunications services	230	205	211
v	Office equipment and external IT services	931	942	525
vi	Office premises expenses	658	513	486
vii	Consultancy services and value for money and policy reviews	37	27	29
		22,008	21,378	19,434

Programme A Provision of a Prosecution Service

		2022		2021
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay			
	Original	19,321		
	Supplementary	(500)		
		18,821	18,483	17,015
A.2	Administration – non pay	3,187	2,895	2,419
A.3	Fees to counsel			
	Original	16,528		
	Supplementary	3,725		
		20,253	20,072	17,143
A.4	General law expenses	1,446	1,095	918
A.5	Local State Solicitor service			
	Original	8,170		
	Supplementary	220		
		8,390	8,333	7,749
		52,097	50,878	45,244

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 €2.226 million higher than originally provided. Administration expenditure was €1.13 million lower than originally provided. The balance of the variance on this Subhead was an overspend of €3.356 million, which was mainly due to the following.

A.3 Fees to counsel

Estimate provision €16.528 million; outturn €20.072 million

The increase in expenditure of €3.544 million relative to the original estimate provision was due to increased court activity in the Central Criminal Court following the appointment of new judges and a general increase in all courts 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 €1.095 million.

From 2022 onwards, the State Claims Agency manages and resolves legal costs claims against the Office. The new process is slower, so fewer than expected cases were settled in 2022.

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	717	779	721
2	Miscellaneous	103	52	51
Total		820	831	772

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents	2022	2021
Number of staff at year end	<u>230</u>	<u>220</u>

5.2 Pay

	2022	2021
	€000	€000
Pay	16,709	15,477
Higher, special or additional duties allowances	198	145
Overtime	7	2
Employer's PRSI	<u>1,569</u>	<u>1,391</u>
Total pay	<u>18,483</u>	<u>17,015</u>

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	33	5	36,451	41,592
Overtime and extra attendance	9	—	2,387	724
Extra remuneration in more than one category	—	—	—	3,910

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 band		Number of employees	
From (€)	To (€)	2022	2021
20,000	59,999	122	111
60,000	69,999	21	22
70,000	79,999	27	36
80,000	89,999	24	17
100,000	109,999	15	8
110,000	119,999	6	17
120,000	129,999	11	3
130,000	139,999	3	—
140,000	149,999	2	1
150,000	159,999	—	3
160,000	169,999	2	3
170,000	179,999	2	1
180,000	189,999	1	—
190,000	239,000	1	—

5.5 Other remuneration arrangements

This account includes expenditure of €188,642 (2021: €154,150) in respect of two officers who were serving outside the Office in 2022 and whose salary was paid from subhead A.1.

The account also includes €5,639 (2021: €nil) which was paid to two retired civil servants, in receipt of civil service pensions, who were re-engaged on a fee basis. The principles of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 applied to these fees.

5.6 Payroll overpayments

at 31 December	Number of recipients	2022 €	2021 €
Overpayments	8	13,422	20,120
Recovery plans in place	5	12,008	126

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		
Barry Donoghue – retired 6 August 2021	—	109,564
Liz Howlin – appointed 7 August 2021/appointment concluded 30 November 2022	158,319	61,779
Marion Berry – appointed 1 December 2022 ^a	—	—
Allowances		
Liz Howlin	11,494	6,317
	169,813	177,660

The value of retirement benefits earned in the period are not included above.

All of the individuals referenced above are members of the pre-1995 superannuation scheme for established civil servants, and their entitlements in that regard do not extend beyond the terms of that scheme.

Note ^a Marion Berry received her first payroll payment in January of 2023.

Note 6 Miscellaneous

6.1 Compensation and legal costs

Payments/costs paid by the Office in the year			
		2022	2021
	Claims by employees	Total	Total
Number of cases	1	1	—
	€000	€000	€000
Office's own legal costs	5	5	—
Payments by/on behalf of Office			
Compensation	23	23	—
Legal costs	12	12	—
Other costs	—	—	—
Total	40	40	—