

Appropriation Account 2023

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 2023 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 2023, including the amount that could be used as appropriations-in-aid of expenditure for the year.

A surplus of €7.226 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 2023, have been applied in the preparation of the account.

The useful lives and associated amortisation rates of intangible assets have been estimated as follows.

<i>Asset class</i>	<i>Useful life</i>	<i>Rate of amortisation</i>
Software licences	Licence term 5 years	20%

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 for the National Shared Services Office is responsible for the operation of controls within the Shared Services Centres.

The Accounting Officer for the National Shared Services Office has put in place an audit process to provide independent assurance on the operation of controls within shared services. This assurance is a combination of internal audit work performed by the National Shared Services Office Internal Audit Unit and by audits conducted by a firm of accountants in accordance with the International Standard on Assurance Engagements (ISAE 3402), designed to report to user departments and their auditors on the controls within shared services. These audits report on the effectiveness of controls operated in 2023.

The Accounting Officer for shared services has provided me with a letter of assurance on the internal control and audit arrangements and reports on the audits of the operation of controls during 2023. I take assurance from the system of control within shared services as reported to me by the Accounting Officer for the National Shared Services Office.

Financial control environment

A control environment comprising 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

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

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

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

The Office has provided details of two non-competitive contracts in excess of €25,000 in the annual return in respect of Circular 40/2002 to the Comptroller and Auditor General and to 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 two contracts in excess of €25,000 (exclusive of VAT). A contract with a value of €117,677 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 second contract with a value of €56,726 was for the use of Office mobile phone services. The requirement to tender for this service was overlooked when responsibility for the management of this service was reassigned within the Office.

Both of these contracts have 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 for parliamentary drafting services. The Office will undertake a formal tendering process during 2024 for the provision of mobile phone services.

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

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 2023 that require disclosure in the appropriation account.

Damien Moloney
Accounting Officer
Office of the Attorney General

13 March 2024

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 2023 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 2023, 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 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

28 June 2024

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 2023

		2023	2022
	Estimate provision	Outturn	Outturn
	€000	€000	€000
Programme expenditure			
A Delivery of professional legal services to Government, departments and offices.	27,541	20,278	20,445
Gross expenditure	27,541	20,278	20,445
<i>Deduct</i>			
B Appropriations-in-aid	705	668	631
Net expenditure	26,836	19,610	19,814

Surplus

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

	2023	2022
	€	€
Surplus to be surrendered	7,225,753	13,471,619

Damien Moloney
Accounting Officer
Office of the Attorney General

13 March 2024

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2023

	2023	2022
	€000	€000
Programme cost	2,548	2,316
Pay	13,736	13,007
Non pay	3,994	5,122
Gross expenditure	20,278	20,445
<i>Deduct</i>		
Appropriations-in-aid	668	631
Net expenditure	19,610	19,814
Changes in capital assets		
<i>Property, plant and equipment (note 2.1)</i>		
Purchases	(127)	
Loss on disposal	7	
Depreciation	127	
<i>Intangible assets (note 2.2)</i>		
Purchases	—	
Amortisation	40	
	47	(8)
Changes in net current assets		
Decrease in prepayments	(74)	
Increase in accrued income	(55)	
Increase in accrued expenses	(232)	
	(361)	119
Direct expenditure	19,296	19,925
Expenditure borne elsewhere		
Net allied services expenditure (note 1.1)	3,217	2,786
Notional rents	791	791
Net programme cost	23,304	23,502

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.

		2023	2022
		€000	€000
Vote 12	Superannuation and Retired Allowances	2,464	2,251
Vote 13	Office of Public Works	249	189
Vote 18	National Shared Services Office	16	14
Vote 20	Garda Síochána	231	—
Vote 43	Office of the Government Chief Information Officer	16	24
Central Fund: pensions in respect of former Attorneys General		241	308
		3,217	2,786

Note 2 Statement of Financial Position as at 31 December 2023

	Note	2023 €000	2022 €000
Fixed Assets			
Property, plant and equipment	2.1	276	283
Intangible assets	2.2	53	93
Total fixed assets		329	376
Current assets			
Bank and Cash		249	(459)
Prepayments	2.3	348	274
Accrued income	2.4	56	1
Other debit balances	2.5	16	119
Net Exchequer funding	2.8	(253)	340
Total current assets		416	275
Less current liabilities			
Accrued expenses	2.6	168	400
Other credit balances	2.7	12	—
Total current liabilities		180	400
Net current assets		236	(125)
Net assets		565	251
Represented by:			
State funding account	2.9	565	251

2.1 Property, plant and equipment ^b

	Office and IT equipment €000	Furniture and fittings €000	Total €000
Cost or valuation ^a			
At 1 January 2023	1,230	1,694	2,924
Additions	127	—	127
Disposals	(150)	(25)	(175)
At 31 December 2023	1,207	1,669	2,876
Accumulated depreciation			
At 1 January 2023	985	1,656	2,641
Depreciation for the year	122	5	127
Depreciation on disposals	(150)	(18)	(168)
At 31 December 2023	957	1,643	2,600
Net assets			
At 31 December 2023	250	26	276
At 31 December 2022	338	38	376

Note ^a Cost or valuation include certain assets, acquired for less than €10,000 prior to 1 January 2021

^b With effect from 1 January 2023, software acquisition and development assets were reclassified from property, plant and equipment to intangible assets (note 2.2)

2.2 Intangible assets

	Acquired and developed software €000	Total €000
Gross assets		
At 1 January 2023	624	624
Additions	—	—
Disposals	(294)	(294)
At 31 December 2023	330	330
Accumulated amortisation		
At 1 January 2023	531	531
Amortisation for the year	40	40
Amortisation of disposals	(294)	(294)
At 31 December 2023	277	277
Net assets		
At 31 December 2023	53	53
At 31 December 2022	93	93

Note ^a With effect from 1 January 2023, software acquisition and development assets were reclassified from property, plant and equipment to intangible assets.

2.3 Prepayments

	2023	2022
	€000	€000
Software support	258	198
Library services	89	76
Other prepayments	1	—
	348	274

2.4 Accrued income

	2023	2022
	€000	€000
at 31 December		
Refund of secondment cost	55	—
Social Protection refunds	1	1
	56	1

2.5 Other debit balances

	2023	2022
	€000	€000
at 31 December		
Office of Public Works	1	99
Recoupable travel pass scheme	12	8
Shared costs account	—	9
Other debit balances	3	3
	16	119

2.6 Accrued expenses

	2023	2022
	€000	€000
at 31 December		
Contract legal expertise	37	312
Other administration expenses	131	88
	168	400

2.7 Other credit balances

at 31 December	2023	2022
	€000	€000
Amounts due to the State		
Professional services withholding tax	12	—
	12	—

2.8 Net Exchequer funding

at 31 December	2023	2022
	€000	€000
Surplus to be surrendered	7,226	13,472
Exchequer grant undrawn	(6,973)	(13,812)
Net Exchequer funding	253	(340)
Represented by:		
Debtors		
Debit balances: suspense	16	119
Bank and cash	249	(459)
	265	(340)
Creditors		
Due to the State	(12)	—
	(12)	—
	253	(340)

2.9 State funding account

	Note	2023	2022
		€000	€000
Balance at 1 January		251	362
Disbursements from the Vote			
Estimate provision	Account	26,836	
Surplus to be surrendered	Account	7,226	
Net vote		19,610	19,814
Expenditure (cash) borne elsewhere	1.1	3,217	2,786
Non cash expenditure – notional rent	1	791	791
Net programme cost	1	(23,304)	(23,502)
Balance at 31 December		565	251

2.10 Commitments

Global commitments	2023	2022
at 31 December	€000	€000
Procurement of goods and services	1,280	986

Note 3 Vote Expenditure**Analysis of administration expenditure**

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

		2023	2022
	Estimate provision	Outturn	Outturn
	€000	€000	€000
i Salaries, wages and allowances	15,756	13,736	13,007
ii Travel and subsistence	240	133	110
iii Training and development and incidental expenses	750	762	551
iv Postal and telecommunications services	125	97	92
v Office equipment and external IT services	1,154	1,140	1,007
vi Office premises expenses	310	191	116
vii Consultancy services and value for money and policy reviews	35	24	22
viii Contract legal expertise	2,100	542	447
	20,470	16,625	15,352

Significant variations

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

ii Travel and subsistence

Estimate provision €240,000; outturn €133,000

Savings of €107,000 arose as travel was only beginning to return to pre-pandemic levels.

vi Office premises expenses

Estimate provision €310,000; outturn €191,000

The savings of €119,000 arose due to lower than anticipated utility costs.

viii Contract legal expertise

Estimate provision €2.1 million; outturn €542,000

The savings of €1.558 million arose as payments to external counsel and consultancy parliamentary counsel were much less than anticipated. Funding of €1.1 million was provided for the year under this subhead to allow the Office to seek advice, if necessary, 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 would also allow the State to appropriately address and where necessary defend litigation. Ultimately, expenditure on requests from external counsel on advice under specific areas of law and the need to address and defend litigation throughout 2023 did not materialise for the Office. The balance of €1 million was to meet payments to consultant parliamentary counsel for the year. Savings of €458,000 were made as there was less than the anticipated requirement for the service of consultant parliamentary counsel throughout 2023.

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

		2023		2022
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay	15,756	13,736	13,007
A.2	Administration – non pay	4,714	2,889	2,345
A.3	Contributions to international organisations	58	68	57
A.4	Law Reform Commission	2,883	2,548	2,316
A.5	General law expenses	130	205	36
A.6	Consolidation and revision of planning regulations	4,000	832	2,684
		27,541	20,278	20,445

Significant variations

The following outlines the reasons for significant variations in non-administration expenditure (+/- 5% and €100,000).

A.4 Law Reform Commission*Estimate €2.883 million; realised €2.548 million*

The shortfall in expenditure of €335,000 relative to the estimate provision was exclusively due to savings under pay in the Commission as all posts were not filled at all times during the year.

A.5 General law expenses*Estimate €130,000; realised €205,000*

The overspend of €75,000 relative to the estimate provision was due to a higher demand by the Office in the use of external counsel in seeking advice on legal matters and European Court of Human Rights cases.

A.6 Consolidation and revision of planning regulations*Estimate €4 million; realised €0.832 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, €4 million of which was allocated in the 2023 estimate provision for the Office. The underspend of €3.168 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. In addition, €2 million of the estimate 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

		2023		2022
		Estimated	Realised	Realised
		€000	€000	€000
1	Receipts from additional superannuation contributions on public service remuneration	697	668	631
2	Miscellaneous	8	—	—
Total		705	668	631

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents at year end	2023	2022
Office of the Attorney General	151	137
Agency - Law Reform Commission	21	20
Total	172	157

5.2 Pay – Office of the Attorney General

	2023 €000	2022 €000
Pay	12,453	11,788
Higher, special or additional duties allowances	71	73
Other allowances	15	14
Overtime	16	12
Employer's PRSI	1,181	1,120
Total pay	13,736	13,007

5.2 Pay – Law Reform Commission

	2023 €000	2022 €000
Pay	1,309	1,162
Higher, special or additional duties allowances	—	—
Employer's PRSI	107	110
Total pay ^a	1,416	1,272

Note ^a The Law Reform Commission received a grant of €2.548 million under subhead A.4 Law Reform Commission (€2.316 million in 2022). 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	
			2023	2022
			€	€
Higher, special or additional duties allowances	6	4	24,503	28,889
Other allowances	9	—	8,994	8,825
Overtime	2	—	7,970	12,203
Extra remuneration in more than one category	2	1	24,503	28,889

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	2023	2022
20,000	59,999	48	41
60,000	69,999	8	11
70,000	79,999	12	18
80,000	89,999	14	11
90,000	99,999	14	8
100,000	109,999	14	8
110,000	119,999	10	14
120,000	129,999	13	13
130,000	139,999	5	—
140,000	149,999	—	—
150,000	159,999	1	3
160,000	169,999	—	3
170,000	179,999	9	4
180,000	189,999	—	—
190,000	199,999	—	1
200,000	209,999	1	—
210,000	219,999	—	—
220,000	229,999	—	2
230,000	239,999	2	—

5.5 Other remuneration arrangements

This account includes expenditure of €36,569 in respect of the salary costs of one officer who was serving outside the Office for all or part of 2023 and whose salary was paid by the Office.

This account does not include expenditure in respect of 35 officers who were serving outside the Office for all or part of 2023 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	2023 €	2022 €
Overpayments	9	21,425	16,833
Recovery plans in place	6	15,056	4,993

5.7 Severance/redundancy

Five staff from the Attorney General's Private Office, whose employments were terminated following on from the change of Attorney General in December 2022, received severance payments of €64,176 during 2023. Each of these staff also received redundancy payments, the total value of which were €17,796. Total payments for 2023 amounted to €81,972.

5.8 Remuneration and benefits of Accounting Officer

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

	2023 €000	2022 €000
Basic pay	231	214

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 standard terms of that scheme.