

Appropriation Account 2023

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

A surplus of €1.27 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 2023, 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.

- Costs that have been awarded and which are agreed and settled before 28 February of the following year are accrued at the amount for which they were settled.
- Costs which have been awarded and which have not been settled by 28 February are accrued based on an estimate which takes into account the complexity of proceedings, the bill of costs which has been submitted and our experience of previous settlements.

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.

Intangible assets

Capital assets have been separated into two components on the face of the statement of financial position and in the related notes, Intangible assets and Property, plant and equipment. The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows.

<i>Asset class</i>	<i>Useful life</i>	<i>Rate of amortisation</i>
Software licences	5 years	20%
Acquired/developed software	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 Accounting Officer. 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 (e.g. HR) 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

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

A framework of administrative procedures and regular management reporting is in place, including segregation of duties and a system of delegation and accountability. This includes the following elements.

- 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

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

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 five 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.

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 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 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 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 2023 that require disclosure in the appropriation account.

Marion Berry

Accounting Officer

Office of the Director of Public Prosecutions

4 March 2024

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 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 5 Office of the Director of Public Prosecutions 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 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

31 May 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 5 Office of the Director of Public Prosecutions

Appropriation Account 2023

		2023		2022
		Estimate provision	Outturn	Outturn
		€000	€000	€000
Programme expenditure				
A	Provision of prosecution service			
	<i>Original</i>	56,078		
	<i>Supplementary</i>	4,500		
		60,578	59,445	50,878
	Gross expenditure	60,578	59,445	50,878
	<i>Deduct</i>			
B	Appropriations-in-aid	760	899	831
Net expenditure				
	<i>Original</i>	55,318		
	<i>Supplementary</i>	4,500		
		59,818	58,546	50,047

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	1,271,848	1,229,759

Marion Berry

Accounting Officer

Office of the Director of Public Prosecutions

4 March 2024

Notes to the Appropriation Account

Note 1 Operating Cost Statement 2023

	2023	2022
	€000	€000
Programme cost	35,544	29,500
Pay	20,484	18,483
Non pay	3,417	2,895
Gross expenditure	59,445	50,878
<i>Deduct</i>		
Appropriations-in-aid	899	831
Net expenditure	58,546	50,047
Changes in capital assets		
<i>Property, plant and equipment (note 2.1)</i>		
Purchases	(112)	
Depreciation	61	
Loss on disposals	14	
	(37)	(68)
Changes in net current assets		
(Increase)/decrease in inventories	3	
(Increase)/decrease in prepayments	(41)	
Increase/(decrease) in accrued expenses	267	
	229	975
Direct expenditure	58,738	50,954
Expenditure borne elsewhere		
Net allied services expenditure (note 1.1)	3,042	3,145
Notional rents	2,025	2,025
Net programme cost	63,805	56,124

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.

		2023	2022
		€000	€000
Vote 12	Superannuation and Retired Allowances	2,201	2,431
Vote 13	Office of Public Works	573	468
Vote 18	National Shared Services Office	26	22
Vote 20	Garda Síochána	242	224
		3,042	3,145

Note 2 Statement of Financial Position as at 31 December 2023

	Note	2023 €000	2022 €000
Fixed assets			
Property, plant and equipment	2.1	166	129
Total fixed assets		166	129
Current assets			
Bank and cash	2.3	886	952
Inventories	2.4	64	67
Prepayments	2.5	285	244
Other debit balances	2.6	496	390
Total current assets		1,731	1,653
Less current liabilities			
Accrued expenses	2.7	3,442	3,175
Other credit balances	2.8	1,363	1,326
Net Exchequer funding	2.9	19	16
Total current liabilities		4,824	4,517
Net current liabilities		(3,093)	(2,864)
Net liabilities		(2,927)	(2,735)
Represented by:			
State funding account	2.10	(2,927)	(2,735)

2.1 Property, plant and equipment

	Office and IT equipment €000	Furniture and fittings €000	Total €000
Cost or valuation ^a			
At 1 January 2023 ^b	308	24	332
Additions	112	—	112
Disposals	—	(14)	(14)
At 31 December 2023	420	10	430
Accumulated depreciation			
At 1 January 2023	193	10	203
Depreciation for the year	61	—	61
Depreciation on disposals	—	—	—
At 31 December 2023	254	10	264
Net assets			
At 31 December 2023	166	—	166
At 31 December 2022	115	14	129

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

^b On 1 January 2023, Acquired and developed software assets were transferred to Intangible assets (note 2.2).

2.2 Intangible assets

	Acquired and developed software	Total
	€000	€000
Cost or valuation		
At 1 January 2023	2,219	2,219
Additions	—	—
Transfers	—	—
Disposals	—	—
At 31 December 2023	2,219	2,219
Accumulated amortisation		
At 1 January 2023	2,219	2,219
Amortisation for the year	—	—
Amortisation of disposals	—	—
At 31 December 2023	2,219	2,219
Net assets		
At 31 December 2023	—	—
At 31 December 2022	—	—

Note ^a On 1 January 2023, acquired and developed software assets were transferred from Property, plant and equipment.

2.3 Bank and cash

at 31 December	2023	2022
	€000	€000
PMG balance	879	948
Other bank account balance	7	4
	886	952

2.4 Inventories

at 31 December	2023	2022
	€000	€000
IT consumables	64	67
	64	67

2.5 Prepayments

at 31 December	2023	2022
	€000	€000
Software and other maintenance	206	181
Information services	72	63
Travel and subsistence	7	—
	285	244

2.6 Other debit balances

at 31 December	2023	2022
	€000	€000
Recoupable travel pass scheme expenditure	16	19
Other debit suspense items	480	371
	496	390

2.7 Accrued expenses

at 31 December	2023	2022
	€000	€000
Counsel fees	2,196	1,467
General law expenses	911	1,563
Other expenses	335	145
	3,442	3,175

2.8 Other credit balances

at 31 December	2023	2022
	€000	€000
Amounts due to the State		
Income tax	573	514
Pay related social insurance	232	200
Professional services withholding tax	394	453
Value added tax	17	30
Local property tax	1	1
Universal social charge	120	104
	1,337	1,302
Other credit suspense items	26	24
	1,363	1,326

2.9 Net Exchequer funding

at 31 December	2023	2022
	€000	€000
Surplus to be surrendered	1,272	1,230
Exchequer grant undrawn	(1,253)	(1,214)
Net Exchequer funding	19	16
Represented by:		
Debtors		
Bank and cash	886	952
Debit balances: suspense	496	390
	1,382	1,342
Creditors		
Due to the State	(1,337)	(1,302)
Credit balances: suspense	(26)	(24)
	(1,363)	(1,326)
	19	16

2.10 State funding account

	Note	2023	2022
		€000	€000
Balance at 1 January		(2,735)	(1,828)
Disbursements from the Vote			
Estimate provision	Account	59,818	
Surplus to be surrendered	Account	(1,272)	
Net vote		58,546	50,047
Expenditure (cash) borne elsewhere	1	3,042	3,145
Non-cash expenditure – notional rent	1	2,025	2,025
Net programme cost	1	(63,805)	(56,124)
Balance at 31 December		(2,927)	(2,735)

2.11 Commitments

at 31 December	2023	2022
	€000	€000
Procurement of goods and services	91	27

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.

2.12 Matured liabilities

at 31 December	2023	2022
	€000	€000
Estimate of matured liabilities not discharged at year end	53	21

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			
	<i>Original</i>	23,747		
	<i>Supplementary</i>	(2,343)		
		21,404	20,484	18,483
ii	Travel and subsistence	186	315	174
iii	Training and development and incidental expenses	1,145	1,243	1,034
iv	Postal and telecommunications services	230	202	205
v	Office equipment and external IT services	1,181	844	942
vi	Office premises expenses	658	718	513
vii	Consultancy services and value for money and policy reviews	37	95	27
		24,841	23,901	21,378

Significant variations

The following note presents an analysis of the administration expenditure of the Vote and outlines the reasons for significant variations (+/- 25% and €100,000).

ii. Travel and subsistence

Estimate provision €186,000; outturn €315,000

The increase in expenditure of €129,000 relative to the estimate provision was due to an increase in the cost of staff serving overseas with the Eurojust agency and cost of office staff attending court sittings outside of Dublin.

v. Office equipment and external IT services

Estimate provision €1.181 million; outturn €844,000

The shortfall in expenditure of €337,000 relative to the estimate provision was due to work on our IT infrastructure not proceeding as quickly as expected. This will now be undertaken in 2024.

Programme A Provision of Prosecution Service

		2023		2022
		Estimate provision	Outturn	Outturn
		€000	€000	€000
A.1	Administration – pay			
	<i>Original</i>	23,747		
	<i>Supplementary</i>	(2,343)		
		21,404	20,484	18,483
A.2	Administration – non pay	3,437	3,417	2,895
A.3	Fees to counsel			
	<i>Original</i>	19,028		
	<i>Supplementary</i>	4,884		
		23,912	24,115	20,072
A.4	General law expenses			
	<i>Original</i>	1,446		
	<i>Supplementary</i>	727		
		2,173	1,913	1,095
A.5	Local State Solicitor service			
	<i>Original</i>	8,420		
	<i>Supplementary</i>	1,232		
		9,652	9,516	8,333
		60,578	59,445	50,878

Significant variations

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

A.3 Fees to counsel

Original estimate provision €19.028 million; outturn €24.115 million

The increase in expenditure of €5.09 million relative to the original estimate provision was due to the increased number of cases listed for hearing by the courts following the appointment of more judges.

A.4 General law expenses

Original estimate provision €1.446 million; outturn €1.913 million

The increase in expenditure of €467,000 relative to the original estimate provision was due to a small number of unusually costly cases.

A.5 Local State Solicitor service

Original estimate provision €8.42 million; outturn €9.516 million

The increase in expenditure of €1.1 million relative to the original estimate provision was due to the payment of arrears arising under the State Solicitors' contract.

Note 4 Receipts

4.1 Appropriations-in-aid

		2023		2022
		Estimated	Realised	Realised
		€000	€000	€000
1	Appropriations in aid	42	30	52
2	Receipts from additional superannuation contributions on public service remuneration	717	867	779
3	Miscellaneous	1	2	—
Total		760	899	831

Significant variations

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

2 *Receipts from additional superannuation contributions on public service remuneration*

The increase in receipts of €150,000 relative to the original estimate provision arises due to the increase in salaries and wages over the previous year.

4.2 Extra receipts payable to the Exchequer

at 31 December		2023	2022
		€000	€000
Balance at 1 January		—	—
Receipts under Sections 4 and 61 of the 1994 Criminal Justice Act		1,221	—
Transferred to the Exchequer		(1,221)	—
Balance at 31 December		—	—

Note 5 Staffing and Remuneration

5.1 Employee numbers

Full time equivalents	2023	2022
Number of staff at year end	<u>263</u>	<u>230</u>

5.2 Pay

	2023	2022
	€000	€000
Pay	18,520	16,709
Higher, special or additional duties allowances	180	198
Overtime	7	7
Employer's PRSI	<u>1,777</u>	<u>1,569</u>
Total pay	<u>20,484</u>	<u>18,483</u>

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	36	7	32,399	36,451
Overtime and extra attendance	8	—	2,533	2,387
Extra remuneration in more than one category	1	—	3,884	—

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 (€)	2023	2022
20,000	59,999	122	122
60,000	69,999	17	21
70,000	79,999	30	27
80,000	89,999	26	24
100,000	109,999	19	15
110,000	119,999	9	6
120,000	129,999	15	11
130,000	139,999	4	3
140,000	149,999	—	2
150,000	159,999	1	—
160,000	169,999	1	2
170,000	179,999	4	1
180,000	189,999	1	1
190,000	199,999	—	—
200,000	209,999	1	—
210,000	219,999	—	—
220,000	229,999	—	—
230,000	239,999	1	1

5.5 Other remuneration arrangements

This account includes expenditure of €246,265 (2022: €188,642) in respect of two officers who were serving outside the Office in 2023 and whose salaries were paid from subhead A.1.

5.6 Payroll overpayments

at 31 December	Number of recipients	2023 €	2022 €
Overpayments	12	16,668	13,422
Recovery plans in place	7	8,824	12,008

5.7 Remuneration and benefits of Accounting Officer

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

	2023 €	2022 €
Basic pay		
Liz Howlin – appointed 7 August 2021/appointment concluded 30 November 2022	—	158,319
Marion Berry – appointed 1 December 2022 ^a	202,116	—
Allowances		
Liz Howlin	—	11,494
	202,116	169,813

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

All of the individuals referenced above are members of superannuation schemes for established civil servants, and their entitlements in that regard do not extend beyond the standard terms of the relevant schemes.

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

	2023	2022
	Total	Total
Number of cases	—	1
	€000	€000
Office's own legal costs	—	5
Payments by/on behalf of Office		
Compensation	—	23
Legal costs	—	12
Total	—	40