



**Comptroller and Auditor  
General**

**Annual Report**

**2007**





# Comptroller and Auditor General

## Annual Report

2007

*Presented pursuant to Section 3(11) of the Comptroller and Auditor  
General (Amendment) Act, 1993*

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The Report was prepared on the basis of information, documentation and explanations obtained from Government Departments and Offices referred to in the Report.

Drafts of relevant segments of the Report were sent to the Departments and Offices concerned and their comments requested. Where appropriate, these comments were incorporated into the final version of the Report.

Tá leagan Gaeilge den tuarascáil seo ar fáil freisin (Prn. A8/1320).

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# **Report of the Comptroller and Auditor General on the Accounts of the Public Services – 2007**

I am required under Article 33 of the Constitution to report to Dáil Éireann at stated periods as determined by law. Under Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993, I am required to report to Dáil Éireann on my audit of the Appropriation Accounts of Departments and Offices and the accounts of the receipt of revenue of the State not later than 30 September in the year following the year to which the accounts relate.

I hereby present the Report for 2007 in accordance with Section 3 of the aforementioned Act.

A handwritten signature in dark ink, appearing to read 'John Buckley', with a long, sweeping horizontal line extending to the right.

**JOHN BUCKLEY**

**Comptroller and Auditor General**

19 September 2008



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# Chapter 1

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## General Matters

## 1.1 Central Government Financial Outturn

The net central government income was €48.9 billion in 2007. The bulk of this was tax revenue of €47.3 billion<sup>1</sup>. The overall outturn on receipts and expenditure on core central government activities is set out in Table 1.

**Table 1 Exchequer Receipts and Expenditure**

	2007	2007	2007	2006
	€bn	€bn	Total €bn	Total €bn
<b>Receipts</b>				
Tax Receipts (Table 7)		47.33		
Other Receipts				
Non-Tax Revenue	0.64			
Loan Repayments	0.75			
Capital Receipts	<u>0.19</u>	<u>1.58</u>	48.91	47.38
<b>Expenditure</b>				
Net Voted Expenditure (Table 4)		44.69		
Other Expenditure				
Service of National Debt	1.68			
National Pensions Reserve Fund	1.61			
Payments to the EU	1.57			
Loans Issued	0.74			
Other	<u>0.23</u>	<u>5.83</u>	50.52	45.33
<b>Surplus/(Deficit) of Receipts over Expenditure</b>			<b>(1.61)</b>	<b>2.05</b>

The cashflow movements associated with the central government financial outturn are set out in Table 2.

**Table 2 Cashflow Movements**

	2007	2007	2007	2006
	Opening €bn	Closing €bn	Movement €bn	Movement €bn
Exchequer Account	3.59	4.00	0.41	1.41
Commercial Deposit Activity	–	0.49	0.49	–
Voted Amounts Due (to)/from Departments and Offices	0.31	0.23	(0.08)	(0.05)
Revenue Balances	(0.42)	(0.33)	0.09	(0.17)
(Proceeds)/Repayments of Borrowing			(2.52)	0.86
<b>Total</b>			<b>(1.61)</b>	<b>2.05</b>

<sup>1</sup> Detailed in Table 7 of Chapter 3.1.

## Comparison of Voted Outturn against Provision

€45.3 billion was appropriated by Dáil Éireann in 2007 to fund expenditure on voted services. Table 3 summarises the 2007 provision for voted services, as confirmed by Dáil Éireann in the Appropriation Act, 2007.

**Table 3 Provision for the Year**

	2007 €bn	2007 Total €bn	2006 Total €bn
Estimates for Supply Services			
Original Provision	49.05		
Supplementary Estimates	0.25		
Deferred Surrender 2006	<u>0.16</u>	49.46	44.50
<i>Less: -</i>			
Appropriations-in-Aid			
Original Provision	4.18		
Supplementary Estimates	<u>(0.03)</u>	4.15	4.02
<b>Estimated Net Expenditure</b>		<b>45.31</b>	<b>40.48</b>

The net expenditure met from these appropriations amounted to €44.7 billion. As a result, a surplus of €620m occurred of which €126m falls to be rolled forward to 2008 under statutory rules governing the deferred surrender of certain capital allocations.

**Table 4 Comparison Between Provision and Outturn**

	2007 €bn	2007 Total €bn	2006 Total €bn
Estimated Net Expenditure (Table 3)		45.31	40.48
Actual Gross Expenditure	48.93		
Actual Appropriations in Aid	<u>(4.24)</u>		
Net Expenditure		<u>44.69</u>	<u>39.44</u>
Surplus for the Year		0.62	1.04
Deferred Surrender 2007		0.13	0.16
<b>Amount to be Surrendered</b>		<b>0.49</b>	<b>0.88</b>

The surplus to be surrendered represents 1.08% of Estimated Net Expenditure. Under a separate administrative budget arrangement a further €36.5m of the surrender was carried forward to 2008.

## Extra Exchequer Receipts

Extra Receipts payable to the Exchequer as recorded in the Appropriation Accounts amounted to €188.99m.

**Surrender of Balances of 2006 Votes**

The balances due to be surrendered out of Votes for Public Services for the year ended 31 December 2006 amounted to €878m. I hereby certify that these balances have been duly surrendered.

**Stock and Store Accounts**

The stock and store accounts of the Departments have been examined with generally satisfactory results.

## Chapter 2

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### Central Fund

## 2.1 Election Postage Costs

An Post offers a range of discounts to customers who present mail for delivery at a time or in a manner that generates cost efficiencies for the company. Details of the general terms for availing of these discounts are given in An Post's brochure on '*Bulk Discounts for Mailers*'. The brochure advises that a contract for discounts is available from any of their Account Managers and suggests meeting customers to discuss requirements. The tone of An Post literature relating to discounts is one of advocacy or encouragement as bulk mailing generates cost efficiencies for the company.

An Post takes the following criteria into account when determining qualification for discounts

- the extent to which mail is presented to An Post at a time that facilitates off-peak processing and sorting
- whether mail presented can be processed by the automated equipment used by An Post
- the extent to which the mail presented has been or can be sorted without manual intervention
- whether delivery of mail can be deferred, *i.e.* customers do not have a requirement for next working day delivery
- conformity to specified dimensions.

### Statutory Provisions Relating to Election Postage

An Post was established under the Postal and Telecommunications Services Act, 1983 (the 1983 Act). Regulation 4.2(a) of the European Communities (Postal Services) Regulations 2002 (S.I. 616/2002) designates An Post to be the provider of Universal Postal Services.

Section 57(1) of the Electoral Act, 1992, provides that each candidate at Dáil Elections may send, free of charge for postage, communications relevant to the elections, to each person on the register of Dáil Electors, for the constituency or to any combination of such persons, while Section 92 provides for the dispatch of polling information cards without prepayment of charges. Section 75 of the 1983 Act makes provision for the recoupment to An Post of any such free postage provided.

*'The company (An Post) shall be entitled to be recouped out of the Central Fund or the growing produce thereof for the loss of postage which it incurs by reason of any enactment providing for free postage in connection with any election or referendum or any petition or address to the President, the Government or either House of the Oireachtas.'*

An Post, exercising powers conferred on it by Section 74 of the 1983 Act, with the consent of the Minister for Communications, Energy and Natural Resources, made regulations setting out the criteria for electoral candidates in Dáil Elections to avail of the free postage scheme. These regulations, introduced in Statutory Instrument 338/1992, set out requirements and restrictions as to the nature of the postal packets, their size and weight, and the time and manner of their presentation to a post office.

### Amounts Recouped to An Post

The amount recouped to An Post from the Central Fund, under these provisions, in respect of the 2007 General and Seanad Elections was €14,686,283<sup>2</sup> (€7m paid on account on 26 June 2007, and the balance

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<sup>2</sup> This does not include an amount of €11,987 in respect of the issue of ballot papers by registered post to the Office of the Seanad.

of €7,686,283 on 17 January 2008). An Post, in support of their claim for payment, provided the following details of the number of items posted and the appropriate postal rates charged.

**Table 5 2007 General and Seanad Elections Claim**

Number of Items	Rate	Total €
25,739,471	€0.54	13,899,314
25,949	€0.55	14,272
626	€0.95	595
11,183	€4.93	55,132
143,394	€5.00	716,970
<b>25,920,623</b>		<b>14,686,283</b>

While fully recognising the statutory imperative to ensure the provision of free postage to candidates at elections, it would appear that, having regard to the conditions set by An Post under SI 338/92, economies of scale and the attendant ease of handling the election material it would be likely that significant cost savings could be generated by An Post.

This possibility was also recognised by the Department of Finance which sought unsuccessfully in 1998 and again in 2007 to negotiate reductions in the amounts being charged by An Post for this service. Department of Finance papers reviewed during the course of audit indicate that in September 2007 when the Department was clearing An Post's second and final invoice, it requested a reduction in the bill. In the event, An Post refused to allow a discount and in January 2008 the full amount was paid as invoiced.

### **Audit Concerns**

The bulk discounts offered by An Post ranged from 6 to 11 cents off the prevailing postage rates depending on the posting options selected. Application of these discounts to the posting volumes arising in the case of the general and Seanad elections of 2007 would have yielded savings for the Exchequer of between €1.5 and €3.3m.

While it would appear that the notice available regarding the timing of elections and the streamlined presentation of related postal material should give rise to significant cost savings for An Post, the State, as a user of postal services, was not in a position to avail of discounts comparable to those offered to other service users.

In the circumstances, I sought the views of the Accounting Officers of the Department of Finance, as operator of the Central Fund and of the Department of the Environment, Heritage and Local Government, as the Department responsible for the conduct of elections.

### **Response of the Accounting Officer, Department of the Environment, Heritage and Local Government**

The Accounting Officer, Department of the Environment, Heritage and Local Government stated that the responsibilities of her Department concerning elections and referenda relate in the main to the policy and legislative framework governing their conduct. In addition, the Department has responsibility for certain aspects of the administration of elections and referenda. Primary responsibility for the conduct of elections and referenda in constituencies lies with returning officers. While the Department liaises with An Post in respect of the technical specification of some electoral communications for which An Post is entitled to recoupment, the question of the cost of the services is outside the remit of the Department.

When an election or referendum is called, the Department provides to An Post details of the electorate on a city/county and constituency basis (the data is provided to the Department by the 34 city and county councils which are the registration authorities). It also provides to An Post details of the electorate on islands and of any early polling day there as decided by returning officers. This information facilitates An Post in planning for the volumes of polling information cards which will move through the postal system over the period of an election or referendum. Detailed arrangements for feeding the polling information cards into the postal system are made at local level between post offices, returning officers and registration authorities.

The Department has no role in relation to the operation of the free postage facilities made available by An Post to candidates and political parties at elections and issues regarding the cost of distribution of the polling information cards or of a (separate) Statement for the information of voters are a matter for the Department of Finance, having regard to Section 75 of the 1983 Act, Section 4 of the Electoral Act, 1992 and other relevant legislation.

### Response of the Accounting Officer, Department of Finance

The Accounting Officer, Department of Finance noted that it was clear Government policy, as enacted in legislation by the Oireachtas, that for elections and referenda, the entire electorate be supplied with communications from those presenting for election and polling cards, and, in addition for referenda, statements of information. He stressed that

- the free postage schemes are made by An Post having consulted with the Minister for the Environment, Heritage and Local Government and that there is no legislative provision for consulting with the Minister for Finance
- any question of changing policy in this context is a matter for Government and specifically the Minister for the Environment, Heritage and Local Government.

The Accounting Officer informed me that the Department has explored a number of times the question of a discount but the principal response from An Post was that they were entitled to full recoupment for lost postage. This entitlement is confirmed by legal advice. Legal clarifications obtained from the Attorney General's Office regarding the interpretation/definition of certain specific terms used in the legislation, *i.e.* '*free of any charge for posting*', '*loss of postage*' and '*recouping*' the loss from the Central Fund confirmed that the term '*recoup*' means that An Post must be paid for the actual loss it incurred which is the amount which it would have earned had the communications which were delivered under the free postage scheme been fully franked. The Attorney General agreed with An Post's definition of their loss - which is the postal charges which were lost to An Post in respect of the communications which were delivered '*free of any charge for postage*'.

The legal advice also confirmed that the Department must pay the amounts charged by An Post.

Overall, the Accounting Officer concluded that since it is the express policy of the Oireachtas, as enunciated in electoral legislation, that communications be issued to each member of the electorate for Dáil elections and referenda the Department is legally bound to pay the amounts charged. Any amendment to legislation to change this would be a policy matter to be decided on by the Government and passed by the Oireachtas and since it is Government policy to ensure that the electorate are personally given communications under the Electoral Acts, it is not open to the Department to change those obligations and entitlements.



## **Conclusions**

While An Post encourages and rewards businesses and other bulk mailing entities with discounted postal charges, the State as a user of its services is unable to take advantage of the more favourable terms available generally.

It is acknowledged that the Department of Finance has attempted to negotiate discounts for bulk postage and has gone as far as it can in the light of the legislative and policy framework. In effect, the strict terms of the legislation prevent the achievement of discounts and given the monopoly status of An Post there are no alternative providers.



## Chapter 3

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### Revenue

### 3.1 Revenue Collection

Under the Comptroller and Auditor General (Amendment) Act, 1993 I am required to

- Carry out such examinations as I consider appropriate in order to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenue of the State and to satisfy myself that the manner in which they are being employed and applied is adequate.
- Examine the account of revenue received and paid over to the Exchequer by the Revenue Commissioners in order to satisfy myself as to its completeness and accuracy and to report to Dáil Éireann on the results of my examination.

On a cyclical basis I examine Revenue's systems for the assessment and collection of tax. Sections 3.2 to 3.12 refer to matters arising from this examination. Section 3.13 deals with a matter arising out of my audit of the Vote for the Revenue Commissioners.

I form an opinion on the completeness and accuracy of the Revenue Account on the basis of the examination and testing carried out by my Office on the various receipting, repayment and accounting systems within Revenue. I also take assurance from the systems work referred to above. The Revenue Account together with my opinion thereon is set out in the Appendix to this Report.

### Revenue Collected

The gross amount collected by Revenue in 2007 totalled €66.1 billion. The composition of the gross collection is outlined in Table 6. When the amounts collected on behalf of other Departments and agencies are excluded, €56.6 billion was attributable to the core revenue of the State.

**Table 6 Total Gross Collection**

	2007 €m	2007 €m	2006 €m	2006 €m
Gross Collection		66,148		62,330
<i>Less attributable to other Departments and Agencies</i>				
PRSI	(9,292)		(8,348)	
Health Levy	(188)		(168)	
Environmental Levy	(22)		(19)	
Other	(7)	(9,509)	(7)	(8,542)
<b>Taxes and Duties Collected</b>		<b>56,639</b>		<b>53,788</b>

€9.1 billion was repaid to taxpayers in 2007. These repayments represented 16% of gross receipts. Repayments occur mainly on two taxheads. In the case of VAT they arise where the VAT on a trader's purchases exceeds that on his sales. Some traders can be permanently in a VAT repayment situation in cases where their sales are zero rated but they are being charged VAT on some or all of their purchases - for example some food businesses. It can also occur when a trader increases stock or purchases an expensive item of equipment in a period. The other heading where there is a high level of repayments is Income Tax. In this case as well as repayments under the different components of Income Tax, the repayment figure includes payments of tax relief at source for mortgage interest and medical insurance and

payments in respect of SSIA's and the Pensions Incentive Tax Credit<sup>3</sup>. Table 7 sets out the net collection by taxhead after taking account of repayments.

**Table 7 Tax Collected and Repaid**

	<b>2007 Gross Receipts €m</b>	<b>2007 Repayments €m</b>	<b>2007 Net Receipts €m</b>	<b>2006 Net Receipts €m</b>
Income Tax	16,788	3,206	13,582	12,375
Value Added Tax	19,248	4,729	14,519	13,451
Excise	6,127	124	6,003	5,696
Corporation Tax	7,329	936	6,393	6,685
Stamp Duties	3,309	65	3,244	3,632
Custom Duties	280	7	273	255
Capital Acquisitions Tax	397	6	391	343
Capital Gains Tax	<u>3,161</u>	<u>64</u>	<u>3,097</u>	<u>3,099</u>
<b>Total</b>	<b>56,639</b>	<b>9,137</b>	<b>47,502</b>	<b>45,536</b>
Amounts paid to HSE for Tobacco Excise <sup>(a)</sup>	—	—	(168)	(168)
<b>Total Payable to Exchequer</b>			<b>47,334</b>	<b>45,368</b>

<sup>(a)</sup> Section 3 of the Appropriation Act, 1999, as amended.

The net revenue from taxes and duties for the year was €47,334m. €47,247m was paid to the Exchequer<sup>4</sup>.

The 2007 Budget day Exchequer target for tax revenues was €49,074m. Accordingly, a tax revenue deficit of €1,827m was experienced in the year. A breakdown of the shortfall by individual taxhead is provided in Table 8.

<sup>3</sup> The Pensions Incentive Tax Credit is given to a qualifying SSIA holder who invests some or all of the matured funds, subject to a maximum amount, in an approved pension scheme.

<sup>4</sup> The amount paid to the Exchequer over time takes account of suspense balances in cases where a taxpayer has paid taxes but they are not allocated. The amount prepaid at 31 December 2007 was €329m (€416m at 31 December 2006).

## Revenue

**Table 8 2007 Tax Revenue Paid to Exchequer compared to Forecast**

Tax	Forecast	Payments to Exchequer	Excess/(Shortfall)	
	€m	€m	€m	%
Income Tax	13,555	13,572	17	0.1
Value Added Tax	14,870	14,497	(373)	(2.5)
Excise	6,069	5,838	(231)	(3.8)
Corporation Tax	6,650	6,391	(259)	(3.9)
Stamp Duties	3,925	3,186	(739)	(18.8)
Custom Duties	285	266	(19)	(6.7)
Capital Acquisitions Tax	375	392	17	4.5
Capital Gains Tax	3,345	3,105	(240)	(7.2)
<b>Total</b>	<b>49,074</b>	<b>47,247</b>	<b>(1,827)</b>	<b>(3.7)</b>

Revenue attributes the shortfall against forecast<sup>5</sup> which occurred in most taxheads mainly to a slowdown in the property market and a lower than expected level of consumer spending. However, Income Tax receipts exceeded forecast due to ongoing growth in employment and greater than expected DIRT receipts due to increases in interest rates and moneys in SSIA accounts continuing to be held as deposits after maturity. These were partially offset by lower than expected self-assessed Income Tax receipts due to lower than anticipated underlying profit levels.

<sup>5</sup> The forecasting methodology employed by the Department of Finance is examined in the Report of the Tax Forecasting Methodology Review Group, February 2008.

## 3.2 Tax Written Off

€118m of taxes and PRSI was written off during the year ended 31 December 2007. €2.5m, relating to 7,641 cases with balances of less than €1,000 which were considered uneconomic to pursue, was written off on an automated basis in 2007. The balance was assessed for write off on a case-by-case basis. A breakdown by taxhead of the total amount written off is shown in Table 9. Once approved, a write off marker is placed on the computer record of the case which has the effect of halting further collection activity. Lists of all cases proposed for write off are formally submitted to the Revenue Chairman for approval.

**Table 9 Taxes Written Off**

<b>Tax</b>		<b>2007 €000</b>	<b>2006 €000</b>
Value Added Tax		46,195	45,253
PAYE		24,009	21,623
PRSI		21,899	23,799
Relevant Contracts Tax		14,796	9,492
Income Tax		6,219	14,181
Corporation Tax		1,496	3,505
Capital Gains Tax		479	799
Automatic Write Offs		2,544	994
<b>Total</b>		<b>117,637</b>	<b>119,646</b>

Revenue records the reason for write off in each case and Table 10 gives details of the number of cases and the amount written off for each category. Over €96m of the amount written off arose in cases where businesses had ceased or encountered difficulties. The balance of €22m relates to cases where the amount outstanding was not collected due to factors such as an inability to locate the taxpayer, a decision by Revenue that the amount outstanding did not warrant committing resources to collecting it and compassionate grounds.

## Revenue

**Table 10 Reasons for Write Off**

Reason	2007 Number of Cases	2007 €000	2006 Number of Cases	2006 €000
<b>Business Cessation/Difficulty</b>				
Liquidation/Receivership/Bankruptcy	704	41,798	592	46,313
Ceased trading – no assets	1,196	46,423	2,106	44,438
Uncollectable due to financial circumstances of taxpayer	191	4,678	306	3,177
Examinership	10	2,275	6	185
Deceased and Estate Insolvent	80	834	162	1,762
<b>Other Reasons</b>				
Cannot be traced/Outside Jurisdiction	325	9,763	644	12,391
Uneconomic to pursue <sup>(a)</sup>	8,498	9,735	4,644	8,829
Compassionate Grounds	122	1,827	179	1,865
Unfounded Liability	53	304	120	686
<b>Total</b>	<b>11,179</b>	<b>117,637</b>	<b>8,759</b>	<b>119,646</b>

<sup>(a)</sup> Includes 7,641 cases written off automatically.

The largest single amount written off in 2007 was €2.9m in respect of Employer's PAYE/PRSI and VAT owed by a group of companies in the recruitment industry which had gone into receivership. There were eleven other cases where the amount written off was greater than €1m.

The Internal Audit Branch in Revenue undertakes an annual examination of tax write offs. Its 2007 audit examined a sample of 207 cases representing 44% (€50m) of the value of non-automated write offs (€115m). Internal Audit was satisfied that all amounts were written off in accordance with the criteria prescribed with one exception. In this case, involving the write off of €87,275 in respect of VAT and PAYE/PRSI, there was evidence that two property transactions had taken place at the time of write off in which the taxpayer appeared to have made a profit of some €1m. The write off has since been reversed and the outstanding tax is being pursued. Internal Audit also examined the results of automated write off runs in the year and confirmed the correct application of the authorised selection criteria for each run.

I examined the 20 highest value write off PAYE/PRSI cases in 2007. Chapter 3.3 details this examination and the results.



### 3.3 Analysis of Major Write Off Cases

Chapter 3.2 sets out details of tax outstanding which was written off in 2007. In that year €118m was written off of which €46m related to PAYE/PRSI. The write off pattern over the past five years is set out in Table 11.

**Table 11 Total Tax Written Off 2003 to 2007**

Year	Number of Cases	Total Write Off €m	PAYE/PRSI Write Off €m	% of Total
2003	42,741	119	34	29%
2004	26,141	173	73	42%
2005	65,762	143	49	34%
2006	8,759	120	45	37%
2007	11,179	118	46	39%
<b>Total</b>	<b>154,582</b>	<b>673</b>	<b>247</b>	<b>37%</b>

As part of the audit, 20 of the highest write off cases were selected for review - the size of the PAYE/PRSI write off in each case determined selection. €11.4m of the €17m written off in these cases related to PAYE/PRSI of which €6.5m was based on returns submitted and €4.9m was based on estimates raised by Revenue.

#### Overall Audit Concern

There is a risk that a high proportion of tax liabilities written off consist of tax deducted from employees but not remitted to Revenue. I sought, using these write offs as case studies, to examine the factors which were at play leading up to the write off with a view to isolating any implications for Revenue's management of the system. Generally, the cases following classification had the following features

- Considerable tax had been written off in cases where compliance problems arose soon after registration (30% of the sample cases).
- Despite monitoring of identified problematic cases, write offs occurred in eight of the 20 cases.
- No revenue was recovered although 25% of the cases were connected with other enterprises involving the same persons.
- Specific sectoral risks in the security industry included untaxed payments to employees.
- Sheriff enforcement did not appear to be fully effective in one case.
- There was no recovery to date of taxes in that part of the sample that arose out of liquidations.

#### Accounting Officer's General Observations

The Accounting Officer stated that, since the mid 1990s, Revenue has adopted a caseworking approach to debt and compliance management whereby dedicated debt management units focused on gaining an understanding of the features of each case with a debt or compliance problem and deployed the most effective collection and enforcement approach based on that individual case knowledge and information.

## Revenue

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The continuing focus on improving and refining the caseworking approach to compliance and debt management is demonstrated by

- the 16 dedicated units in the Collector General's Division targeting compliance and debt management activities in a structured way
- the debt reduction units used to maximise coverage of the large number of cases where debt levels are low
- the specialised units which target particular risks such as phoenix<sup>6</sup> cases and cases of significant aggregate debt linked by common directors
- an ongoing focus on the relevance and adequacy of Revenue guidelines and procedures to maximise learning from the working of cases.

Quality assurance of the caseworking approach is ensured by

- Independent selection of cases for quality assurance review by the relevant caseworking management team. Procedural, process or training needs identified are the subject of follow up action at individual and team level as appropriate.
- A report on a review of a selection of write off cases is submitted monthly to the Collector General to identify any particular suggestions to improve caseworking.

## New Registrations

Five of the cases in the sample examined had compliance problems soon after registering for tax and, ultimately, significant amounts of tax were written off. A further case contacted Revenue regarding registration in 2002 but only became registered in November 2004 with an effective date of October 2002. Over €1m in PAYE/PRSI and VAT was written off in this case.

### Audit Concern

As a number of cases in the sample demonstrated compliance problems soon after registration, I sought the Accounting Officer's views on the Revenue practice for managing new cases.

The Accounting Officer informed me that newly registered taxpayers that fail to file returns are separately classified (under Revenue's NCS<sup>7</sup> programme). Since 2004, Revenue has revised procedures for the management of these cases. These procedures involve correspondence with the taxpayer followed by referral to the relevant tax district for follow up in the event of continued non-compliance. The Revenue District then examines the case to establish if the taxpayer is trading and, if not, arranges cancellation where appropriate. Otherwise, the District will seek returns and payments and, if necessary, raise estimates that will subsequently be enforced, as appropriate.

In relation to the case that registered late, the Accounting Officer stated that while it appeared that there was some contact with Revenue in 2002 regarding possible registration, the company did not register at that time. The company subsequently registered in November 2004 with an effective date of October 2002. It was non-compliant from the start and was identified as such by Revenue leading to intervention

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<sup>6</sup> Phoenix cases are a particular area of tax evasion where directors attempt to use the protection of limited liability for the deliberate avoidance of tax liabilities, essentially by ceasing activity under the guise of one company and transferring the assets and business to a "new" company with a clean tax record.

<sup>7</sup> The NCS (No Case Size) programme picks up taxpayers who register but fail to file returns.

in July 2005. Late registration was the key contributor to the delayed intervention by Revenue. It is normal Revenue case registration practice to ensure that all cases are actively managed to ensure that the customer provides full registration details in a timely manner.

### **Audit Conclusion**

The effectiveness of this approach to newly registered cases that fail to file returns should become apparent on the completion of a review, currently underway, of the overall NCS programme which is designed to evaluate its contribution in supporting timely compliance.

## **Monitoring of Cases with Ongoing Problems**

The audit review indicated that

- In six cases there had been ongoing problems with compliance and payment which were being acted on by Revenue caseworkers.
- A post receivership Revenue audit of a case with ongoing problems detected significant liabilities.
- In one case Revenue was unaware, despite ongoing monitoring, that the company had ceased trading.
- Another case went into liquidation without ever making a tax payment.

### **Audit Concern**

The accumulation of arrears despite ongoing review raised the question of how and when Revenue utilised its powers to address the build up of tax debt, whether alternative approaches to dealing with cases where the caseworking approach was not successful had been explored and, generally, what lessons had been drawn from Revenue's experience in such cases.

The Accounting Officer stated that a significant feature contributing to the debt in the six cases was under-declaration of tax. This came to light either on foot of audit interventions undertaken by Revenue or due to underpayment during the course of the tax year that came to light with the filing of the P35 return. Deliberate underpayment and under-declaration of debt during the course of the tax year is difficult for Revenue to immediately detect. However, there is specific legal provision that discourages such action in that the interest rules allow for the application of interest from the middle of the tax year where large balancing payments are made with the annual return. In addition, Revenue has now in place closer monitoring and review procedures to minimise exposure to such actions by, for example in the case of direct debits, moving quickly to secure filing of the annual return so that deliberate underpayment during the year cannot be further concealed by delay in submitting the annual return. In general, Revenue was satisfied that the range of measures available to it, combined with the sophistication of the REAP<sup>8</sup> system, is assisting in the timely targeting of cases of greatest risk. The range of collection and enforcement measures available to Revenue including the charging of interest, referral to sheriff, court proceedings, attachment orders, court instalment orders, forced sale of assets, bankruptcy and liquidation proceedings is a significant element in Revenue's overall response to late or non-compliance and underpayment.

<sup>8</sup> Risk Evaluation and Analysis Profiling.

She further indicated that an earlier audit intervention in the receivership case was unlikely to have yielded better results given that the company was already struggling to meet its payment obligations based on the debts declared in returns filed and that Revenue's experience in relation to the company that had ceased trading was quite unusual. In relation to the company that never made any payment to Revenue, she informed me that this company went into liquidation ten years ago and learning from this case is reflected in current practices and procedures for NCS cases.

### **Audit Conclusion**

Deliberate underpayment and under-declaration is difficult for Revenue to detect in a timely manner. However, Revenue should continuously evaluate how monitoring can be enhanced based on the learning from those cases where major defaults occur.

### **Commonality Checks**

Commonality checks, which were introduced by Revenue following the examination of write offs outlined in the 2001 Annual Report<sup>9</sup>, seek to establish whether the taxpayer is or has been involved in other trading entities that have outstanding tax. Where the check identifies related entities with payment problems, a concerted caseworking approach is adopted to all outstanding liabilities. Commonality issues were identified by Revenue in relation to five of the cases in the sample.

### **Audit Concern**

I asked the Accounting Officer what action Revenue takes where defaulters are involved in other trading and whether the effectiveness of commonality checks had been reviewed.

The Accounting Officer stated that a commonality check is carried out on a case at registration, at caseworking stage when debt exceeds €50,000 and at write off where the debt is greater than €50,000. When commonality features are identified by Revenue, the cases are referred either to a Commonality Unit or the relevant Debt Management Unit in the Collector General's Division. In each instance, the cases concerned are subjected to close monitoring, early intervention and enforcement action, as required. The Commonality Unit received 110 referrals in 2004, 156 in 2005, 73 in 2006, 54 in 2007 and 28 by the end of May 2008 and currently monitors 1,200 cases overall. The Accounting Officer informed me that the primary focus of commonality checks is to ensure related entities are managed with a focus on the overall risk into the future.

A review was carried out on the effectiveness of the overall phoenix and commonality programmes in July 2006. The monitoring arrangements were generally assessed as working very effectively and making a real impact in addressing non-compliance on a timely basis in these linked cases. The significant numbers of existing cases requiring monitoring coupled with the ongoing incidence of new cases arising means that there must be a focus on the cases posing the greatest risk.

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<sup>9</sup> Chapter 4.7, Comptroller and Auditor General's Annual Report 2001.

### **Audit Conclusion**

Debt was written off in five cases of trading by related parties. The Accounting Officer has assured me that, in general, commonality checks often result in related entities becoming compliant or being ceased and that the focus of interventions is on ongoing compliance by the related entities rather than debt recovery from the failed entity.

## **Sectoral Risks – Security Industry**

### **Audit Concern**

As six of the cases examined involved the write off of a significant amount of tax (€6.7m) in respect of companies involved in one sector – the security industry – there appeared to be a particular compliance problem in that industry. I sought the views of the Accounting Officer on this.

The Accounting Officer informed me that tax compliance in the security industry has been and continues to be a matter of concern to Revenue. This non-compliance is linked, in part at least, to the industry being predominantly a cash industry and the operators in the sector being, until recently, unregulated. In 2004, the Private Security Authority (PSA) was established. The PSA is now responsible for licensing and regulating the private security industry in Ireland. This work has had a positive impact on general tax compliance levels in the industry, as the licensing regime requires the production of a tax clearance certificate by licence applicants. Revenue has taken the opportunity to work in tandem with the PSA in improving tax compliance in the sector.

In addition to this close liaison with the PSA, Revenue has recently completed a three-year project on the “door and event” security sector in the greater Dublin area. The project indicated that non-compliance in the form of untaxed payments to employees is a feature of the industry. Four joint audits were conducted with the PSA and significant progress made in combating phoenix activity. Further initiatives arising from this project are under active consideration by Revenue. As a direct result of the project, files on two directors are with the Director of Public Prosecutions and other cases are under consideration for prosecution. There was an audit yield of €1.6m from this project in 2006 and €730,000 in 2007.

### **Audit Conclusion**

It is acknowledged that in these cases compliance work is likely to have preceded the write off and consequently there is limited scope for further learning from this class of cases. However, based on its overall risk assessment, Revenue should continue its approach of focusing on sectors presenting particular risks.

## **Sheriff Enforcement**

In a case where approximately €978,000 was eventually written off, the debt was referred to the sheriff for enforcement in October 2005. The case notes indicate that the sheriff called to the company in July 2006 and reported to Revenue that the company was no longer conducting business from the premises. However, Revenue had been in contact with the company up to the end of June 2006 and had information that the company was still trading from the premises the day after the sheriff called. The sheriff again called to the premises and reported that the company was still trading but would not pay on the warrant as it claimed the tax owing was under appeal. However there was no evidence of an appeal on

the company's tax record. In August 2006, a director of the company informed the Inspector that the company had ceased trading at the end of June 2006.

### **Audit Concern**

The events outlined raised a concern that sheriff enforcement was not always fully effective.

The Accounting Officer stated that Revenue uses the services of sheriffs in circumstances where routine caseworking approaches have been unsuccessful. However sheriffs are not directly answerable to Revenue for the execution of warrants for the collection of tax as they are officers of the Courts. The Accounting Officer stated that the referral of cases to sheriffs has proved very successful in recovering outstanding tax. In 2007, for example, there were 43,157 referrals to sheriffs and €249.2m was received in payment as a result of enforcement. Revenue monitors the service through ongoing engagement and dialogue with sheriffs. In the particular case instanced, there was a delay in following up on the initial referral. However, there was some doubt, both for the sheriff and Revenue, as to the exact trading status of the business and whether it had, in fact, diversified into two separate entities. The necessity for prompt follow up action on foot of referrals from Revenue is a matter that has been discussed with sheriffs collectively. However, the Accounting Officer emphasised that, overall, she was very satisfied with the service provided by sheriffs.

### **Audit Conclusion**

Revenue should continue its ongoing discussions with sheriffs as a means of monitoring the service provided and jointly identify lessons to be learned from the outcome of individual cases.

## **Post-Liquidation Activity**

Since the late 1990s, Revenue's policy in relation to liquidation cases is to write off all outstanding tax as soon as a liquidator has been appointed provided Revenue have no objection to the liquidation and a claim has been submitted to the liquidator outlining the company's full tax liability.

### **Audit Concern**

I was concerned whether

- in the light of this policy Revenue was subsequently recovering any of the tax outstanding in liquidation cases
- Revenue had considered pursuing directors for tax debts owed by companies in liquidation.

The Accounting Officer informed me that there has been no recovery to date in the liquidation cases in the audit sample but there was a possibility that a dividend will be received in some of them before the liquidation is finalised. The majority of the cases were liquidated in the last eighteen months and Revenue would not anticipate receipt of a dividend yet.

While details of the amounts of tax written off for insolvency reasons, both corporate and personal, are available<sup>10</sup>, Revenue's database does not differentiate between the various types of insolvency write off. However, in a recent examination of a small sample of liquidation cases the following results were obtained

- Company voluntary liquidations - from a sample of 20 cases, where €2.2m was written off, a dividend of €266,000 (12%) was received.
- Court liquidations - from a sample of 21 cases, where €4.2m was written off, a dividend of €1m (24%) was received.

In relation to pursuing directors for a company's tax debts, the Accounting Officer stated that this option has been seriously considered in a number of liquidations. However, it is an option that is rarely undertaken. While Revenue can seek to influence liquidators to take such an action in appropriate cases, the final decision on whether to pursue the directors personally is a matter for the liquidator. There were a number of reasons why this option was difficult to pursue. The directors in question must have valuable assets, it is very difficult to prove reckless or fraudulent trading and the costs involved are very high. Revenue was currently supporting liquidators in a number of such cases where it was considered that the burden of proof could be met to the satisfaction of the Courts.

### **Audit Conclusion**

Revenue should continue to review all available options for recovering outstanding tax in liquidation cases.

### **Other Write Offs**

The following general matters were noted in a review of the sample of cases

- In one case examined, in which some €942,000 was written off, tax clearance certificates were issued to the company on three occasions, two of which were for a period of three months, at a time when returns and/or tax was outstanding.
- In some cases examined, PAYE/PRSI was written off where no employee details were available, as P35s had not been submitted.
- There did not seem to be a formal process for learning from write off cases.

The Accounting Officer informed me that Revenue regards the tax clearance certificate provisions as strongly supporting the voluntary compliance process. It exerts very useful pressure to encourage customers to pay outstanding tax debts. Revenue does not issue a tax clearance certificate in such cases until there is full and meaningful engagement by the customer with Revenue. The Accounting Officer stated that it was not now possible to ascertain why tax clearance certificates were granted in the sample case. She was, however, satisfied that sufficient use was being made by Revenue of the leverage provided by requests for tax clearance certificates.

In regard to cases where no employee details were available, the Accounting Officer stated that credit can be given to employees for PRSI amounts deducted where, despite the efforts of Revenue or a liquidator, no P35 has been submitted. In these circumstances, the Department of Social and Family Affairs can request written declarations from employees setting out the details of their employment and, once that

<sup>10</sup> See Chapter 3.2 of this Report.

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Department is satisfied with the details in the declarations, it will treat the contributions as having being paid.

On the matter of lessons learned from write off cases, the Accounting Officer informed me that Revenue conducts a number of reviews of write off cases. Initially, when a balance is being written off there is a requirement on the caseworker to complete a write off decision report. In addition to providing general information on the case, this report records detailed information on the caseworking effort undertaken, including the impact of enforcement action on the case and the amount of debt outstanding at significant junctures in the caseworking cycle. Any extended periods of inactivity in caseworking or enforcement action must be explained. The caseworker is also required to identify any lessons learned and how those lessons will be applied in the future.

Each month, the top ten write offs from routine caseworking and liquidation cases are identified and the relevant casework management team reviews the cases and produces a report for the Collector General. Caseworking practice, procedures and training/mentoring are some of the issues that are the subject of appropriate follow up action in the light of issues identified from the various reviews.

### **Overall Conclusion**

There appears to be scope for an in-depth evaluation by Revenue of the factors leading to write offs and the loss of revenue, particularly that element which has been deducted from employees and other taxpayers. Such an evaluation distinguishing between the factors intrinsic to the entity, the environmental factors and Revenue's own performance could yield valuable information on the causes of the loss of revenue and the opportunities for better management of debt.



### 3.4 Outstanding Taxes and PRSI

€1.3 billion was outstanding at 31 March 2008. Table 12 reflects activities and transactions in the twelve-month period to that date. This information was prepared on the basis of information furnished by the Revenue Commissioners.

**Table 12 Outstanding Taxes and PRSI**

Balance at 31 March 2007 €m	Tax or Levy	Net Charges Raised €m	Paid €m	Written Off €m	Balance at 31 March 2008 €m	Analysis of Balance at 31 March 2008	
						Under Appeal €m	Available for Collection €m
196	VAT	13,203	13,110	47	242	99	143
135	PAYE	11,652	11,644	13	130	10	120
160	PRSI	9,230	9,206	15	169	2	167
277	Income Tax (excluding PAYE)	3,281	3,241	4	313	89	224
–	DIRT	552	552	–	–	–	–
144	Corporation Tax	6,128	6,053	–	219	77	142
158	Capital Gains Tax	2,761	2,728	1	190	112	78
3	Capital Acquisitions Tax	391	391	–	3	–	3
8	Abolished Taxes	–	–	–	8	–	8
26	Relevant Contracts Tax	22	21	15	12	2	10
<b>1,107</b>	<b>Total Debt</b>	<b>47,220</b>	<b>46,946</b>	<b>95</b>	<b>1,286</b>	<b>391</b>	<b>895</b>
<b>2.6%<sup>(a)</sup></b>	<b>Debt as a % of net charges raised<sup>(b)</sup></b>				<b>2.7%</b>	<b>0.8%</b>	<b>1.9%</b>

<sup>(a)</sup> Net charges raised in the year to March 2007 were €42,683m.

<sup>(b)</sup> The debt has been expressed as a percentage of the net charges for the first time in this Report. The aim is to give a measure of Revenue's performance in collecting the foregoing taxes and levies.

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Table 13 sets out an aged analysis of the balance outstanding at 31 March 2008 prepared by the Revenue Commissioners. Some 57% of the amount outstanding relates to tax periods prior to 2006.

**Table 13 Aged Analysis of Debt at 31 March 2008**

<b>Tax</b>	<b>Total Tax Outstanding at 31 March 2008 €m</b>	<b>Amounts Outstanding for 2007 €m</b>	<b>Amounts Outstanding for 2006 €m</b>	<b>Due for 2003 to 2005 €m</b>	<b>Due for earlier periods (i.e. &gt; 5 years old) €m</b>
VAT	242	77	25	105	35
PAYE	130	74	17	27	12
PRSI	169	110	22	25	12
Income Tax	313	3	81	69	160
Corporation Tax	219	49	43	80	47
Capital Gains Tax	190	6	40	25	119
Capital Acquisitions Tax	3	—	—	—	3
Abolished Taxes	8	—	—	—	8
Relevant Contracts Tax	12	12	—	—	—
<b>Total</b>	<b>1,286</b>	<b>331</b>	<b>228</b>	<b>331</b>	<b>396</b>

### 3.5 Developments in Managing Compliance Risk

Compliance is influenced by factors such as the level of audit and assurance work as well as the deterrent effect of interest charges and penalties. Cases for follow up and examination by Revenue are selected based on risk analysis and profiling. A Risk Evaluation Analysis and Profiling System (REAP) was introduced in all Districts in 2006. This has become a key element of Revenue's compliance programme. 2008 is the first year where there is a requirement that all Districts use REAP and from now on a development in Revenue's caseworking software will allow REAP cases to be statistically tracked. The system analyses information available on taxpayers by applying a set of rules to a database of taxpayer information, scoring the results and ranking cases according to those scores. The rules have been derived from the knowledge and experience of Revenue auditors and will continue to be refined to take account of new risks and data sources. Based on the system ranking, District officers further consider the risk in each case in order to select cases for examination and decide on the appropriate intervention.

The Accounting Officer informed me that as well as profiling and risk assessment, work has recently commenced to establish improved and more relevant outcome measures of taxpayers' compliance. In regard to the deterrent effect of interest and penalties, she said that she was satisfied that the current penalty regime was robust and provided a strong deterrent to tax evasion. The statutory penalty regime, including provision for publication, was onerous on taxpayers. Interest and penalties formed a significant part of the amount collected from the standard audit/special investigations programme. In 2007 interest and penalties represented 31% of all audit and investigation settlements. They represented 60% of the total yield on the defaulter list published in March 2008 or 1.5 times the tax yield.

## 3.6 Revenue Audit Programme

### Overall Audit Programme

In the self-assessment system operated by Revenue, returns filed by compliant taxpayers are accepted as the basis for calculating tax liabilities. Revenue confirm the validity of returns through either audit or assurance work. The intervention chosen by Revenue in any particular case depends on whether the risk is perceived to relate to one or more tax or duty headings or to specific issues or transactions.

- A comprehensive audit arises where a case is selected primarily for an Income Tax or Corporation Tax audit and significant risks associated with other taxes are also considered.
- Multi taxhead and single taxhead audits arise where cases are selected primarily for reasons other than Income Tax or Corporation Tax and the audit covers compliance with one or more tax or duty types.
- Single issue or transaction audits focus on more specific risk issues or transactions (as opposed to covering an entire tax type). These include programmes of compliance work in relation to a particular tax relief or regime. The purpose of such programmes is to determine if there are compliance concerns relating to specific reliefs.
- Assurance checks may involve tests, verification checks, desk examinations, visits to premises, searches, site visits and telephone contacts seeking supporting documentation. Such checks are initiated with the intention of assuring Revenue, without recourse to a resource intensive audit or enforcement activity, that the customer is broadly compliant for the taxes and duties that are the subject of the check. Assurance checks constituted a very significant part of Revenue's efforts to ensure compliance with tax and customs responsibilities. The number of such interventions has grown significantly, from 98,981 in 2005 to 237,626 in 2007. These checks inject an element of repeat attention into compliance activities and can be used to signal a case for early audit as needed.

The outcome of the 2007 programme of Revenue audits and assurance activity is summarised in Table 14.

**Table 14 Revenue Audit and Assurance Activity**

Category	2007		2006	
	Number Completed	Yield €m	Number Completed	Yield €m
Comprehensive Audits <sup>(a)</sup>	3,875	344.5	4,127	436.2
Multi Tax/Duty Audits	2,206	71.2	1,757	56.2
Single Tax/Duty Audits	6,603	151.6	6,305	133.5
Single Issue/Transaction Audits	1,624	120.3	1,437	23.8
<b>Total Audits</b>	<b>14,308</b>	<b>687.6</b>	<b>13,626</b>	<b>649.7</b>
Assurance Checks	237,626	46.2	176,064	42.1
<b>Total Interventions</b>	<b>251,934</b>	<b>733.8</b>	<b>189,690</b>	<b>691.8</b>

<sup>(a)</sup> Includes random audits.

The Accounting Officer informed me that by targeting specific sectors, *e.g.* construction, Revenue can evaluate if there are any sectors deviating from the norm and requiring remedial action. A significant feature of the 2007 programme was a national compliance project in the construction sector. A total of 3,807 audits with a yield of €130m and 40,161 assurance checks with a yield of €22m were completed as part of the project. 836 unregistered cases were identified, 247 sub-contractors were re-classified as employees and there were 1,884 additional VAT or employer registrations.

## Comprehensive Audits

The outcome of the 3,875 comprehensive audits completed in 2007 is further analysed in Table 15. The yield of €344m includes interest charges of €117m and penalties of €50m. The highest settlements were €6.08m for Income Tax and €22.54m for Corporation Tax. Comprehensive audits were completed in 101 bogus non-resident account cases with settlements totalling €22m, in 303 offshore assets cases with settlements totalling €61m and in 473 life assurance product cases with settlements of €64m<sup>11</sup>.

**Table 15 Yield from Comprehensive Audits**

Agreed Settlements	Number	Yield €m
€1 to €30,000	1,354	13.6
€30,001 to €100,000	612	35.2
€100,001 to €500,000	490	105.4
€500,001 to €1m	66	46.8
Over €1m	56	143.5
No additional tax payable	1,297	—
<b>Totals</b>	<b>3,875</b>	<b>344.5</b>

## Random Audit Programme

The purpose of the random audit programme is to measure and track compliance with tax legislation and to ensure that all taxpayers have an equal risk of being selected for audit. The results to date of the programmes for 2005 to 2007 are shown in Table 16. One case remains to be finalised in the 2005 programme, while 26 are still outstanding under the 2006 programme. 118 of the 401 cases selected for audit in the 2007 programme are still outstanding. Another 400 cases are being examined under the 2008 programme.

**Table 16 Random Audit Results 2005 to 2007**

	2005	2006	2007
Number of Audits Finalised	347	376	283
Nil Yielding	232 (67%)	259 (69%)	204 (72%)
Yielding	115 (33%)	117 (31%)	79 (28%)
Total Yield	€1,567,345	€1,523,232	€468,310
Average Yield	€4,517	€4,051	€1,655

The Accounting Officer informed me that the annual random audit programme assisted in validating Revenue's risk-based approach. The new revised programme had been running since 2005. While trends need to be monitored over many years to form firm conclusions, the number of cases to date which produce no yield is consistently running between 67% and 72%. When the number of very low yielding audits was included the figure approached 80%. She said that this gave reason to be optimistic that the compliance programmes were effective.

<sup>11</sup> Some of the yield in these special investigation cases was collected in earlier years.

### Conclusion

The results as shown in Table 16 suggest that there is a risk that up to 30% of taxpayers under declare the amount of tax due. To date, Revenue has not sought to use the results of the random audit programmes to assess the overall level of compliance among the taxpayer population generally.

Revenue should ensure that it employs a consistent selection methodology and formulate a programme for using the statistics within a defined period to

- estimate the level of compliance within the taxpaying population
- establish the potential monetary effect of non-compliance
- analyse the emerging categories of risk suggested by the results.

### 3.7 Re-Audit Programme

In a self-assessment system there is a risk that taxpayers who submit returns will not declare the full extent of their income and so avoid paying the correct amount of tax. This risk is addressed by Revenue selecting cases for review based on a risk assessment. In this regard Revenue has been moving to a computerised approach and has developed the risk analysis and profiling system outlined in Chapter 3.5.

In the case of taxpayers with a history of non-compliance there is the additional risk that they will not change their behaviour and continue to under-declare income. Up to 2002, Revenue operated a programme under which the affairs of a selection of taxpayers were re-audited in cases where a previous audit had yielded in excess of €6,349. This re-audit programme involved reviewing cases after four years and selecting 10% for re-audit. One of the advantages of the programme was that it positioned Revenue to assess whether, as a result of an audit, a taxpayer became compliant into the future.

Revenue has not carried out a programme of re-audits since 2002. The latest information in relation to the programmes for the period 1999 to 2002 suggests that

- some 60% of non-compliant taxpayers examined continued to be non-compliant four years later
- 20% of them were more non-compliant four years later in that there was a higher yield on the re-audit than on the original audit.

#### Audit Concerns

In the absence of a re-audit programme in recent years

- it would be difficult for Revenue to assess the impact of audits in encouraging compliance
- the rate of recidivism would not be identified and any necessary adjustments to Revenue's general procedures and practices for dealing with recalcitrant taxpayers would not be made
- valuable information on the behaviour of taxpayers following an audit would not be available to inform risk evaluation generally.

#### Results of Re-Audits

The Accounting Officer stated that a comprehensive review of the re-audit programme was carried out in 2003 and that the overall conclusion was that a re-audit programme, in association with other indicators, is useful in estimating general compliance levels provided there are clear objectives, central monitoring, an acceptable sample size that takes account of all previously audited cases and quality assurance. Development of these individual factors was deferred pending evaluation of REAP.

The Accounting Officer also informed me that the results of re-audits should be viewed as trends that warranted attention. She stated that, according to Revenue statistics, there had been a decrease in tax yield in the period in question across all but the highest settlement ranges. This, and an increase in nil recoveries, were positive indicators of improved compliance. She also pointed out that the yield from a re-audit could not be readily compared with that from the original audit in situations where the original audit covered several tax heads and the re-audit concentrated on a single tax head or vice versa. While these issues were not on such a scale as to invalidate the exercise, she felt that they did restrict the conclusions to be drawn.

She also informed me that, because any re-audits carried out by individual Revenue districts since 2002 in the absence of a national re-audit programme were not part of a centrally organised programme, records were not maintained in a manner which would enable the results of these audits to be provided.

### **Suspension of Programme**

The Accounting Officer informed me that the main reason for not continuing with a centrally organised programme had been to allow time to determine the effectiveness of REAP. This was still a very new programme for the vast majority of districts and familiarisation work was still ongoing. Therefore, while Business Plans since 2002 occasionally referred to the intention to review the re-audit programme, formal reviews were deferred pending the full introduction of REAP. With REAP reaching maturity, it was now opportune to consider the future of the re-audit programme and consideration would be given later this year to re-audit as one of a suite of indicators to measure general compliance levels. It may be that in a sophisticated electronic risk-rating environment, a separate re-audit programme is no longer as useful as it once was. She also pointed out that during the period in question a large proportion of Revenue's audit and investigation resource has been applied to special investigations and to sectoral projects, such as a construction industry project which, given the yields, had proven to be a productive approach.

### **Recidivism and Ongoing Compliance**

The Accounting Officer informed me that factors such as audit settlements greater than €2,000 are taken into account in the assessment process in such a manner as to ensure that settlements spanning a minimum period of three years and a maximum period of four years are included. In the most recent REAP run, the top 10% of cases, based on risk as assessed under the system's inbuilt rules, numbered 77,885 and the inclusion of the previous audit history rule was one factor in the identification of 6,686 of these. She stated that she was satisfied for the present with the score attaching to previous audit settlements in REAP but pointed out that rule change will be a regular feature of the system. In 2008 it was proposed to carry out 60% of audit interventions from the 20% of cases highlighted by REAP as having the most risk. District programmes would be monitored to gauge progress on this front. The early indications were that this target would be met.

### **Conclusion**

Revenue should review how re-audit can best contribute to compliance work whether as a separate programme or by tracking the results of previously audited cases which should be feasible in the electronic environment pertaining in Revenue.



### 3.8 Criminal Prosecutions

Under Revenue's prosecution procedures, cases are forwarded to Investigation and Prosecutions Division (IPD) for investigation with a view to criminal prosecution where there is *prima facie* evidence of serious revenue offences having been committed. Within IPD, these cases are further evaluated by a Prosecutions Admissions Committee before commencement of resource intensive criminal investigation work which can take several years before a case is presented in Court. In 2007, 30 cases of serious tax evasion were referred to IPD for consideration and 21 were considered suitable for investigation with a view to prosecution. The comparable figures for 2006 were 33 referred and 16 accepted. Convictions were obtained in the nine cases decided in Court in 2007. Summary details of these cases are set out in Table 17.

**Table 17 Convictions in 2007 for Serious Tax Evasion**

Occupation/Activity	Fine	Custodial Sentence
Printer	€14,880	9 months prison sentence, suspended on payment of fine
Fencing Contractor	€5,000	12 months prison sentence suspended on condition that €7,026 tax be paid to Revenue within twelve months
Publican	€100	On appeal 6 months prison sentence rescinded and a €2,500 fine was reduced to €100
Builder	–	18 months prison sentence, suspended for 3 years on condition of becoming tax compliant
Publican	€12,000	None
PAYE Employee	€4,750	None
Property Developer	€2,317	None
Company Director	€2,000	None
Builder	€1,000	None

82 cases of serious tax evasion were under active consideration in the Investigations and Prosecutions Division at the end of 2007. The status of those cases at the end of June 2008, the latest date for which information is available, is shown in Table 18.

**Table 18 Status of Serious Tax Evasion Cases**

Status	Number of Cases 2007
Under investigation	37
With the Revenue Solicitor's Office	3
Submitted to the DPP	8
Directions issued by DPP to prosecute	12
Bench warrant issued	1
Cases before the court	13
Acquitted	1
Convictions obtained	7
<b>Total</b>	<b>82</b>

## Revenue

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In addition, there were five convictions for serious Customs and Excise evasion in 2007. There were no custodial sentences imposed in these cases but fines totalling €72,203 were imposed.

### 3.9 Special Investigations

Table 19 sets out the payments made to the end of June 2008 as a result of each of the Special Investigations being carried out by Revenue. A short summary of progress to date in the investigations follows.

**Table 19 Payments arising from Special Investigations<sup>(a)</sup>**

Investigation	Number of Cases Involved	Payments to Date €m
DIRT - Look Back Audits (financial institutions)	37	225
DIRT - Underlying Tax		
Voluntary Disclosure Scheme	3,675	227
Post Voluntary Disclosure Investigations	8,500 <sup>(b)</sup>	408
NIB - Offshore Investment Schemes	465	60
Ansbacher-type Schemes	289	103
Pick Me Up Schemes	71	1
Tribunals	49	41
Offshore Assets	14,729	918
Undisclosed Funds – Life Assurance Products	5,341	455
<b>Total</b>		<b>2,438</b>

<sup>(a)</sup> The nature of these investigations is outlined in Chapter 3.6 of the Comptroller and Auditor General's Annual Report for 2006.

<sup>(b)</sup> This is an estimated figure.

### Bogus Non-Resident Accounts

The total yield from the DIRT investigation is now €860m and Revenue has stated that the investigation is effectively complete and at most there may be a further yield of €10m. 74% of the yield to date has come from individual taxpayers with the balance being received from financial institutions.

### Offshore Investments through National Irish Bank

Investigations into 442 of the 465 cases have been completed. A total of €55.6m has been paid to date as a result of the investigation of individual cases. A further €4.1m has been paid by National Irish Bank in respect of Capital Gains Tax on compensation it paid to certain investors. As court proceedings are pending in a number of the outstanding cases, it is not possible for Revenue to predict when the investigation will be completed or what the final yield might be.

### Ansbacher Investigation

A total of 264 cases have been settled to date - 122 of which had total liabilities of €82m. This includes a settlement of €7.5m with a Cayman Islands based bank. Payments on account of €21.34m have been received in 12 of the 25 ongoing cases. As some of the cases are likely to proceed to the Courts, it is not possible for Revenue to predict either the potential yield or the time frame to completion.

### **Pick-Me-Up Schemes**

Pick-me-up schemes involved expenses for goods or services incurred by a political party being invoiced by the supplier to another trader who paid the supplier as a means of supporting the party. Such payments were not deductible for tax purposes, the VAT was not reclaimable and the invoices issued were not in accordance with the legal requirements. This investigation is now complete and all 71 existing cases have now been settled for a total of €978,453 including interest and penalties.

### **Tax Issues arising out of Tribunals**

Twenty-one cases were originally the subject of enquiry as a result of the Moriarty Tribunal and one further case was taken on in 2007. Of these twenty-two cases, seventeen are currently under investigation and five have been settled for a total of €8.44m. Twenty-seven cases are being investigated as a result of the Mahon Tribunal and six of these have been settled for €26.6m; payments on account of €5.94m have also been received. The Moriarty Tribunal is nearing completion and it is not expected that further cases will arise. Revenue does not know if any additional cases will arise from the Mahon Tribunal or when that Tribunal will conclude. In relation to cases currently being investigated by Tribunals, a further yield of €3m over the next two years is expected.

### **Offshore Assets**

This investigation is concerned with those who have not paid tax due on funds held in offshore accounts and investments. The voluntary phase of the investigation yielded €650m and follow up enquiries have to date yielded a further €267.8m. Revenue expects this investigation to continue to the end of 2009 and the final yield may approach €1 billion.

### **Life Assurance Products**

This investigation examined the use of life assurance investment products to hide undisclosed income or gains. Some €430.8m was paid under the voluntary disclosure phase and Revenue's follow up investigations have yielded a further €24.2m. Revenue has stated that depending on responses to current enquiries, the investigation may be completed in late 2008 or early 2009 and the final yield may be €500m.

### **Undisclosed Funds in Irish Bank Accounts**

Under the Return of Payments (Banks, Building Societies, Credit Unions and Savings Banks) Regulations 2008 (S.I. 136 of 2008) financial institutions are required to provide Revenue with details of account holders who were paid interest of more than €635 in a year. For the years 2005 and 2006 financial institutions are required to provide details of DIRT liable accounts by 15 September 2008 and for 2007 by 31 October 2008. In advance of these returns, Revenue has given taxpayers who had €100,000 or more (which included undeclared money) at any time between January 2005 and the end of 2007 in such accounts to make a voluntary disclosure. The benefits to those who do so will be mitigation of penalties, settlement details will not be published and Revenue will not investigate with a view to prosecution. The deadline for submission of a notice of intention to make such a disclosure is 15 September 2008.

### 3.10 Voluntary Disclosure Checks

Under voluntary schemes for the disclosure of income which was the subject of investigations into DIRT Underlying Tax, Offshore Assets and Life Assurance Products, Revenue invited defaulters to make a disclosure and pay tax due prior to the commencement of each investigation. The benefits of availing of these voluntary disclosure schemes were that there would be no prosecution and details of the settlement would not be published. Interest and penalties would be capped at 100% of the tax due in the case of the DIRT scheme and there would be mitigation of some of the penalties in the case of the other two schemes.

Persons who were already under investigation or coming within the scope of any of Revenue's special investigations were ineligible for these terms. It was also a requirement of each scheme that disclosure and payment should include all previously undeclared tax liabilities and not just those arising from the particular investigation. For instance, a voluntary disclosure under the DIRT Scheme had to include all undeclared tax liabilities including those relating to offshore assets or life assurance products. Failure to do so meant that the benefits of the scheme would be lost. Where persons who sought to avail of the voluntary disclosure schemes were found not to have fully complied with the terms of the 1993 Amnesty<sup>12</sup> they would lose the benefits of the Amnesty and the amount paid under the Amnesty would be treated as a payment on account of the full tax liability.

The total number of taxpayers availing of each voluntary disclosure scheme is set out in Table 20.

**Table 20 Special Investigation Voluntary Disclosure Schemes**

Investigation	Number of Cases	Payments €m
DIRT Underlying Tax	3,675	227
Offshore Assets	13,651	650 <sup>(a)</sup>
Life Assurance Products	5,150	431

<sup>(a)</sup> Includes payments from two earlier offshore assets investigations.

### Revenue Eligibility Checks

Revenue's approach to examining whether those seeking to avail of each voluntary disclosure scheme met the eligibility criteria was

- In the case of DIRT Underlying Tax all cases were examined for eligibility.
- In the investigation of Offshore Assets all cases with a declared liability of more than €10,000 were examined. A further 10% of cases with a declared liability of between €5,000 and €10,000 were examined. Cases with a liability of less than €5,000 were not examined. 190 cases that had already availed of the DIRT voluntary disclosure scheme were identified and the 111 of these with a declared offshore liability of more than €5,000 were examined to decide whether the benefits of the DIRT scheme should be withdrawn and/or the taxpayer prosecuted.
- In the case of Life Assurance Products all cases were checked for eligibility.

In addition to these checks to validate eligibility to avail of the terms accompanying early disclosure, Revenue carried out liability reviews on a sample of cases availing of each scheme.

<sup>12</sup> Waiver of Tax, Interest and Penalties Act, 1993.

## Ineligibility for Schemes

There were 883 cases where taxpayers had been found ineligible for the schemes. Table 21 below sets out the number of cases applying for each scheme deemed ineligible and shows the reason for ineligibility. The rate of ineligibility was higher in the later schemes rising to 9.4% for the Life Assurance Products scheme. This rising trend is likely to be because the reason for ineligibility was availing of previous concessions without making full disclosure. However, as not all cases availing of the Offshore Assets scheme were checked for eligibility, the real rate in that case may be somewhat higher.

**Table 21 Cases Deemed Ineligible Analysed by Reason**

	Reason for Ineligibility							% Ineligible
	Under Investigation	Tribunals	NIB	DIRT	Offshore Assets	Other	Total	
DIRT	8	2	2	n/a	n/a	6	18	0.5
Offshore Assets	12	—	7	353 <sup>(a)</sup>	n/a	7	379	2.8
Life Assurance Products	—	—	—	194 <sup>(b)</sup>	110	182 <sup>(c)</sup>	486	9.4
<b>Total</b>	<b>20</b>	<b>2</b>	<b>9</b>	<b>547</b>	<b>110</b>	<b>195</b>	<b>883</b>	

<sup>(a)</sup> 102 of these cases had availed of the DIRT voluntary disclosure scheme and the other 251 were found by Revenue during the post voluntary disclosure investigations to have held a bogus non-resident account.

<sup>(b)</sup> 82 of these cases had availed of the DIRT voluntary disclosure scheme and 93 were found by Revenue during the post voluntary disclosure investigations to have held a bogus non-resident account. 18 cases were ineligible because of involvement in both the DIRT and Offshore Assets investigations and one case was ineligible because it was a DIRT and Amnesty case.

<sup>(c)</sup> Included in this category are 173 cases found to be ineligible in the Dublin region. However an analysis by reason for ineligibility is not available.

A further €50.8m was generated following a review of these ineligible cases as shown in Table 22.

**Table 22 Declared Liabilities and Additional Payments for Ineligible Cases**

Investigation	Number of Ineligible Cases	Declared Liability €m	Additional Payments €m
DIRT	18	6.0	4.3
Offshore Assets	379	31.5	29.2
Life Assurance	486	52.8	17.3
<b>Total</b>	<b>883</b>	<b>90.3</b>	<b>50.8</b>

## Audit Concerns

A previous examination on the operation of the DIRT scheme reported in 2003 produced generally satisfactory results. However, given the large number of cases applying for each scheme, there was a possibility that some taxpayers might take advantage of more than one scheme or submit nil declarations in circumstances where a liability existed. I sought assurance that the level of eligibility testing in the case of Offshore Assets and Life Assurance Products was adequate.

## Views of the Accounting Officer

In regard to the process adopted, the Accounting Officer informed me that a targeted approach had been taken to cases where nil declarations<sup>13</sup> were submitted and such cases were only examined where there was a likelihood of additional liabilities. This examination resulted in

- no additional payment from 620 nil declarations in DIRT cases
- payment of €5m from 88 nil declarations in Life Assurance Products cases
- payment of €778,357 from 11 nil declarations in Offshore Assets cases.

The Accounting Officer also informed me that a number of the ineligible cases from each voluntary disclosure scheme were considered with a view to prosecution. In the DIRT scheme one case was prosecuted and the taxpayer received a two year suspended sentence. Two cases from the Offshore Assets scheme were selected for prosecution but one was not proceeded with due to the death of the taxpayer. Seven Life Assurance scheme cases were examined with a view to prosecution but all were found to be unsuitable for prosecution.

Table 23 sets out the number of cases in each scheme where the 1993 Amnesty was claimed and the number of those cases where the benefits of the Amnesty were withdrawn.

**Table 23 Amnesty Cases**

	Number Claiming Amnesty	Number where Amnesty Benefits withdrawn
DIRT <sup>(a)</sup>	208	62
Offshore Assets	45	13
Life Assurance	33	1
<b>Total</b>	<b>286</b>	<b>76</b>

<sup>(a)</sup> As previously reported in Chapter 3.8 of the 2003 Annual Report of the Comptroller and Auditor General.

After the voluntary disclosure phases of the Offshore Assets and Life Assurance Products investigations had been completed, 188 cases were identified where a settlement had already been made in relation to another special investigation but the existence of the tax liability in relation to the Offshore Asset or the Life Assurance Product was not disclosed to Revenue at the time of that settlement.

In regard to the approach of not carrying out eligibility checks on all cases availing of the Offshore Assets scheme, the Accounting Officer stated that the examination of a sample of 141 cases with declared liabilities of between €5,000 and €10,000 did not give rise to any significant additional liabilities that would have caused a review of the policy. Additional liabilities of €283,557 were secured from 14 of these cases. She also said that, ignoring nil cases, there were 5,084 cases where the liability was less than €5,000 and the total settlement for these cases was €7.8m. The average settlement for these cases was approximately €1,500. It was considered that examining such a large number of cases for eligibility would not produce significant additional liabilities and it was appropriate therefore that audit resources were directed towards larger cases where ineligibility would likely produce greater additional yield. However, she also informed me that some of the 79 cases with a declared liability of less than €5,000 that had availed of the DIRT scheme and then sought to avail of the Offshore Assets scheme were examined and, in general, no

<sup>13</sup> Nil declarations arose where taxpayers informed Revenue, as part of the relevant voluntary disclosure, that they held an account or product of the type being investigated but that the account or product and the funds held in it had already been fully declared for tax purposes.

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additional liabilities arose. Seven of these cases were reopened and additional liabilities of €72,331 were assessed.

The Life Assurance Product investigation, which started in March 2005, was confined to cases where the sum invested exceeded €20,000. The Accounting Officer informed me that this approach was risk-driven as it was recognised that the greatest risk was likely to relate to policies where larger sums were invested. The results of the voluntary phase of the scheme bore out this approach. The average settlement for policies over €50,000 was approximately €122,000 while the average for policies under €50,000 was approximately €43,000. In addition, it was recognised that the vast majority of the policyholders did not have tax issues and extending the scheme to incorporate those with policies of less than €20,000 would impinge greatly on compliant taxpayers but would not result in the recovery of material amounts for the Exchequer. Revenue resources were better deployed in pursuit of non-compliance elsewhere. Accordingly, no action had been taken in relation to policies in that category.

In relation to the schemes generally, the Accounting Officer informed me that

- All cases were reviewed for eligibility where there was a material risk that significant additional liabilities would arise from a case being treated as ineligible. This approach had resulted in additional recoveries, which included sizeable penalties, being made.
- None of the three schemes has been fully completed yet, so no overall report on any of them has been prepared. As the projects have progressed some papers on certain aspects have been produced from time to time but they do not cover the overall outcomes.

In regard to the lessons learned by Revenue arising out of the investigations, she informed me that it had been anticipated that some taxpayers would attempt to make multiple disclosures and, consequently, instructions were issued to check eligibility. In general the numbers involved were a relatively small fraction of the total who made disclosures. Furthermore, Revenue would be carrying out a review of the disclosure patterns as part of a wider review of the Code of Practice for Revenue Auditors that is explicitly provided for in the recently published Statement of Strategy. Revenue would additionally be looking at the impact for the ongoing effectiveness of REAP.

### **Audit Conclusions**

Revenue considered the risk that some taxpayers might attempt to abuse the terms of the voluntary disclosure schemes. Reasonable steps to counter this risk were adopted, and as a result additional revenue accrued and some Amnesty benefits were withdrawn leading to the imposition of penalties and the consideration of some cases for prosecution.



### 3.11 Special Savings Incentive Account Scheme

Special Savings Incentive Accounts (SSIAs) were introduced in 2001 to encourage individuals to save regularly. Under the scheme the Exchequer paid a tax-free bonus of 25% on amounts saved monthly by individuals over a five-year period as long as there was compliance with the terms and conditions of the scheme.

The onus was placed on the financial institutions to ensure compliance with the terms of the scheme. They were required to register with Revenue and 329<sup>14</sup> did so. Monthly bonus payments were made by Revenue to the financial institutions based on claims from them for the net amount due *i.e.* tax-free bonus less any tax deducted. Annual returns giving details of all accounts were required from each financial institution by 28 February of the following year. Revenue was empowered to audit their compliance with the scheme.

Only where an account was kept, and the conditions met for the full five years, was it deemed to have matured. At that point tax at 23% was charged on the income or gain arising on the account. Prior to maturity, account holders were required to submit a declaration to their financial institution to the effect that they had complied with the terms of the scheme. These declarations, which were retained by the financial institutions, were required within a three-month period ending on the SSIA maturity date. An account was also treated as maturing if the account holder died. Where any of the conditions were broken, the account was treated as having ceased and tax at 23% was deductible from the full amount *i.e.* the amount saved, the tax-free bonus and any income or gain. Similarly, where there was a withdrawal during the five-year period, tax at 23% was deducted from the full amount of the withdrawal. Financial institutions were required to submit an electronic file on the status of each matured account to Revenue by 28 February 2008.

#### Outturn of Scheme

The average monthly subscription over the life of the scheme varied from €148 to €199 and ultimately subscriptions to the scheme amounted to €11.75 billion. The total tax-free bonus paid to savers was €2.94 billion. The tax which accrued to Revenue as a result of gains was €0.47 billion. Payments were made one month in arrears by Revenue and, by the end of 2007, the net amount paid was €2.47 billion. The number of accounts held under the scheme peaked at 1,180,358 in 2002.

Table 24 sets out the overall savings position by year.

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<sup>14</sup> 9 banks, 3 building societies, 302 credit unions, 14 insurance companies and the Post Office Savings Bank.

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**Table 24 SSIA's 2001 to 2008**

Year	Subscriptions €000	Tax Free Bonus Claimed €000	Total €000
2001	356,566	89,257	445,823
2002	1,859,322	464,975	2,324,297
2003	2,187,422	547,065	2,734,487
2004	2,264,832	566,342	2,831,174
2005	2,460,942	615,100	3,076,042
2006	2,255,935	564,157	2,820,092
2007	369,392	91,090	460,482
2008	(27)	(176)	(203)
<b>Total</b>	<b>11,754,384</b>	<b>2,937,810</b>	<b>14,692,194</b>

The net cost to the Exchequer was approximately €2.5 billion as indicated in Table 25.

**Table 25 Net Cost to the Exchequer**

Year	Tax Free Bonus Claimed €000	Tax on Gains €000	Net Amount Claimed €000
2001	89,257	(466)	88,791
2002	464,975	(5,310)	459,665
2003	547,065	(14,442)	532,623
2004	566,342	(16,098)	550,244
2005	615,100	(12,883)	602,217
2006	564,157	(158,191)	405,966
2007	91,090	(261,879)	(170,789)
2008	(176)	(67)	(243)
<b>Total</b>	<b>2,937,810</b>	<b>(469,336)</b>	<b>2,468,474</b>

## Compliance Checks

Over the period 2002 to 2007 Revenue carried out 40 compliance visits to monitor the operation of the scheme. The visits were undertaken by reference to risk criteria which were, in turn, informed by engagement with the financial institutions throughout the duration of the scheme. Compliance visits involved a review of individual accounts and included examination of

- out of state addresses
- Personal Public Service Numbers (PPSNs)

- birth dates.

Reconciliation issues<sup>15</sup> were also addressed in the course of these compliance visits, including the financial institutions' treatment of maturities, account transfers and monthly and annual return data. The pattern of visits undertaken is outlined in Table 26. Overall, the institutions reviewed administered around two thirds of the savings.

**Table 26 Details of the 40 Compliance Visits 2002 to 2007**

Year	Number of Visits	Average Number of Accounts held by Institution Visited	Total Number of Accounts	% of Total Accounts	% of Total Average Tax Free Bonus Paid
2002	5	764	1,180,358	0.06	0.05
2003	11	14,425	1,151,287	1.25	1.15
2004	2	215,961	1,121,604	19.25	17.53
2005	11	398,822	1,096,911	36.36	36.25
2006	9	48,446	1,088,022	4.45	4.77
2007	2	55,951	1,088,022 <sup>(a)</sup>	5.14	4.97

<sup>(a)</sup> 2006 figure repeated pending completion of processing of 2007 annual returns.

One compliance visit carried out in 2007 led to a financial institution refunding Revenue approximately €390,000 paid in respect of claims for accounts which had already matured.

### **Audit Concern - Compliance**

In view of the experience with the above institution there was a risk that financial institutions could have claimed bonus payments in respect of accounts that had already matured and I enquired whether penalties might have been warranted in this case.

The Accounting Officer informed me that, on the basis of the account reconciliation work completed to date, Revenue is satisfied that there was no evidence of any mal-intent on the part of the financial institution with regard to the operation of proper procedures around the maturity process. Therefore, Revenue does not consider that any circumstances had arisen which merited the imposition of penalties. She also pointed out that the possibility of innocent or unintentional error is specifically catered for in the 2001 Regulations<sup>16</sup>.

In regard to action taken to ensure that other financial institutions have not claimed credits for accounts after the maturity date she informed me that procedures to be operated around the maturity process were notified to each financial institution as part of the guidance and information process. No additional cases had been identified to date from the overall reconciliation process.

<sup>15</sup> These included queries arising out of matching the total of the summary monthly returns seeking payment with more extensive detail contained in the end year electronic file.

<sup>16</sup> The Special Savings Incentive Accounts Regulations, 2001 (S.I. No. 176 of 2001).

### **Audit Concern - Multiple Accounts**

The scheme did not permit the holding of multiple accounts. I sought assurance regarding the checks carried out to identify those holding multiple accounts.

The Accounting Officer informed me that a cross-check of annual returns by Revenue identified 15,398 possible multiple accounts. A significant percentage of these accounts was found to be inactive and had no funding. In many cases where the accounts were with the same institution, the duplication was found to be a simple data error. From a risk assessment, 2,785 accounts were selected for individual case examination. This equated to 1,365 individual PPSNs. Of these, 227 related to valid accounts and both accounts were allowed to remain open. The accounts in respect of the remaining 1,138 PPSNs were ceased by the relevant financial institution on foot of Revenue instruction and €1.4m recovered.

### **Audit Concern - Reconciliations**

Institutions were required to make monthly returns which formed the basis of Revenue payments and annual returns summarising the position in respect of each financial year. To date, reconciliation of the annual returns to the monthly payments made during the year have yet to be completed for 2006 and onwards.

I sought assurance as to the extent of the reconciliation work and its timeliness.

The Accounting Officer informed me that the reconciliation process undertaken by Revenue includes a direct reconciliation between the annual return and the monthly returns and also involves a check on subscriptions, tax and net payments. Revenue prioritised the evaluation of the monthly return as the primary source of data on the operation of the scheme by the financial institutions. The annual reconciliation process has been regarded as additional validation and confirmation of the reliability of the monthly data provided. In general, it was found that the monthly returns were completed correctly and that any apparent inconsistencies identified through the annual return reconciliation exercise were almost entirely either reporting errors in the annual return or timing issues. In the very limited number of instances where specific high-risk issues were identified, these matters were followed through in all cases and the issues fully resolved to Revenue's satisfaction.

She expected that reconciliation of the annual returns for all years would be well advanced by end 2008 with any remainder to be completed in the early part of 2009. She explained that a key requirement for the reconciliation process is that the data from the financial institutions be successfully uploaded onto the Revenue database. Of the 276 annual returns received for 2007, 241 had been successfully loaded to date. In relation to outstanding returns, Revenue had been in contact with the financial institutions and was satisfied that the outstanding returns would be received shortly. The Accounting Officer informed me that all significant issues arising from the reconciliations to date had been satisfactorily resolved.

In regard to the extent of the delay in reconciling annual returns, the Accounting Officer stated that substantial effort and energy was devoted by Revenue at the start of the scheme in working with financial institutions to get appropriate and timely procedures and systems in place. From Revenue's perspective support and guidance for financial institutions and prospective account holders was crucial to the overall management of the scheme and to getting a high level of compliance from the start. Annual reconciliation for the years 2001 to 2004 had been especially challenging in the absence of the enhanced SSIA database that came on stream in 2004.

She stated that Revenue is satisfied that the responsibility placed on financial institutions to administer the SSIA scheme had been adequately fulfilled. While there had been some validation issues in relation to the annual returns, they were generally of a minor nature in the context of the extent of the scheme and the number of accounts managed.

### **Audit Concern - Maturity Checks**

Institutions are required to submit electronic files at maturity. As of March 2008, 218 of the 329 financial institutions had submitted these. Revenue has yet to examine these files.

I sought assurance that checks and reconciliations would be carried out within a reasonable timeframe on the returns in order to ensure that the maturity outturn was consistent with the transactions reported.

The Accounting Officer informed me that a risk rated sample of maturity files will be checked in detail. Checks will examine

- whether the tax on gains reported on the maturity file equates to tax reported in the corresponding annual returns
- whether the total tax free bonus equals 25% of total subscriptions
- whether tax free bonuses in excess of €3,810 have been reported
- why cases were closed prematurely.

It is expected that this work will be substantially completed by the end of 2008.

Revenue does not intend to cross-check all end of maturity files to identify multiple accounts.

The Accounting Officer informed me that it was estimated that there were between 1,000 and 1,300 cases where the maturity declarations were not made by the account holder. These cases had been ceased on Revenue's instruction and the gross funds in each account taxed at 23%. It was noted on audit that by March 2008 there had been some 200 appeals arising out of the application of cessation tax. Appeals in 138 cases were accepted, 22 rejected and decisions by Revenue were outstanding in 40 cases.

In regard to work to confirm the validity of maturity declarations, she told me that these had been examined on all compliance visits carried out since April 2006, which coincided with the beginning of SSIA maturity. Once all end of maturity files have been received and processed, Revenue will undertake a detailed review of a sample of cases selected on a risk basis to satisfy itself as to the valid completion of the maturity declaration by the account holder. The outcome of that sampling exercise will determine what further work may be necessary by Revenue.

### **Conclusions**

- The net cost to the Exchequer of the SSIA scheme has been €2.5 billion.
- Revenue has, over the years, carried out a reasonable level of compliance checking and identified cases of multiple account holding.
- Post maturity checks will be completed in 2009.

### 3.12 Interest on Late Payment of Tax

Late payment of tax causes a drain on the Exchequer and gives an unfair advantage to those who pay late over those taxpayers who are compliant. Charging of interest is the most effective tool available to encourage taxpayers to pay their taxes in full and on time. However, in practice, Revenue does not charge interest in all cases where tax is paid late and its focus is on cases where

- a pattern of late payment is identified
- the taxpayer has been contacted and warned that interest may be charged, and
- this has not resulted in any improvement in compliance.

Notwithstanding this, interest on late payment of tax is a statutory charge and the legislation governing the various taxes administered by Revenue sets out the rates of interest and the conditions under which interest is charged. The legislation provides for the mitigation by Revenue of fines and penalties imposed but there is no provision for the mitigation of interest.

The amount of interest recovered for each taxhead in 2005, 2006 and 2007 is set out in Table 27.

**Table 27 Interest Paid**

<b>Taxhead</b>	<b>2005 €m</b>	<b>2006 €m</b>	<b>2007 €m</b>
PAYE/PRSI	20.1	14.6	11.7
VAT	31.6	29.2	30.1
Income Tax	18.9	15.9	18.2
Corporation Tax	6.8	5.1	9.0
Capital Gains Tax	3.7	6.6	5.0
Relevant Contracts Tax	2.2	2.9	3.3
<b>Total</b>	<b>83.3</b>	<b>74.3</b>	<b>77.3</b>

The interest that is levied can arise as a result of both debt collection activity and assessments as part of an audit settlement. The three main activities giving rise to late payment interest are

- the activities of a central debt management task force
- routine debt collection activity undertaken at either local District level or by the Collector General's Office
- settlements arising out of the Revenue audit programme.

As part of my audit I set out to examine the procedures in the central debt management task force. I focused on those cases which were processed in 2007.

#### Interest Charged

Part of the responsibilities of a debt management task force (DMTF) within the Collector General's Office is to carry out a programme of interest charging in cases of late payment of Income Tax,

Corporation Tax, Capital Gains Tax and VAT<sup>17</sup>. In the course of this work, cases of late payment, grouped by range of tax liability, are reviewed by the staff of the DMTF and a number of cases to be screened for each taxhead is chosen.

In the case of Income Tax, preliminary tax is payable by 31 October in the year of assessment<sup>18</sup>. Extensions to this date are available for those who pay and file through the Revenue Online Service. A threshold level is set for this preliminary payment. It must not be less than the lower of

- 90% of the ultimate liability for the year or
- 100% of the liability for the previous year or
- in the case of taxpayers paying Income Tax by means of direct debit, 105% of the liability of the tax year two years before.

99,667 cases failed the preliminary tax requirements for 2005. These fell into the bands shown in Table 28.

**Table 28 Cases Failing Preliminary Tax Rules**

<b>Tax Liability Range</b>	<b>Number of Cases</b>
Less than €10,000	85,198
€10,000 to €20,000	8,647
€20,000 to €40,000	4,026
Greater than €40,000	1,796

In 2007, the DMTF selected 3,544 cases from the 99,667 cases. This selection comprised the 1,796 cases that had a declared liability of €40,000 or more and the 1,748 cases that had a declared liability of between €20,000 and €40,000 but had failed the preliminary tax rules for both 2004 and 2005. As a result of further screening checks, 1,639 of the 3,544 cases were charged interest totalling €7,024,416.

In the course of audit, a sample of 28 of the 1,639 cases where interest was charged was examined as well as a sample of 13 cases where interest was not charged. It was noted that, in 8 of the 28 cases examined where interest was charged, interest had also been charged in other years with one of these cases having been charged interest for each of nine years between 1997 and 2006.

Two of the thirteen cases recorded a loss in 2004 and a liability in 2005 of €676,346 and €13.5m, respectively. Despite the existence of substantial current year liabilities since a nil payment of preliminary tax met the requirement of 100% of previous years liability, no preliminary tax was chargeable and consequently no interest was levied in these cases.

The 983 Corporation Tax cases that failed preliminary tax rules and had a declared liability of €100,000 or more for an accounting period ending in 2005 were selected for examination in 2007 with a view to charging interest. Ultimately, after further screening checks, 354 cases were charged interest of €4,020,239.

In the case of Capital Gains Tax (CGT) there is no preliminary tax payable. Instead, the tax arising on disposals between 1 January and 30 September is due by 31 October in the year of disposal. Tax on disposals between 1 October and 31 December is due by 31 January in the year following disposal. The

<sup>17</sup> The DMTF examined cases where VAT is paid by means of direct debit.

<sup>18</sup> i.e. by 31 October 2005 for the 2005 tax year.

## Revenue

DMTF in 2007 selected for examination 1,200 cases where more than €100,000 of CGT in respect of 2005 was paid on or after 1 March 2006. After further screening checks 298 cases were charged interest of €3,934,964.

A similar campaign was carried out in 2007 in respect of VAT direct debit cases. In these cases interest is due where the total of the monthly payments is less than 80% of the liability for the year. Interest is charged on the amount of the shortfall from a date six months before the due date for the annual return. There were 1,120 such cases in 2005 and following screening checks 344 of these were charged interest of €3,000,667.

## Late Payment Interest Collected

In relation to the cases where interest was charged as a result of the 2007 campaign by the DMTF, Table 29 sets out for each taxhead the number of cases where payment has been made, the number where the interest charge was waived and the number of cases where payment has not yet been made. In 210 cases the interest charged was reduced.

**Table 29 Cases in which Interest was Levied by DMTF in 2007**

Taxhead	Cases Charged	Cases Paid	Waived following Appeal	Number Unpaid
Income Tax	1,639	1,416	86	137
Corporation Tax	354	323	24	7
Capital Gains Tax	298	197	59	42
VAT	344	325	17	2
<b>Totals</b>	<b>2,635</b>	<b>2,261</b>	<b>186</b>	<b>188</b>

Table 30 shows details of the amounts of interest paid, waived/reduced and outstanding from the DMTF 2007 campaign. As can be seen from the table, as at May 2008, 72% of the €18m interest charged by the DMTF has been paid, 20% had been waived or reduced and 8% remained outstanding.

**Table 30 Amount of Interest Charged in 2007 as at May 2008**

Taxhead	Amount Charged	Amount Paid	Amount Waived	Amount Reduced	Amount Unpaid
	€	€	€	€	€
IT	7,024,416	5,540,512	427,686	382,865	673,353
CT	4,020,239	3,375,515	233,119	201,644	209,961
CGT	3,934,964	1,740,168	1,334,289	237,570	622,937
VAT	3,000,667	2,263,493	169,512	556,614	11,048
<b>Total</b>	<b>17,980,286</b>	<b>12,919,688</b>	<b>2,164,606</b>	<b>1,378,693</b>	<b>1,517,299</b>

## Audit Concern

I sought the Accounting Officers views on why, in the light of the statutory provisions for charging interest on late payment of tax, interest is not charged in all cases of late payment



The Accounting Officer informed me that in the late eighties and early nineties, Revenue did automatically impose an interest charge on every outstanding tax liability - known as Interest on Balance Outstanding. The current procedures relating to imposition of interest on late payment charges have been developed largely based on learning from the experience of that failed programme. Essentially Revenue's debt management programmes became bogged down in attempting to collect tens of thousands of interest charges, in many instances where, if Revenue had known the case circumstances, it would have been clear that a charge was not appropriate. This brought the effectiveness of the entire interest regime into question and resulted in many taxpayers simply ignoring the charge. As a support for compliance, that approach was ineffective.

While Revenue is determined to deliver a sharp and focused response to those that fail to comply on a timely basis, nevertheless it is of the view that a one size fits all approach would neither be appropriate nor effective to debt and compliance management. The strategy is to have a clear and consistent focus on risk and to select the compliance intervention that is likely to be most effective by reference to the risk in each instance. Revenue assigned most of its compliance and debt management resources to those cases that pose the highest level of risk.

She informed me that an exercise to quantify the amount of interest foregone by not charging interest in all cases had not been undertaken and there were no plans to do so.

The Accounting Officer stated that Revenue's primary goal is to ensure that taxpayers meet their tax obligations in full and on time. The objective is to ensure that the Government's tax collection targets are achieved by having efficient payment, filing and debt collection systems, and by continuous improvement of compliance levels. Over the past ten years in particular, Revenue has had a particular focus, *inter alia*, on improving the timeliness of compliance - both as regards the payment of tax and the filing of returns.

In addition to the sanction of charging and collecting interest, she pointed out that Revenue has a range of collection enforcement options available to its debt and compliance management teams including referral of debts to sheriffs, external solicitors and attachment of debts owed by third parties.

## Conclusion

When Revenue automatically charged interest in all cases, the liability was based on Revenue assessments of tax owed. This is fundamentally changed now that liability is self-assessed, and therefore, self-acknowledged by the taxpayer. In these circumstances, there should be less contention around the liability and the obligation to pay on time. Consequently, it might be opportune to review the potential of interest as a driver of prompt payment in a self-assessed regime.

### 3.13 Benefits-in-Kind

Travel expenses incurred in going to and coming from work are not allowable as offsets against an employee's taxable income. Where an employer pays or reimburses an employee for travelling to or from work, the amount paid or reimbursed is treated as part of the employee's remuneration and, as such, is liable to taxation.

Prior to 2004, the onus was on the employee to declare benefit-in-kind (BIK) received. With effect from 1 January 2004<sup>19</sup> this was changed, and the onus was placed on the employer to tax employees at source in respect of BIK.

In order to inform employers about the change, Revenue undertook an extensive communications campaign. This included

- a nationwide series of workshops with employers and tax practitioners
- the issue of leaflets and the posting of answers to frequently asked questions on the Revenue website
- provision of a dedicated Lo-Call help line to answer queries.

In addition, Revenue issued operational guidance<sup>20</sup> to every employer in the country.

In the course of drafting a Statement of Practice<sup>21</sup> during 2006 officials raised concerns in relation to the tax treatment of benefits received by Revenue's own staff in respect of travel to and from work. A working group comprising of representatives from various Revenue divisions was convened to consider the matter.

The group reviewed benefits which had accrued during the period January 2004 to June 2007. It identified three distinct types of payment that gave rise to BIK on which taxes had not been paid.

- the use by staff of official Revenue vehicles in respect of travel to and from work
- payments to staff in respect of the use of private vehicles for travel to and from work
- payments to staff for the hire of taxis for travel to and from work.

### Extent of Benefits

Approximately €2m accrued by way of BIK during the period reviewed. This comprised

- €1.7m in respect of the use of official vehicles by officers for travel to and from work
- €0.3m paid under agreements made with staff whose work commenced or ended between the hours of 11pm and 8am in locations not served by public transport. €182,381 was paid to certain staff in respect of one return daily journey from home to their place of work and a further €120,297 was paid in respect of the cost of taxi services in the case of officers who did not have private transport and for whom taxi fares were paid for travel from home to and from work.

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<sup>19</sup> Section 6 of the Finance Act, 2003.

<sup>20</sup> *Employers Guide to Operating PAYE and PRSI on Certain Benefits* 2003 (updated 2008)

<sup>21</sup> *Tax Treatment of the re-imbursement of Expenses of Travel and Subsistence to Office Holders and Employees* 2007

## Voluntary Disclosure and Settlement

Based on the total benefit provided over the period January 2004 to June 2007 an overall liability was calculated at €1,387,099. A sum of €228,208 was charged in interest and, in addition penalties of €41,613 were also imposed. The total liability came to €1,656,920. The relevant Inspector of Taxes was informed of Revenue's intention to make a voluntary disclosure and arrangements were put in place to ensure full tax compliance going forward. A settlement was reached with the Inspector of Taxes and payment was made in November 2007 and charged to subhead A.1 of the Vote. Revenue also informed my Office at that time.

### Audit Concerns

I was concerned at the delay in identifying Revenue's obligations to tax benefits paid to its own staff and that similar issues could arise in other State bodies and the private sector.

The Accounting Officer informed me that benefits giving rise to tax liabilities are not generally a feature of the remuneration arrangements of Civil Servants. She acknowledged that, when the onus of taxing BIK was placed on employers in 2004, Revenue, in its capacity as an employer, did not adequately consider the potential impact of the legislation on its own operations or properly examine whether there were payments to or on behalf of employees or benefits provided to employees which would give rise to a BIK liability. In fact, a small number of employees did enjoy such benefits but these payments and benefits escaped attention. Hence they were not taxed under PAYE as should have been the case. The mistake that occurred was the result of inadequate consideration of the impact of the new legislation and lack of recognition of the potential for the existence of taxable benefits by Revenue employees.

The Accounting Officer has assured me that proper procedures are now in place to ensure that all BIK provided by Revenue is properly taxed. Revenue has considered all payments made to staff, and all payments made on its behalf, in order to satisfy itself that no other situations exist where a BIK liability might arise. Arrangements to tax all benefits have been implemented with effect from 1 July 2007. Procedures have also been established to ensure that the Revenue payroll section is aware of all such taxable events and that tax in respect of BIK is deducted where appropriate.

Revenue's payroll system has been adapted to facilitate the correct tax treatment of payments and benefits. In addition revised arrangements were put in place from July 2007 to ensure that official Revenue vehicles are no longer used for any private or personal purpose that might give rise to a taxable benefit. Overall, governance has been strengthened and the Accountant General is now required to formally report on an annual basis to the Revenue Board in relation to tax compliance issues. The first such report was made to the Board in February 2008.

In regard to employee liabilities for periods prior to January 2004, no further action has been taken by the Inspector of Taxes. She informed me that this is the normal practice that would be applied in similar cases and in a situation where the individual liability, if it exists, is old, relatively small and not part of a continuing situation.

In regard to the settlement, the Accounting Officer has informed me that Revenue, as a taxpayer, was treated similarly to the general body of taxpayers and was subject to the normal penalties and interest charges that would have applied to any other taxpayer in the same circumstances.

In regard to whether similar problems had been identified in other State bodies she informed me that no significant problems had been identified. There had been a very small number of audit settlements with public sector organisations in 2007 in relation to employers PAYE. The total yield, including BIK charges, from these settlements was less than €1m. She informed me that, having reminded State bodies

of their responsibilities during 2008, it is intended to undertake a programme of compliance checks in 2009 on their operation of PAYE and other relevant taxes.

In response to my query as to whether similar problems had been identified in the private sector and what action Revenue had taken to ensure compliance with the legislation, the Accounting Officer told me that Revenue had no evidence of any serious compliance problem with BIK legislation. She stated that the consistency of BIK with other income sources is taken into account in Revenue's risk profiling system<sup>22</sup>. This profiling is now a major component of Revenue's compliance programme. The steps taken were those considered most appropriate to the risk identified.

### Conclusions

The failure by Revenue to identify its own BIK obligations demonstrates that changes in tax rules give rise to increased risks. It is acknowledged that, when the problems were identified, steps were taken to deal with them. It will only be after the completion of compliance checks in State agencies and with greater information of the predictive capacity of the REAP system based on audit outcomes that a judgment can be made of the adequacy of Revenue's systems to ensure that all revenue under this heading is being brought to account.

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<sup>22</sup> REAP

## Chapter 4

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### Office Of Public Works

## 4.1 Property Management Issues

The Property Management Service of the Office of Public Works (OPW) manages some 1.16 million square metres of space for Government Departments, Offices and agencies. Approximately 46% is State-owned, the remainder being leasehold and mainly held on long leases.

The management of this property portfolio involves acquisition, disposal, maintenance and refurbishment operations.

### Management of Vacant Space

To assist it in the management of vacant space and avoid a build up of unnecessary accommodation and consequent costs OPW produces reports on its space utilisation. Audit review of weekly vacant space reports for 2006, 2007 and 2008 (to May), identified a number of issues

- Four leasehold properties have been considered for surrender since January 2006 but were still held by OPW in May 2008.
- A report in early 2006 signalled that a property was to become available from January 2007. Despite this, it remained vacant for all of 2007 at a cost of €165,800.
- Eleven leasehold properties were unoccupied for periods ranging from four to twenty nine months. One was sold and leased back in July 2006 but was left unoccupied until January 2008.
- There were delays in the recording of properties about to become vacant militating against good planning.

Six rented properties were noted on the OPW property management system as having “*unallocated space*” or being “*unoccupied*” yet did not appear in the vacant space reports. The rental costs involved were €637,000.

#### **Audit Concern - Vacant Space**

In the light of the foregoing, I was concerned as to the adequacy of the procedures in place to minimise vacant space and the completeness of records used to manage it.

### Response of the Accounting Officer

The Accounting Officer stated that an amount of space unoccupied at any one time facilitates the management of the property portfolio. It is essential to have space available to meet urgent and unanticipated needs and to facilitate routine maintenance and refurbishment. The alternative - to go to the market at short notice - could compromise the bargaining position of OPW and result in higher rent being paid than might otherwise be the case. New leased space invariably requires a fit-out which may be costly, can prove time consuming to source and may, depending on the state of the market, be ultimately unproductive.

The Accounting Officer stated that the most recent estimates available indicated that of the total portfolio, some 8,500 square metres of office space are unoccupied. This represents 0.7% of the portfolio and is not out of line with international standards.

He indicated that regular meetings take place with client Departments to discuss accommodation requirements, for new space, for decanting space during major office refurbishment, rationalisation of space and surplus vacant space. When new demands for office accommodation arise, OPW reviews the existing vacant space on its books to determine whether any of it is suitable to meet these demands. In many instances, this review process succeeds in matching new demands with existing vacant space.

## **OPW Approach to the Management of Vacant Property**

The Accounting Officer supplied me with an outline of OPW's general approach to the management of vacant property.

### **Leased Property**

In recent years, the policy in leasing properties has been to negotiate lease-breaks, especially in long-term leases. This enhances OPW's flexibility in the management of the property portfolio and provides greater scope to vacate properties when they fall vacant.

In regard to leased office space that has remained unoccupied for an extended period of time, despite efforts to reallocate it, and situations where the lease on the space is relatively close to expiry, OPW endeavours to surrender the space back to the landlord. However, this requires the agreement of the landlord, which is not always forthcoming, either because the lease is close to expiry, or the space needs major refurbishment, or the prospects of reletting it are limited. Even where a landlord is open to a surrender proposal, negotiations can often be protracted and the terms on offer can be onerous.

Another possible option is to sublet. However, any decision to do so would be informed by a range of considerations, including

- whether subletting is allowed under the lease
- the length of time to expiry or next break option
- whether the space is suitable for sub-division
- market conditions for the particular space
- whether the space meet current health and safety standards
- whether subletting would compromise the security arrangements for other occupiers of the building.

In the light of these considerations and bearing in mind the need to hold a certain amount of vacant space to meet pressing and immediate demands, the subletting option is very much one of last resort and, as a result, recourse to it is seldom used.

### **Freehold Property**

He added that in the case of vacant property which is State-owned rather than leased, there is always the option of disposal. In recent years, OPW has successfully managed the disposal of surplus vacant freehold elements in their portfolio. This process has yielded in excess of €400m for the benefit of the Exchequer over the past four years

Regarding 16 specific vacant properties which I queried, he informed me that

- four of them are now occupied
- four have since been reallocated to different clients
- OPW is attempting to surrender the leases in four other cases
- of the four remaining, two are retained for temporary use, a leased back property has since been surrendered and one is vacant.

He also informed me that at 30 April 2008 seven leased properties were vacant<sup>23</sup> at a lease cost of €729,000 a year - however, one of these has since been allocated. A floor of one State-owned building was also vacant at that date.

### Conclusions - Vacant Space

It is accepted that there is a need to have a reserve of unoccupied premises to meet emergency and unforeseen demands for space. The issues highlighted, however, involved properties either earmarked for disposal, that were vacant for long periods, or were vacant but not reported as such on the vacant space reports. While acknowledging that OPW has been successful in rationalising the portfolio in recent years, and that the overall level of unoccupied space is within acceptable norms, there may be merit in differentiating its existing and prospective vacant space between a reserve portfolio and surplus properties available for disposal.

### Managing Lease Charges

Annual rent and associated costs in respect of the State's property portfolio is currently of the order of €130m. The costs in question are treated in two distinct ways

- Rents and other charges paid by OPW in respect of premises occupied by Central Government Departments and Offices are charged directly to the Vote for Office of Public Works.
- Rents, service charges and associated costs incurred for State agencies are recouped from the relevant bodies.

OPW uses a suspense account within its accounting system – Sundry Rents Account – to record, control and account for expenditure recoverable from State agencies. This is supplemented with a manual ledger system that records the details of amounts to be recouped from individual agencies.

In the course of audit it was noted that a detailed matching was not carried out between information recorded on the manual ledger system and that on OPW's accounting system.

During 2007, rental and associated payments totalling €10.9m<sup>24</sup> were charged to the sundry rents account. At the end of 2007 the accumulated balance on the account was approximately €2.025m<sup>25</sup>. This was made up of 53 individual amounts totalling €5.3m, ostensibly due for recoupment offset by 40 amounts totalling €3.3m, apparently recouped but not associated with the amounts paid.

The audit noted that payments totalling €882,000 in respect of State agencies had been incorrectly charged to the Vote. It also noted that of payments totalling €1.3m in respect of Government Departments and Offices charged to the sundry rents account, a portion should have been charged to the Vote.

Other shortcomings included

- A failure to bill the Family Support Agency for the years 2005 to 2007.
- Some charges recorded in the sundry rents account appear not to have been billed or, where billed, were not recouped by the agencies concerned. Amounts ranged from €110,000 to €350,000.

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<sup>23</sup> This does not include space that is vacant but allocated to others or in the process of being refurbished for a particular client.

<sup>24</sup> This represents the volume of payments to landlords for space occupied by State agencies and related charges.

<sup>25</sup> This represents payment made on behalf of, but not recovered from, State agencies at that date.



### **Audit Concern - Sundry Rents Account**

I was concerned that the shortcomings outlined suggested there was a risk to the overall integrity of the financial records and that amounts due from agencies were not identified and recouped in a timely manner.

### **Response of the Accounting Officer**

The Accounting Officer provided details and explanations of all outstanding balances and assured me that all amounts are recoupable from occupants and that a statement of account for the past twelve months for each agency had been prepared and issued within the past two months. He added that a new procedure has now been introduced which provides for reconciliation of the manual and computerised systems on a quarterly basis.

He also informed me that in the case of some newly created State agencies, there can be an interim period between the acquisition of their accommodation, and the formal coming into operation of the bodies and/or their accounting systems and procedures. There have been instances where, during this interim period, rental payments arising for the new agencies were charged to sundry rent accounts in the names of their parent Departments. This practice has now ended and in future all rental payments in respect of State agencies will, from the outset, be charged directly to the sundry rents account.

He added that the Family Support Agency was originally a division of the Department of Social and Family Affairs. Following confirmation of its chargeability, all the Agency's accommodation on OPW's Property System is now charged to the Agency's sundry rent account and all invoicing is up to date.

The Accounting Officer outlined the steps that had been taken to improve efficiency. He pointed out that the use of the sundry rent account increased significantly in recent years reflecting the rapid growth in the creation of State agencies with their own budgets and accounting facilities. A number of changes have now been introduced to improve the overall management of the sundry rents account system. These include

- new improved coding structures
- the introduction of quarterly invoicing for service charge payments
- the integration of the manual rent receivable systems into a computerised Property Management System<sup>26</sup>
- the provision, from 2008, of a full statement of account to each customer in the sundry rents system.

He attributed the issues identified on audit to settling-in arrangements for the new financial accounts system. He is satisfied that there was no loss of public funds and the issues were to do with coding and a delay in balancing the accounts.

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<sup>26</sup> This system lists properties leased and owned by OPW. It records lease terms, expiry dates, landlords, account details, occupants, lessees and rent.

## **Conclusions – Sundry Rents Account**

The standard of recording and the timeliness of reconciliations and recoupment from agencies was inadequate. However, the Accounting Officer has taken steps to address this. Failure to promptly invoice can impact on the budgetary and accounting arrangements of State agencies<sup>27</sup>.

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<sup>27</sup> This applied particularly to the Family Support Agency which in 2008 refunded €1.9m to its parent Department. €1.2m of this was due to invoices not being issued in 2007 by OPW. This resulted in an equivalent overcharge in the Vote of the Department of Social and Family Affairs for 2007.

## 4.2 Flood Relief Projects

The flood relief programme for which the Office of Public Works (OPW) is responsible is delivered through three mechanisms

- works and schemes carried out by contractors engaged by OPW
- works carried out by contractors engaged by local authorities
- direct works carried out by OPW's labour force.

Contracted works and schemes are funded through Subhead H.2 Flood Relief Projects. The 2007 provision was €32m and the outturn reported in the Appropriation Account is €23.115m.

In the course of audit it was noted that some €13m of the outturn consisted of advances to Local Authorities to undertake projects on behalf of OPW. It was estimated that by 31 December 2008 over €9m of these advances will still be unexpended. Table 31 sets out the details.

**Table 31 Flood Relief Advances Unexpended**

Local Authority	Advance €000	Estimated Expenditure by 31 December 2008 €000	Projected Unspent Balance €000
Carlow County Council	1,750	–	1,750
Dublin City Council	5,111	2,871	2,240
Fingal County Council	740	490	250
Kildare County Council	150	150	–
Ordnance Survey Ireland <sup>(a)</sup>	705	705	–
Waterford City Council	5,000	109	4,891
<b>Total</b>	<b>13,456</b>	<b>4,325</b>	<b>9,131</b>

<sup>(a)</sup> This is for an annual licence to use Ordnance Survey Maps.

### Audit Concern

While recognising that the practice has the merit of recognising central government expenditure at the earliest opportunity, there is some doubt as to whether such advances could be considered to have “come in course of payment” as required by the Exchequer and Audit Departments Act, 1866. In addition, I was also concerned at the level of the advances made in the light of the slow progress in commencing the related works.

### Response of the Accounting Officer

While acknowledging that expenditure had not yet been incurred by the local authorities for a high proportion of the advances, the Accounting Officer informed me that the advances are based on commitments entered into by OPW with local authorities. The advances are in respect of works and schemes that are carried out to standards and designs prescribed by OPW. It has been the practice for a number of years for OPW, when it is satisfied that plans for works are approved or in place and have reached the stage where a local authority is about to enter into a major resource commitment, to place the relevant authority in funds to enable contractual obligations to be met as they arise.

The Accounting Officer added that he considered this to be the most practical funding approach in that it achieves financial certainty for the local authority while allowing OPW to set standards and retain overall control. It is also consistent with the strategy set out in the Report of the Flood Policy Review Group dated December 2003.

In regard to the delay in absorbing the advances the Accounting Officer informed that around two thirds of the projected unspent advances at end 2008 was attributable to schemes at Carlow and Waterford.

- In the case of the Carlow scheme there were delays in finalising contractual arrangements necessitating recourse to arbitration.
- In the Waterford case there has been delay in placing the contract due to a changeover to a fixed price contract and the reappraisal of flood levels following heavy rainfall and near flooding in the early part of 2008.

### **Audit Conclusion**

The practice of advancing funds to local authorities before formal contracts are concluded by them needs to be reappraised. At a minimum, the level of advances by OPW and their timing should be aligned with outlays by the local authority. In addition, the practice of charging advances to the Vote as final expenditure may not accord with the requirements of *Public Financial Procedures*. OPW should clarify this with the Department of Finance. Overall, the outcome of this practice has been to charge €9m to the Vote for which work will still not have been completed one year later.

## Chapter 5

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**Garda Síochána**

## 5.1 Deployment of Garda Vehicles

An Garda Síochána operates a fleet of over 2,500 vehicles that is managed by the Transport Section at Garda Headquarters. The fleet mainly comprises cars (72%), vans (11%) and motorcycles (9%). A computerised fleet management system is used to monitor the operational details of each vehicle including location, assigned use and mileage.

Vehicles are procured by the Government Supplies Agency (GSA) to specifications set by An Garda Síochána. The GSA seeks tenders and awards contracts for the supply of vehicles required over a twelve-month period which commenced on 27 June for 2006/2007. Delivery times quoted are generally of the order of six to eight weeks, with an extra four weeks for non-stock items.

The procurement and operation of the fleet is funded through Subhead D of the Vote. The original voted allocation for the purchase of vehicles in 2006 was €11.2m. A supplementary estimate in December 2006 provided a further €17m that, together with an internal budgetary adjustment within the Vote, brought the overall allocation for the purchase of vehicles for the year to €28.7m.

A total of 1,379 vehicles was purchased in 2006 and the full allocation was expended. Orders were placed for 784 vehicles in the eight-week period from 6 November to 21 December, and 726 of those vehicles were certified as delivered in the period from 14 November to 21 December 2006 at a cost of €14m.

VFM Report No. 3 of August 1995 referred to a tendency for Garda vehicles to be ordered and delivered in bulk. It noted that this practice resulted in deployment delays due to the inability of the Garda garage to cope with the fitting out of vehicles in large quantities. The loss for the previous year was calculated as the equivalent of 37 vehicles per annum. The Report recommended that consideration should be given to the drawing down of vehicles from suppliers on a phased basis.

In response to the subsequent Committee of Public Accounts Report, the Accounting Officer informed the Committee that the procurement process for new vehicles would be brought forward in order to facilitate the phased delivery of vehicles and delivery would begin in January each year. In addition, Garda vehicles were to be supplied fully fitted, with requirements for sirens, beacons, markings *etc.* included in the technical specifications to suppliers.

### 2007 Audit Findings

It was noted in the course of the 2007 audit that

- Most of the 726 vehicles<sup>28</sup> certified as delivered by 21 December 2006 were, in fact, held in the compounds of the supplier and the fitting out sub-contractor.
- 216 vehicles purchased in December 2006 and costing €3.8m, were still in storage in February 2008.
- Assignment to operational use of the last of the batch of vehicles paid for in December 2006 was scheduled for June 2008.

An audit analysis of data extracted from the computerised fleet management system and the asset register provided details of the delay in the assignment to operational duties of the 1,379 vehicles purchased in 2006. At the end of 2006, 941 vehicles remained unassigned. The rate of issue of those vehicles during 2007 and 2008, and the consequent time loss in vehicle years, are set out in Table 32 below.

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<sup>28</sup> The Accounting Officer has informed me that most of the vehicles were registered in 2007. Road Tax was not payable as Garda vehicles are exempt from this tax.

Table 32 Downtime or Time Loss of the 941 Vehicles Unassigned at End December 2006

	Issues during Quarter	Number of Vehicles Unassigned at end of Quarter	Average Number of Vehicles Unassigned during the Quarter	Time Loss - Vehicle Years
At end December 2006	–	941	–	–
January - March 2007	341	600	771	193
April - June 2007	113	487	544	136
July - September 2007	97	390	439	110
October - December 2007	82	308	349	87
January - March 2008	124	184	246	61
April - June 2008	184 <sup>(a)</sup>	–	–	–
<b>Total</b>	<b>941</b>	<b>–</b>	<b>–</b>	<b>587</b>

<sup>(a)</sup> Expected to issue per Accounting Officer.

The average time loss arising from the delay in putting into use vehicles purchased in 2006 but not assigned to operational duties until 2007 and 2008 was the equivalent of 587 vehicles for a twelve-month period.

### Audit Concerns

The management of this procurement was out of line with previous commitments on the vehicle procurement and deployment practices of An Garda Síochána.

Paying, in 2006, for vehicles some of which were not put into service until 2008 raises questions as to the efficient use of public funds. Any targeted reduction in the age profile of the fleet remained theoretical until the vehicles were actually deployed.

It would have been good commercial practice to seek a discount on bulk purchases of over 700 vehicles. This did not appear to have been explored.

### Accounting Officer Observations

The Accounting Officer informed me that a Supplementary Estimate passed on 6 December 2006 had provided an additional €17m for Subhead D of the Garda Vote over and above the original provision of €11.2m. The purpose of the extra allocation was to

- make substantial improvements in the age profile of the Garda fleet
- increase the size of the fleet so that additional vehicles could be assigned to combating organised crime
- facilitate the planned expansion of the Traffic Corps.

The availability of the additional funds had not been confirmed until the second half of 2006 and consequently the number of vehicles purchased was skewed towards the last quarter of the year. The nature of Government cash accounting rules had obliged An Garda Síochána to purchase a large volume

of vehicles over a short period of time. It was accepted that this imposed some strains on the ability of systems, in particular the fit-out supply chain, to process such a large volume of vehicle acquisitions. That experience would inform future approaches to vehicle purchase. While some opportunity cost was incurred, he was satisfied that the economic benefits of the €17m injection would accrue beyond 2011.

Some of the vehicles purchased in December 2006 were put into service at an early stage in key areas. However, a number of vehicles had to be stored for a period before being put into operational use. The warranty for those vehicles did not commence until they were put into operational use. All vehicles were held in secure storage and were well maintained.

The Accounting Officer informed me that, in order to ensure that the composition and utilisation of the Garda fleet met the highest international standards, An Garda Síochána sought tenders, in March 2008, from consultants to advise on the optimum fleet profile and replacement policy consistent with the availability of funds, the Minister's and Garda objectives and operational needs. In determining the appropriateness of the replacement criteria, Garda management acknowledged the improved quality and durability of modern vehicles while being conscious of their environmental impact. A Superintendent had been appointed to oversee the initiative. It was anticipated that the study would be completed in 2008 and the organisation was committed to the implementation of its recommendations.

The Accounting Officer explained that by availing of the centrally negotiated GSA contracts, An Garda Síochána was obliged to purchase vehicles at the contracted prices and, consequently, additional price reductions or discounts were not sought. However, given the volume of vehicles purchased, the suppliers had been obliged to store the vehicles at their own cost, including insurance cover, which had amounted to a substantial sum.

He accepted, with the benefit of hindsight, that the contracted prices should have included a clause that would have resulted in additional discounts if the indicative tendered volumes had been significantly exceeded. An Garda Síochána would engage with the GSA to ensure that such a sliding scale of discounts based on volume purchases was included in future contracts.

Notwithstanding this, he also pointed out that the principal vehicle supplier, Ford, adopts the approach of quoting the absolutely lowest price allowed under the Ford Motor Company international pricing mechanism. Ford use this mechanism to ensure that they beat off competing suppliers to win as much of the State vehicle supply business as possible. Ford has stated in writing that

- due to the potential high contract volume that may be involved annually, it always tenders at the lowest possible price
- its quoted prices, both past and present, are based on a volume purchase basis and if a volume order does not materialise, it is prepared to stand over the quoted prices for lesser numbers.

He maintained that it was clear from the above that even if An Garda Síochána had sought additional discounts to reflect the increased volume purchases in 2006 those additional discounts would not have been secured. Therefore, the audit concern in relation to this matter is not valid as Ford has confirmed that An Garda Síochána purchased the vehicles at the lowest possible price.

In regard to the impact of the purchases on the age of the fleet a large number of vehicles were delivered in late 2006. Allowing for the time to process these vehicles through fit-out it was inevitable that the improvement in the age profile would not be realised until 2007. As at September 2006 the average fleet age was 3.28 years and this fell to 1.95 years by May 2008. Being in a position to issue these vehicles over the period detailed in Table 32 had a real rather than a theoretical impact.



## Audit Conclusions

The number of vehicles purchased and paid for in the final months of 2006 was driven by the availability of funds. While An Garda Síochána had a long-standing objective to increase and upgrade its fleet the action taken did not translate into an effective operational plan to efficiently and effectively use the resources provided late in 2006.

In the event, large numbers of vehicles were unnecessarily paid for in 2006 and lay idle throughout 2007.

There has been a failure to adopt cost-effective approaches committed to following previous examination of the management of the Garda vehicle fleet.

At the wider systems level, in order to encourage planned procurement consideration might be given to some form of carryover of funding for the purchase of assets such as vehicles and equipment.

## Response of Accounting Officer

The Accounting Officer has commented that in accordance with Government policy, upon which he is not permitted to comment, the vehicles were purchased to achieve certain objectives. While it required time to process the vehicles and issue them in accordance with the replacement criteria, these objectives were fully discharged.

As detailed in Table 32, of the vehicles purchased in 2006, 633 were processed and issued in 2007 which very substantially used up the stock of vehicles. Therefore, he did not agree that large numbers of vehicles were unnecessarily purchased in 2006 with a consequent long period of idleness.

Procedures to more effectively manage the Garda fleet are being implemented but are taking longer than anticipated due to the lack of skilled resources and the complexity of the management of a fleet of over 2,500 vehicles of many different makes and types dispersed over the entire country. A fleet optimisation study will be completed in the fourth quarter 2008. The tenders for the outsourcing of the maintenance of the fleet are currently being evaluated and subject to Department of Finance sanction a contract will be awarded prior to the end of 2008.



## Chapter 6

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### Prisons Service

## 6.1 Procurement in the Irish Prison Service

Procedures set out by the Department of Finance<sup>29</sup> acknowledge that, in exceptional circumstances, Departments and Offices need flexibility to enter into contracts without complying with the normal requirement to seek tenders. They must, however

- ensure that that all proposed exceptions are reviewed by Internal Audit or an appropriate senior officer beforehand
- maintain a central register of such procurements and
- designate a Procurement Officer to liaise with the Government Contract Committee.

The 2006 Report of the Comptroller and Auditor General included a general chapter on compliance by Departments and Offices with these procurement requirements.

A return certified by the Accounting Officer, Department of Justice, Equality and Law Reform (the Department) for the Irish Prison Service (IPS) for 2006 reported only three contracts exceeding the €25,000 limit where no competitive process was used. The value of these contracts was €260,000.

Information provided by the IPS also indicated that

- Although the remit of the Internal Audit Unit of the Department included the IPS, it did not undertake a review of relevant procurements for compliance with Circular 40/02.
- Where there was no competitive process, a business case outlining the reasons was prepared and submitted to Director of Finance for approval.
- Governors and Directors were circularised annually to ensure compliance with Circular 40/02.
- The IPS had a designated Procurement Officer.

### Return for the Irish Prison Service for 2007

A return for the IPS for 2007 was submitted to this Office on the 15 May 2008. It reported sixty known instances where procurements with a value in excess of €25,000 were in place and had been entered into without recourse to a competitive process. The total value of these contracts was €18.6m. Various reasons were put forward for not using a competitive process as summarised in the following Table 33.

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<sup>29</sup> Department of Finance Circular 40/2002

**Table 33 Reasons for Departure from Use of a Competitive Process**

<b>Reason</b>	<b>Number of Contracts</b>	<b>Value €m</b>
Existing Supplier Retained/Contract Rolled Over or Extended	21	7.6
Proprietary Product	19	3.0
Specialised Knowledge/Equipment	8	3.7
Local Tenders- Partly complied with	4	1.0
Emergency Requirement	4	1.2
Security	4	2.1
<b>Total</b>	<b>60</b>	<b>18.6</b>

In the course of audit, I noted that expenditure, exceeding the €25,000 threshold, incurred on medical and related professional services and procured without recourse to competitive processes, was omitted from the return. This included payments to doctors, pharmacy wholesalers, dentists and nurses. The total value of these payments was €685,714.

### **Audit Concerns**

The revised Department of Finance procedures introduced in 2002 substituted a set of internal safeguards for those previously operated through the Government Contract Committee. The overall objective was to ensure that non-competitive processes are only used in justifiable circumstances.

The extent to which the IPS resorted to non-competitive procurement in 2007, its failure to disclose medical and related contracts and the marked variation between the 2006 and 2007 returns, suggest a lack of proper control of IPS procurements.

It also raised the concern that the 2006 return significantly understated the extent to which the IPS had resorted to non-competitive procurement in that and previous years.

The level of recourse to non-competitive procurements also raised concerns as to the effectiveness of the internal review process.

### **Response of the Accounting Officer**

The Accounting Officer accepted that there were weaknesses and deficiencies in the procurement procedures and practices currently in place in the IPS but contended that it is actively working to address these. He accepted that it was likely that certain extended contracts, proprietary or specialist knowledge and equipment purchases put in place in prior years should have been included on the 2006 return. Completion of the 2006 return was disrupted due to decentralisation from Dublin to Longford with a loss of essential corporate knowledge.

He stated that the procurement of goods and services in the IPS differs greatly from a normal purchasing environment because

- The high security nature of its work dictates that, in many cases, only specialist companies can provide the required goods and services.
- The technology used is sometimes limited to a sole supplier and to change supplier would entail the abandonment of core systems which would require the retraining of staff at a high cost.

- The prison environment can be very volatile and the IPS is often required to take emergency action to protect the lives of inmates and staff. In such circumstances, emergency purchases of goods/services are made to protect life and ensure the overall well being of the prisoners and staff.

A Central Procurement Unit was established in March 2007 with an extended remit to procure services and goods and to develop and promote best practice in the IPS. The establishment of the unit facilitated a policy decision to remove procurement from local level and centralise it in Headquarters. The unit is actively prioritising contracts for tendering and is committed to the introduction of a centralised database to identify contracts nearing termination date. It will, however, take some time to complete the process.

An internal procurement circular, issued in July 2003, was updated in March 2007 and re-issued to all staff. It outlined the steps to be taken where contracts were to be awarded without a competitive process. The procedures, which confirm that approval should be obtained in advance, are included in a draft Procurement Policy for the IPS which was scheduled for issue in August 2008.

With regard to the significant number of extended or rolling contracts, the Accounting Officer stated that

- The largest of these was awarded to a supplier following a competitive tendering process in 2001. The contract subsequently came up for tender during an industrial relations dispute and so was not tendered at that time.
- A number of contracts were rolled over or extended to facilitate going to tender in 2008.
- Some contracts related to the provision of services which had to be outsourced due to the introduction of Proposal for Organisation Change in the Irish Prison Service (SORT) and the resulting changes in work practices. These call-out services were rolled over on an annual basis but will be covered by the new framework agreements currently being put in place, in accordance with EU regulations, including electrical and mechanical services.
- Payments to drug suppliers are now covered by a new pharmacy agreement.

Regarding the omission in the returns of medical and professional services contracts, the Accounting Officer confirmed that these should have been included in the return.

### Conclusions

The best means of securing value for money in purchasing is through open and competitive processes. The scale of procurement transacted without competition that emerged in the 2007 return suggests that the Irish Prisons Service's internal monitoring and control in this area was deficient.

It is acknowledged that the Accounting Officer has begun to take steps to rectify these deficiencies.

With the introduction of central procurement there should be scope for better planning of purchasing and seeking ways of generating competitive processes in its procurement to ensure the delivery of services at least cost to the Exchequer.

The Accounting Officer should assure himself annually before completion of the Statement of Internal Financial Control that these key procedures are in place and operated. The best means of achieving this is through internal audit signoff.

## 6.2 Travel Expenses

It is a well-established principle of public service travel and subsistence arrangements that employees are responsible for whatever expenses they may incur in presenting themselves at their place of work. The disclosure at Note 12 to the Appropriation Account refers to the payment of expenses of €24,117 to a senior officer during 2007 in respect of travel to and from his workplace. Payments of a similar nature were made to the officer over a number of years - €42,000 during a period of temporary posting from 2000 to 2002, and in excess of €62,000 during 2005 to 2008 following a sanctioned extension of service after the normal retirement age. These payments were made without the sanction of the Department of Finance and may also give rise to tax obligations. Chapter 3.13 of my Report deals with tax liabilities arising from travel to and from work in another Department.

The Accounting Officer stated that the payments over the first period were necessary due to the temporary and exceptional nature of that appointment. He considered that Department of Finance Circular 5/58 granting discretion to the Accounting Officer to allow payment in the case of special circumstances, and where payment would not involve a major departure from regulation, covered these payments. Therefore the formal sanction of the Department of Finance was not required. The arrangements were terminated in 2002 when it was accepted that the assignment was effectively permanent.

In relation to the 2005 to 2008 period, he informed me that, had the officer retired in the normal course, it would have been necessary in the circumstances to bring him back on a consultancy basis and he would have been able to charge travel and subsistence as an applicable expense. Therefore, it was agreed to meet the officer's request for restoration of the earlier arrangements, particularly as it was regarded as a temporary assignment. Payments ceased following the officer's transfer to a new post in March 2008. The Accounting Officer stated that he now accepted that, while that view had been well intentioned, it was not consistent with the general principles that apply to travel and subsistence. The Department would advise the Department of Finance and the Revenue Commissioners of the situation.





## **Chapter 7**

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**Department of Environment, Heritage  
and Local Government**

## 7.1 Development Contributions Schemes

The Planning and Development Act, 2000, consolidated the planning system in Ireland. As part of the planning process local authorities may levy development contributions from applicants. Sections 48 and 49 of the Act which came into operation on 11 March 2002 overhauled the existing development contributions arrangements.

All local authorities adopted schemes as required under the legislation and set out the basis for determining the contributions to be paid in respect of the different classes of public infrastructure and facilities provided by the local authority.

One of the objectives of the reforms under the 2000 Act was to introduce transparency into the way in which development contributions were levied and applied. Each local authority is required to include details of contributions received and contributions owing to it, together with information on how the contributions have been expended, in the statutory annual report of the authority.

### **General Administrative Arrangements**

The adoption of development contribution schemes is a reserved function for elected councillors. They have the powers to make, amend or reject a development contribution scheme proposed by the manager following a public consultation process. Councillors have the central role in overseeing the level of contributions being sought and the way in which these contributions are spent by the authority.

The role of the Department is to provide the statutory and policy framework within which individual development contributions schemes are adopted by each local authority following public consultation. Policy guidance in the form of circular letters in 2003 and 2007 reminded local authorities of their obligations under the Planning Acts while recognising that the adoption of development contributions schemes remained a reserved function.

Managers are required under Section 135 of the Local Government Act, 2001, to submit to their local authority an annual report of the programme of capital projects proposed for the forthcoming year, including projects financed from development contributions. In 2006, the Department emphasised to local authorities the importance of providing to councillors estimates of contributions to be collected, the balance on hand, and the proposed use of these balances. However, it is ultimately a matter for councillors to ensure that sufficient information is provided to them through reports under Section 135 or otherwise.

The Department established an Interdepartmental Committee on Development Contributions in late 2005 to review the operation of the scheme to date, and to consider operational issues of interest to other Departments and the views of sectoral interests. The policy guidance issued in 2007 took account of the Committee's findings and issues. This guidance also includes a requirement that all draft development contributions schemes are sent to County Development Boards for observations in addition to the existing public consultation, thereby providing increased scrutiny.

Many of the schemes are liable for review during 2008, and four reviews have been received by the Department to date. In addition, 17 draft development contributions schemes have been received for review and comment by the Department under the 2007 revised guidance. Assurance has been given by the local authorities that the relevant County Development Boards have been consulted in these cases.

## Review Findings

I reviewed the extent to which development contributions had been applied, the purposes for which they had been used, and the general arrangements put in place for accounting and control over them.

The amount of the contribution is set in accordance with the terms of each scheme when planning permission is granted by a local authority. Payment is due on the commencement of work, but may be payable in tranches to match the phases of a development. Security may also be sought to ensure payment of contributions. Money raised through development contributions is applied towards the cost of public infrastructure and facilities including roads, water and sewerage services as well as amenities such as playgrounds, sports grounds and parks. It is ring-fenced from other local authority funds and activities.

In the six years from 2001 to 2006 €1.3 billion has been applied by local authorities. Up to the end of 2007 most of the funding was spent on water services (38%), roads and car parking (31%), and public traffic infrastructure (11%). There has been limited application of development contribution funding to broader community facilities, with approximately 15% being applied under this heading.

A relatively slow rate of expenditure by the local authorities has resulted in the growth of the aggregate unexpended balance of development contributions held by local authorities. This stood at over €1.2 billion at the end of 2006.

Some accounting and control issues have been highlighted in reports of the Local Government Audit Service (LGAS). A general Activity Report issued in August 2006 based on its audit of the 2004 accounts noted that the accounting system for development contributions was unsatisfactory in most authorities resulting in difficulty in establishing an accurate figure for sums due from developers. The issue of unpaid development contributions was highlighted by reference to two large local authorities where unpaid contributions at the end of 2004 were €37m and €138m respectively. The former figure included €15m in respect of phases not yet commenced and €12m under deferred payments *i.e.* instalments and post-dated cheques; the €138m included €60m under deferred agreements. Individual audit reports for 2006 highlighted delays in moving to accrual accounting<sup>30</sup> for this activity and noted two instances where revenue-type expenditure was funded from development contributions and an instance where an amount of €206,325 was owed to a local authority by a company in liquidation.

### Issues Arising out of Review

I sought the Accounting Officer's views on

- the build up of contributions which stood at €1.2 billion at 31 December 2006
- the deficiencies in accounting and control noted by the LGAS.

### Views of the Accounting Officer

In regard to the delays in applying the levies the Accounting Officer pointed out that the timing of expenditure is conditioned by a number of factors, including the fact that the expenditure is invested in long-term capital projects, local authority capacity to deliver schemes involving design, public consultation, consent, procurement and wider market capacity.

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<sup>30</sup> The Department issued a comprehensive Accounting Code of Practice in January 2004 setting out the minimum requirement for disclosure and presentation of the accounts of each local authority. It includes a number of new developments, accrual accounting and accounting for fixed assets. The Code envisaged accrual based accounting for development contributions.

She stated that the development contributions balance is forecast to fall steadily from the 2006 level to €880m by end 2009 due to a slowdown in construction activity and an expected increase in the annual level of expenditure of contributions.

In regard to accounting and control issues she informed me that while local authorities started to move to accrual accounting in 2003 and 2004, derogation from having to account for development contributions on an accruals basis was given. It was necessary to implement the transition to full accrual accounting on a gradual basis across all local authorities to maintain accounting continuity. However, development contributions were not included initially because of difficulties in identifying historic debtors. Accounting for the contributions on an accruals basis commenced in January 2007 and realisable debtors for 2007 must be shown. The full historic position over the period 2004 to 2007 will be included in 2008 accounts.

By 31 March 2008 all 2006 LGAS audit work had been completed. The audit reports revealed that development contributions were referred to in 64 separate reports. 28 (32%) local authorities accounted for development contributions on an accruals basis in 2006, with cumulative debtors amounting to €131.9m. An analysis of the 2007 accounts received to date indicated that nearly 90% of authorities had moved to accruals accounting, and that realisable debtors were shown in over 80% of cases. The Department is currently carrying out a full analysis of local authority accounts for 2007 and will pursue relevant issues with planning authorities.

She informed me that the two instances where development contribution funds were used for revenue purposes were drawn to the attention of the local authorities by the LGAS. In addition, the Department has restated the restriction on the use of these moneys for current purposes in the 2007 policy guidance. The local authority which had the liquidation debt of €206,325 would be entitled to the normal creditor's remedy in pursuing the amount owed.

### **Update on Related IT Developments**

Many local authority managers in responding to the audit reports indicated that the completion and implementation of a Local Government Computer Services Board (LGCSB) project was the key to the efficient capture of all instances of development contributions arising and would facilitate full control and accounting.

The project commenced in late 2004 but implementation has been delayed due to a change in the pilot location and enhancements required to other related systems. It is currently being tested in one local authority, and will be validated in two others. It is expected to be available to all local authorities in early 2009.

This computer system is designed to assist in accounting for development contributions moneys including recording planning permissions, invoicing developers, and recording receipts. The main feature of the system is an interface between the planning administration system (iPlan) and the financial management system (Agresso) which are the most widely used products in the planning and finance sections of local authorities.

The system will provide for the automatic capture of all granted planning permissions and the associated contribution information. It will also provide the facility to invoice the appropriate developers. All contribution receipts are matched against the various debtor accounts. This suite of integrated systems should provide the necessary information to monitor and control the collection of all moneys due.

## Conclusions

A considerable amount of contributions (€1.2 billion) had accumulated at 31 December 2006. The time lag in applying the funds has been attributed to the lead-time in planning and carrying out of long-term capital projects.

The lack of integrated financial and planning systems to capture development contributions increased the risk of non-collection or delayed collection. The interface currently being piloted between the two computer systems should help remedy this.

An information gap in regard to the amount of development contributions outstanding should be addressed with the full introduction of accrual accounting.



## **Chapter 8**

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**Department of Communications, Energy  
and Natural Resources**

## 8.1 National Digital Research Centre

The National Digital Research Centre (NDRC) is, in part, the successor to MediaLab Europe (MLE) which ceased operations and was liquidated in February 2005. MLE had been established in May 2000 as a University level research and education centre, to specialise in telecommunications and information and multimedia technologies, including the Internet and digital commerce. The nature of the work to be undertaken by the company was inherently high risk, and recognised as such from the outset.

Over the period 2000 to 2003 the State paid €25m directly to MLE, and a further €10m to the Massachusetts Institute of Technology on foot of its involvement with the project. This investment coincided with a severe global downturn in the ICT industry and, following a review of the situation in 2004, MLE went into voluntary liquidation.

These matters were examined and reported on by the Comptroller and Auditor General and subsequently by the Committee of Public Accounts. Among the issues giving rise to concern were

- the absence of adequate links between payments made and performance targets
- the adequacy of the governance and oversight role of the Department of Communications, Energy and Natural Resources (the Department)
- access by the Department and the Comptroller and Auditor General to the books and records of an entity in receipt of significant State moneys.

### Establishment of NDRC

In 2005, the Government approved the establishment of the NDRC to provide a national focal point to address the gap between research and commercial exploitation of digital media technologies. The Centre was established as a limited company and is a vehicle through which a consortium of third level educational institutions<sup>31</sup> manages and operates the research activities. The Department has entered into an agreement with NDRC to provide funding of €25m over five years to be met from the funding envelopes of the Departments of Communications, Energy and Natural Resources, Education and Science and Enterprise, Trade and Employment but payable from the Vote for Communications, Energy and Natural Resources.

The agreement provides that subvention be paid in accordance with an agreed schedule at the rate of €2.5m twice a year.

### Payments to NDRC

Up to July 2007, €4m had been paid to NDRC from the Vote and a further €250,000 was provided to it by way of distribution by the liquidator of MLE. It also received fixed assets worth €315,000 from the liquidator.

By the year end, the Department had called for and been repaid €1.725m of the funds advanced to the Centre. This was due to the slow progress in establishing the operation. These funds were paid into the Exchequer and noted in the Appropriation Account of the Vote<sup>32</sup>.

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<sup>31</sup> Dublin City University, Dun Laoghaire Institute of Art, Design and Technology, National College of Art and Design, Trinity College Dublin and University College Dublin.

<sup>32</sup> Noted in the Appropriation Account as Extra Receipts payable to the Exchequer.



## Operating Procedures

Projects proposed by members of the consortium, other educational institutions and interested private sector entities and businesses are submitted to the NDRC for evaluation. Following the development of research proposals by the NDRC in conjunction with the bodies submitting projects the execution of projects selected for development takes place at the NDRC.

As well as regular liaison meetings with the NDRC, a Liaison Committee, comprising Department officials and representatives of the Centre, was set up in line with the agreement. The Liaison Committee is required to meet at least once a year to facilitate communication and the operation of the Centre. The Committee met on a number of occasions, most recently on

- 10 December 2007, when it agreed the process for the evaluation and selection of projects and
- 7 February 2008, when it considered and approved a report on an initial tranche of projects by independent experts appointed by the Department.

### **Audit Concerns - Implementation**

I sought the Accounting Officer's observations on the slow start-up of the NDRC, the circumstances giving rise to the refund of €1.725m and the arrangements for safeguarding intellectual property rights.

## Response of the Accounting Officer

The Accounting Officer informed me that setting up the Centre took much longer than envisaged.

A Chief Executive Officer took up duty in February 2007, and no further staff were recruited until a Chief Operating Officer was appointed in the third quarter of 2007. The lead-time required for the evaluation, approval and development of projects by NDRC did not justify the recruitment of additional staff at the Centre during 2007 as the evaluation process for seed projects for the start-up phase took time to work through. The evaluation included external experts at the request of the Department. As a result the research work to be undertaken by the Centre has only recently commenced.

The process of ensuring a standard of excellence and impartiality in the selection of seed projects for development that was put in place was complex and time consuming. As a result, the full implementation of the NDRC took much longer than anticipated in the agreement.

In regard to the funding and subsequent recovery of the money, the Accounting Officer stated that in the light of the slower than anticipated rollout of the NDRC, the Department had to request the Centre to surrender €1.75m of funding at end 2007. He added, however, that while the process for the evaluation of the seed projects for the NDRC took longer than expected, in view of the progress before July 2008 the Department considered that continued funding to the Centre was justified.

In regard to intellectual property rights, the Accounting Officer informed me that a draft Intellectual Property Framework designed to protect the commercial value of research projects developed by NDRC was submitted to the Department in May 2008. The Framework was submitted in good time for the commercial streaming phase of projects, which would take place after the initial research phase had been completed. The draft has been incorporated in a comprehensive Collaborative Research Agreement which was being examined by the Department to ensure that the interests of the State were protected and would be finalised with the Centre as soon as possible.

## Access and Inspection Rights

Section 8 of the Comptroller and Auditor (Amendment) Act, 1993 provides, *inter alia*, that the Comptroller and Auditor General may inspect the accounts, books and records of any person for a financial year in which moneys received directly from the State amount to 50% or more of that persons gross receipts for the year. The application of this provision proved difficult in the case of MLE where legal advice indicated that inspections can only be carried out in those years in which an entity receives 50% or more of its gross receipts from the State. This provision was not adequate to ground an inspection right in some of the years.

In the interest of transparency and to ensure that public moneys are used for the purposes for which they are allocated it is desirable that there be provision for access to the recipient's records, both on the part of the Department and the Comptroller and Auditor General. Although the Section 8 provision gives the Comptroller and Auditor General access to the books and records of the NDRC because since its inception it has received more than 50% of its annual funding from the State, providing in the agreement for access would have the merit of ensuring a right of financial inspection for each year of its operation, including for future years in which State funding may fall below 50% of total funding.

### **Audit Concerns - Access and Audit**

As no specific right of access was provided for in the agreement establishing the relationship with NDRC and in view of the difficulty experienced monitoring funds advanced to MLE and the consequent gap in accountability to Dáil Éireann, I sought the Accounting Officer's views on the arrangements for inspection of the NDRC records.

## Response of the Accounting Officer

The Accounting Officer informed me that, while his Department had full rights of access to information on the Centre, it would move to have the agreement amended to give access to the books and records of the Centre to the Comptroller and Auditor General as a matter of course.

### **Audit Conclusion**

Considerable sums are being invested in Ireland's research community. In the area of digital media technologies an elaborate network has been established involving input from Government Departments and agencies and education bodies such as the Higher Education Authority.

It is recognised that commercialising basic research is a challenging endeavour and the Department has put elaborate governance and evaluation procedures in place. This appears to explain the slow start-up. The amendment of the agreement to allow access to the records of NDRC by the Comptroller and Auditor General should help provide independent assurance on the application of the public funds concerned.

## Chapter 9

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Department of Agriculture, Fisheries and  
Food

## 9.1 Consolidation of Single Payment Entitlements

The 2005 Annual Report<sup>33</sup> considered the processes and procedures adopted by the Department of Agriculture, Fisheries and Food (the Department) to manage the introduction of the Single Payment Scheme (SPS). My Office's review in 2006 found that the Department faced major challenges in determining farmers' entitlements, complying with complex EU regulations and meeting regulatory deadlines. Evidence available at that stage suggested that the Department had planned its approach to these tasks in a strategic manner and had implemented them in a pragmatic and generally satisfactory way.

Subsequently, the European Court of Auditors (ECA), as part of its mandate to audit and report on the accounts of the European Commission, undertook a number of audit missions to Ireland to examine the implementation and operation of the SPS. A representative of my Office accompanied the ECA auditors on two of these audit missions.

The ECA audit found that the Department of Agriculture, Fisheries and Food had, in its view, contravened the provisions of the governing legislation with regard to the specific requirements for consolidation of entitlements of farmers applying for the SPS.

### Consolidation of Entitlements

In order to qualify under the SPS farmers must first obtain "entitlements". To determine these, Member States opt for one of the models provided for under EU legislation. Under the fully decoupled historical model opted for by Ireland each farmer is granted entitlements based on the average amount of aid received and area farmed during the reference period 2000 to 2002. Entitlements are stated at a monetary rate per hectare. Once entitlements are determined, a farmer must apply each year for payment declaring all hectares in use in that year and identifying the hectares attracting SPS entitlements.

Consolidation of entitlements arises where a farmer is allowed to claim the same overall amount in respect of a reduced number of hectares. The Department allows consolidation where the reduction in land available results from

- compulsory purchase orders by public authorities
- lands afforested by the farmer applicant
- unavailability of lands which were previously leased-in or rented.

The EU legislation governing the SPS<sup>34</sup> recognises the exceptional circumstances of those farming in areas subject to 'restructuring and/or development programmes relating to public intervention' (Compulsory Purchase Orders). The legislation provides that where a farmer has lost land in this way since the reference period on which his SPS entitlement is calculated and is therefore no longer able to avail of all entitlements in the normal way, they may be consolidated, *i.e.* exchanged for a smaller number with a higher value. The stated purpose of this provision is to avoid the abandonment of land and/or to compensate for specific disadvantages for farmers in those areas.

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<sup>33</sup> Comptroller and Auditor General Annual Report 2005.

<sup>34</sup> Council Regulation (EC) No 1782/2003 of 29 September 2003 provides for the establishment of the SPS and lays down common rules for other direct support schemes under the Common Agricultural Policy (CAP) Commission Regulation (EC) No. 795/2004 of 21 April 2004 sets out the detailed rules for its implementation.

## 2006 Report of the European Court of Auditors

The ECA noted that consolidation of entitlements was granted, upon application, where a farmer used land which was leased or rented during the reference period but was no longer available to the farmer in the first year of application because the lease/rental agreement had expired by 16 May 2005.

The ECA view was that this type of consolidation was not covered by the regulations and that only land lost through Compulsory Purchase Orders (CPO) should be consolidated. This would mean that only land declared in 2005 (unless subject to CPO) could be used in the calculation of payment entitlements.

According to the ECA Report, in Ireland 11,677 cases were approved for consolidation in 2005 involving approximately 150,000 hectares, the vast bulk of which related to discontinued leases. It was the ECA view that the effect of allowing this type of consolidation was that an equivalent area was no longer needed to activate entitlements and there was a risk that it could be used for other still coupled aid schemes or abandoned and no longer covered by any obligation to be maintained in good agricultural condition.

The ECA criticised four countries, including Ireland, regarding their implementation of the consolidation provisions

*'Some Member States/countries (Austria, Ireland, Wales and Scotland) did not comply with EU legislation. They extended this provision to all cases where a farmer in 2005 had fewer hectares than entitlements. Consolidation was granted in order to have the farmer's reference amount concentrated on a number of entitlements equal to the number of hectares held, and consequently to allow the farmer to activate all his entitlements. Wales and Scotland applied this irregular type of consolidation only in the first year of SPS whereas it continues in Austria and Ireland. In 2005, more than 200,000 hectares were consolidated in this way. The impact is estimated at €60 million per year.'*

The criticism of Ireland is potentially the most serious given that Ireland accounts for 75% (150,000 of 200,000) hectares affected by the provision in dispute. The ECA Report concludes that

*'...some Member States have failed to correctly apply certain key elements of the SPS: Austria, Ireland and the United Kingdom extended consolidation of entitlements beyond the provisions of the regulation.'*

The response of the European Commission to these findings, which is incorporated in the Report says

*'The Commission is aware of these practices and shares the view of the Court. Any possible risk to the Fund will be taken into account through the conformity procedures<sup>35</sup>.'*

The ECA Report also noted that the treatment of consolidated entitlements was an issue for other member states including Scotland, Wales and Austria who took the same approach as Ireland initially but Scotland and Wales have since changed their position. This was in contrast to Belgium who interpreted Article 42(5) as applying to land lost through CPOs only.

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<sup>35</sup> Conformity procedures involve formal discussions and correspondence between the Commission and Member States forming part of the accounts clearance process, the purpose of which is to exclude from Community financing expenditure which has not been effected in compliance with Community rules.

### **Audit Concerns**

Although the Department maintains that it has acted in accordance with the Regulations, there appears to be a risk that it will be found to have been in contravention of the specific provisions regarding consolidation and that the State may be exposed to substantial financial penalties. I sought the views of the Accounting Officer on how the Department is managing the potential financial exposure in the light of the Commission's current stance.

### **Department's Response**

The Accounting Officer stated that the Department remains strongly of the view that its implementation of the Programme for the Consolidation of Entitlements was in accordance with the provisions of Council Regulation (EC) No 1782/2003 and Commission Regulation (EC) No 795/2004. It disagrees with the ECA findings and points out that the Commission's response (as recorded in the ECA Report) was at odds with the Department's records of discussions it had had with the Commission before and after the introduction of the SPS.

He stated that it would not be appropriate to speculate on any potential disallowance especially given the fact that the Department was strongly defending its position. Any such speculation could, in fact, prejudice the Departments ongoing negotiations with the Commission and any appellate body in the event that the Department failed to reach agreement with the Commission on the outcome.

In the meantime, the Department has had a high level bilateral meeting with Commission officials and is cooperating fully with the Commission's further enquiries into the matter.

### **Conclusions**

It is acknowledged that in formulating its approach to consolidation the Department took the precaution of consulting with EU Commission officials. However, in view of the Commission's stance as recorded in the ECA Report, there is a contingent liability of an undetermined amount depending on the outcome of the EU conformity procedures and any subsequent litigation. The State is contesting any such liability.

## **Chapter 10**

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**Department of Enterprise, Trade and  
Employment**

## 10.1 Redundancy Payments Scheme Debt

Under the Redundancy Payments Scheme, eligible employees are entitled to a statutory lump sum on being made redundant. It is the duty of the employer, in the first instance, to pay the lump sum. Subsequently, the Department of Enterprise, Trade and Employment (the Department) refunds the employer 60% of the cost from the Social Insurance Fund (SIF) when payment has been made to the employee.

In liquidation, receivership, examinership or bankruptcy cases, the situation is reversed and the Department is obliged to pay eligible employees and later seek to recover 40% of the amount from the employer concerned. In the case of informal insolvency where the employer shows evidence of inability to pay, the employer is treated in a similar manner. In cases where redundancy payments must be paid from the Fund because of an employer's refusal to pay, 100% recoupment is pursued.

### Level of Debt

The level of debt arising out of these transactions has increased considerably in recent years and, at the end of 2007, it amounted to €37.7m. Year end balances outstanding for the years 2002 to 2007, as well as amounts repaid in those years, are shown in Table 34.

**Table 34 Year End Debt Balances and Repayments 2002 to 2007**

Year	Redundancy Debt €m	Redundancy Repayments €m
2002	13.5	0.7
2003	20.0	0.5
2004	21.8	4.5
2005	24.9	2.2
2006	31.1	0.4
2007	37.7	0.7

Between 2001 and late 2007 there was no dedicated unit pursuing recovery of the debt.

#### **Audit Concern**

It would be good practice to actively pursue outstanding debt and once it is judged uncollectable to write it off.

I was concerned that there had been no active pursuance of historic debt since 2001 and that this inaction might have compromised debt collection.

The Accounting Officer informed me that the position outlined above had arisen following a doubling in the number of redundancies in 2001, when it became necessary to deploy all staff to the processing and payment of claims to companies and to individuals in order to achieve reasonable customer service targets - delays of up to 26 weeks were not uncommon at that time.



An internal review of the Redundancy Payments Section was finalised in early 2002. It examined the operation of the redundancy legislation and scheme from both an administrative efficiency perspective as well as from a customer service viewpoint, reviewing

- the rationale and continued relevance of the scheme
- whether the delivery of the scheme could be made more customer-friendly
- the potential for greater use of information technology
- ways in which the operation of the scheme could be streamlined.

Arising out of Social Partnership talks in early 2002 a demand emerged for an increase in the amount of statutory redundancy entitlement. In response, the Government established a review group to examine the operation of the scheme to ensure it best met the requirements of employers and employees. Redundancy legislation was amended by the enactment of the Redundancy Payments Act, 2003, to allow for the implementation of some of its recommendations.

Implementation of the group's findings involved business process improvement, systems development and training. A new computer system was designed to assist in expediting rebate and lump sum payments and a new on-line system became operational in May 2005. New customer service targets of six weeks for on-line claims and lump sum applications, and ten weeks minimum for manual claims, were set and are generally being complied with.

After the new system became operational and proved to be working satisfactorily, it was possible to prioritise the recovery process. A review of this aspect of administration was completed in 2006-2007, resulting in the re-establishment of a Recoveries Unit in October 2007, together with the establishment of a Write Off Committee in April 2008. He assured me that the section is now active in the area of recovery and write off of historic debt.

In regard to the impact of the delay, the Accounting Officer did not consider that the risk to debt collection has been significantly increased by the passage of time. He stated that no correlation has been established in the redundancy payments area between the age of debt and the rate of success of recovery.

As to when it was considered that all outstanding debt will have been assessed for collectability and the requisite adjustments made, he informed me that the target was to fully assess the collectability of all outstanding debt by end 2009. It was difficult to predict when the requisite adjustments would be made. It would be done in stages as the Recoveries Unit worked its way through the caseload. There was, for example, a write off target for 2008 of some €10m of irrecoverable debt. It was anticipated that there would, over the next number of years, be a series of adjustments to more accurately reflect the true recoverable debt at any given time. The initial priority for the Recoveries Unit was to focus on historic debt since 1998. No aged analysis of debt outstanding at 31 December 2006 is as yet available.

## **Conclusion**

When the Department reprioritised its activities to concentrate on customer service targets in 2001 it reduced emphasis on debt recovery from employers and this continued until 2007. There has been a threefold increase in the level of debt recorded between 2002 and 2007 and the Department has a backlog of debt recovery work to complete. It will not be in a position to present a realistic statement of what is, or is not, recoverable before end 2009.



## Chapter 11

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### Department of Defence

## 11.1 Border Duty Allowance

Border duty allowance (the allowance) has been paid to certain qualifying members of the Permanent Defence Force since 1 January 1972.

The Department of Defence (the Department), when making its case to the Department of Finance for the introduction of the allowance in late 1969 noted that

*“it was essential to establish temporarily new units on somewhat similar lines to the Cyprus units” and that “developments in the Six Counties since then have necessitated the maintenance of such units.....and it is likely that the necessity for deployment of the units in the Border areas will continue for some considerable time”.*

The Department considered that payment of the allowance was justified on the basis that

- The arduous and responsible nature of duties in border areas involved service far in excess of normal hours.
- The deployment of special units for lengthy tours of duty to Border areas had caused a good deal of disruption to all ranks as they were away from their permanent stations and married personnel were separated from their families.
- The accommodation provided at Border posts generally was old and in some instances did not provide the amenities which it had been the policy to provide for accommodation occupied on a permanent basis.
- The anomaly that members of an Garda Síochána were paid overtime for carrying out common duties with military personnel in Border areas outside of normal hours.

Payment of the allowance was sanctioned on condition that it would apply only for the duration of the special arrangements made in Border areas and that it would apply only to personnel directly engaged in Border duties.

The weekly rate of the allowance in 2007 was €96.41 for enlisted personnel and €112.19 for Officers. The allowance is payable to enlisted personnel who are permanently attached to Border Units and to Officers for the duration of their posting to such units.

Total expenditure on the allowance in the last five years was, 2007 - €5.38m; 2006 - €5.47m; 2005 - €4.79m; 2004 - €4.62m; 2003 - €4.73m.

Each year, however, significant numbers of personnel from Border Units<sup>36</sup> are paid the allowance while temporarily attached to other units for a variety of reasons *e.g.* training. Soldiers may be paid the allowance for a period of up to three months while on a course of instruction.

Logistical support personnel such as cooks, fitters, military police, communications technicians *etc.* are attached to border units from time to time from Athlone, Cathal Brugha Barracks and other posts as the operational situation may dictate. They are paid the allowance for the duration of their attachment.

Six personnel from Baldonnell are in receipt of the allowance due to their redeployment from Finner Camp to Baldonnell after the Air Corps ceased Search and Rescue operations in the North West. It was

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<sup>36</sup> The Border Units are the 28<sup>th</sup> Infantry Battalion at Letterkenny, Lifford and Finner Camp; the 27<sup>th</sup> Infantry Battalion at Monaghan and Dundalk; the 4<sup>th</sup> Cavalry Squadron at Longford and the 6<sup>th</sup> Infantry Battalion at Cavan.

agreed in January 2002 as part of the settlement with the Representative Associations to continue to pay the allowance to these personnel on a personal basis.

Similarly, Gormanstown Camp housed B Company of the 27<sup>th</sup> Infantry Battalion which was a Border Unit. In 1998, the Unit was incorporated into the 5<sup>th</sup> Battalion located there as part of the reorganisation of the Defence Forces. As part of a negotiated settlement those personnel in Gormanstown who were in receipt of the allowance retained it on a personal basis.

Information received from the Department of Defence shows that, while figures for the level of border specific activity were not readily available for 1972, in 1996, 13,156 patrols, 12,744 checkpoints, 43 searches and 31 explosive ordnance disposal requests were provided in the border area. From 1998 onwards the number of such activities declined and none were undertaken in 2002 or subsequently.

### **Audit Concerns**

I was concerned that this allowance continues to be paid while the justification for its introduction has long ceased.

### **Response of the Accounting Officer**

The Accounting Officer informed me that there has been a significant reduction in the level of demand for Defence Forces assistance to the Garda Síochána in the Border area. The overall nature of the Defence Forces activities has changed as the political and security situation has evolved. Static checkpoints and border patrolling involving the Defence Forces have ceased, some border posts have been closed and some units disestablished. The standard of troop accommodation in most Border Unit locations has improved significantly since 1972.

As a result, the arduousness, responsibility and duration of duties have changed. However, notwithstanding the improved security situation, Border Units are obliged, as well as undertaking normal activities<sup>37</sup>, to maintain their capability to respond to the impact of emergencies and contingencies on the border, normally through the provision of assistance to civil authorities. Operations in response to the Foot and Mouth outbreak, BSE and the threat of Bird Flu were examples of such instances. Mobile Support Groups are maintained in barracks on a 24 hour basis for border security purposes to provide a rapid initial response in the event of such emergencies. In 2007, an average of 720 mobile support group duties were undertaken over the 30-day month, compared to an average of 2,360 border specific duties the period 1972 to 1998.

A separate security duty allowance is payable to Defence Forces personnel generally when engaged on specified security duties, *viz.* duties defined as "*Aid to the Civil Power*" such as cash in transit escorts, explosive ordnance disposal as well as normal security duties undertaken in the various barracks. However, personnel in receipt of the border duty allowance cannot claim security duty allowance for security duties performed and as a consequence the removal of the border duty allowance would be partly offset<sup>38</sup> by the payment of security duty allowance in these cases.

The Accounting Officer, in responding to my enquiries, stated that it was the Department's view that the conditions that led to the introduction of the allowance no longer exist.

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<sup>37</sup> Security duties, training and preparation for overseas service.

<sup>38</sup> Border duty allowance is paid to all permanent personnel in Border Units, while security duty allowance is usually paid only where the personnel involved perform the appropriate duties.

He said that the Department's position in regard to the continuation of the allowance has been addressed by the inclusion of a review of it in the Defence Forces Modernisation Agenda, agreed with the Representative Associations under "*Towards 2016*". He considered that the system of representation for military personnel was the proper forum in which to address proposed changes in the system of remuneration. The review with the Associations is progressing. It is intended that implementation of changes agreed through the review will begin during the lifetime of the "*Towards 2016*" agreement.

### **Conclusion**

Re-appraisal of special arrangements introduced to cope with emergency situations is essential once those situations no longer pertain. The Department is pursuing change through the partnership process. Change needs to take account of the interests of the taxpayer - that money should not be applied for services that are no longer required or where the environment or circumstances in which they are delivered have fundamentally altered.

## Chapter 12

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Department of Social and Family Affairs

## 12.1 Overpayments

The Department of Social and Family Affairs (the Department) administers some 50 welfare schemes paid through Vote 38 and the Social Insurance Fund. Expenditure on all schemes was over €15 billion in 2007. The pattern of expenditure since 2003 analysed between insurance and assistance schemes is set out Table 35.

Tables 35, 36 and 37 outline overall expenditure on various schemes over the period 2003 to 2007, and for the same period, the amounts recorded as overpayments, the amounts of overpayments attributed to fraud or suspected fraud and the Department's cumulative record of recovery since 2003.

**Table 35 Scheme Expenditure**

	2003 €m	2004 €m	2005 €m	2006 €m	2007 €m	Rate of Increase 2006-2007
Social Insurance	4,649	5,081	5,460	6,106	7,008	15%
Social Assistance	5,460	5,821	6,296	7,019	8,004	14%
<b>All Welfare Payments</b>	<b>10,109</b>	<b>10,902</b>	<b>11,756</b>	<b>13,125</b>	<b>15,012</b>	<b>14%</b>

The Accounting Officer stated that the main reasons for the increased insurance and assistance costs in 2007 over 2006 were

- a trend increase in the number of recipients
- the additional cost in 2007 of Budget 2006 improvements
- the cost of Budget 2007 improvements.

The amounts recorded by the Department as having been overpaid totalled €50.3m in 2007, an increase of 28% since 2003.

**Table 36 Number and Amount of Gross Overpayments Recorded for Recovery (Numbers shown in brackets)**

	2003 €m	2004 €m	2005 €m	2006 €m	2007 €m
Social Insurance	10.60 (26,174)	12.12 (26,131)	11.02 (22,420)	11.20 (21,529)	17.71 (26,251)
Social Assistance	28.77 (17,459)	44.85 (20,000)	36.24 (17,126)	34.02 (18,216)	32.82 (20,152)
<b>Total</b>	<b>39.37 (43,633)</b>	<b>56.97 (46,131)</b>	<b>47.26 (39,546)</b>	<b>45.22 (39,745)</b>	<b>50.53 (46,403)</b>

In response to my inquiry in regard to the Department's systems for capturing and recording overpayments the Accounting Officer assured me that she was satisfied that, subject to finalising data clean-up and the implementation of some remaining functionality, the overpayment recording systems are comprehensive and accurate.

Overpayments classified as attributable to fraud or suspected fraud at €21.4m constituted 42% of all overpayments in 2007.

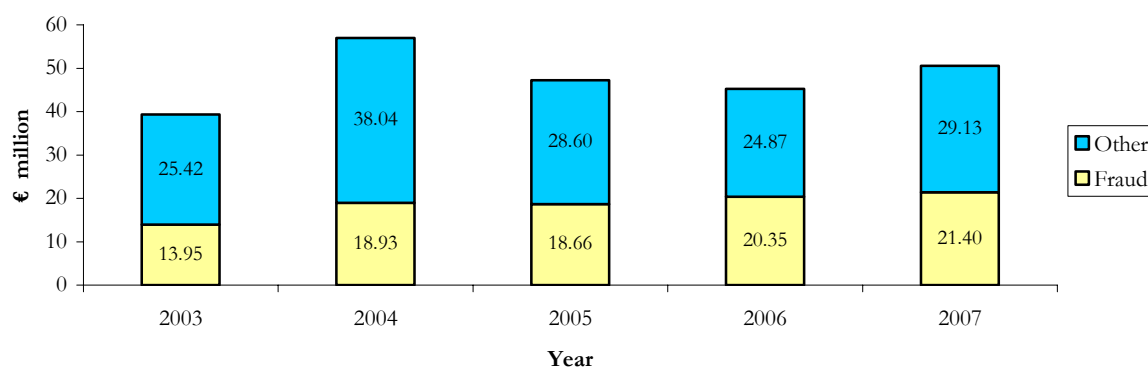


**Table 37 Number and Amount of Overpayments Attributed to Fraud<sup>(a)</sup> or Suspected Fraud (Numbers shown in brackets)**

	2003 €m	2004 €m	2005 €m	2006 €m	2007 €m
Social Insurance	5.07 (9,606)	6.24 (10,771)	5.53 (8,587)	5.16 (7,877)	6.26 (8,304)
Social Assistance	8.88 (7,148)	12.69 (8,483)	13.13 (7,758)	15.19 (8,950)	15.14 (9,808)
<b>Total</b>	<b>13.95</b> <b>(16,754)</b>	<b>18.93</b> <b>(19,254)</b>	<b>18.66</b> <b>(16,345)</b>	<b>20.35</b> <b>(16,827)</b>	<b>21.40</b> <b>(18,112)</b>

<sup>(a)</sup> Estate cases where undisclosed means come to light are not classified as fraud/suspected fraud. The amount of overpayments recorded in respect of 301 estate cases in 2007 was €6.72m.

The percentage of overpayments recorded each year which were attributed to fraud or suspected fraud has varied considerably over the period 2003 to 2007 as indicated in Figure 1.

**Figure 1**

The Department's record of recovery of overpayments during the period 2003 to 2007 is shown in Table 38.

**Table 38 Department's Record of Recovery of Overpayments 2003 to 2007**

	2003 €000	2004 €000	2005 €000	2006 €000	2007 €000
Overpayments not disposed of at 1 January	70,621	85,953	115,993	131,250	149,540
Migration of amounts previously written off <sup>(a)</sup>	–	–	–	–	44,411
Amounts previously omitted from the balance <sup>(b)</sup>	–	–	–	–	17,204
Overpayments recorded for recovery	39,367	56,967	47,261	45,219	50,527
<i>Less</i>					
Overpayments recorded in prior years cancelled	(381)	(693)	(1,826)	(129)	(1,400)
Net amounts written off as irrecoverable	<u>(6,736)</u>	<u>(6,396)</u>	<u>(10,217)</u>	<u>(4,259)</u>	<u>(4,328)</u>
Net amount recoverable	102,871	135,831	151,211	172,081	255,954
Cash recoveries and sums withheld	(16,918)	(19,838)	(19,961)	(22,541)	(23,884)
<b>Overpayments not disposed of at 31 December</b>	<b>85,953</b>	<b>115,993</b>	<b>131,250</b>	<b>149,540</b>	<b>232,070</b>

<sup>(a)</sup> The €44m consists of amounts previously written off for accounting purposes, now identified as potentially recoverable.

<sup>(b)</sup> The €17m consists of previously unrecorded overpayments in prior years now considered potentially recoverable.

Of the €232.07m overpayments outstanding at 31 December 2007 - €31.30m dates from 2007; €26.06m from 2006; €27.11m from 2005 and €147.60m from earlier years.

**Table 39 Cash Recoveries and Sums Withheld**

	2003 €000	2004 €000	2005 €000	2006 €000	2007 €000
Sums recovered in cash	10,397	11,506	11,246	12,032	12,632
Sums withheld from current entitlements	6,521	8,332	8,715	10,509	11,252
<b>Total</b>	<b>16,918</b>	<b>19,838</b>	<b>19,961</b>	<b>22,541</b>	<b>23,884</b>

## 12.2 Prosecutions

Cases involving abuse of the system are considered with a view to taking legal proceedings. Prosecutions are taken against employers who fail to carry out their statutory obligations and persons who defraud the social welfare payments system. Prosecutions can either be by summary or indictment proceedings. Civil proceedings are also taken to facilitate the recovery of scheme overpayments or the collection of PRSI arrears. Such cases are only taken where there is an expectation that the debtor has sufficient means to discharge the debt.

During 2007, 357 criminal cases (2006 - 348 cases) were forwarded to the Chief State Solicitor's Office (CSSO) for prosecution, the details of which are shown in Table 40. 44 cases were not deemed suitable for prosecution (2006 - 45 cases) due to the elapse of time since the offence was committed.

**Table 40 Criminal cases forwarded to the CSSO**

	2007	2006
Jobseeker's Allowance <sup>(a)</sup>	184	169
Jobseeker's Benefit <sup>(b)</sup>	124	113
Illness Benefit <sup>(c)</sup>	9	20
Disability Allowance	5	0
One Parent Family Payment	8	16
Other Schemes <sup>(d)</sup>	7	7
Offences Committed by Employers	13	21
Obstruction of inspectors	7	2
<b>Total</b>	<b>357</b>	<b>348</b>

<sup>(a)</sup> Unemployment Assistance was renamed Jobseeker's Allowance from October 2006.

<sup>(b)</sup> Unemployment Benefit was renamed Jobseeker's Benefit from October 2006.

<sup>(c)</sup> Disability Benefit was renamed Illness Benefit from October 2006.

<sup>(d)</sup> Includes 4 cases involving persons using PPS numbers other than their own. (2006 - 6 cases) In addition there were a further 10 cases of misuse of PPS numbers (9 Jobseeker's Allowance and 1 Disability Allowance) where the person was concurrently claiming a welfare payment usually using his/her PPS number while working under a different PPS number. These cases are included in the relevant scheme figure numbers.

A total of 222 criminal prosecutions (2006 – 256 prosecutions) involving social welfare recipients were brought to court in 2007. In these cases the total amount of overpayments of persons who attempted to or obtained welfare payments fraudulently was €1,597,688 (2006 - €1,524,435). The results of these 222 court cases and the penalties imposed are given in Table 41.

At the end of 2007, the CSSO and local state solicitors had 882 criminal cases on hands at various stages of the prosecution process.

**Table 41 Results of Criminal Court Cases involving Social Welfare Recipients**

	Jobseekers Allowance	Jobseekers Benefit	Illness Benefit	One Parent Family Payments	Other <sup>(a)</sup>	Total
Fined <sup>(b)</sup>	53	39	6	5	4	107
Community Service	4	2	0	1	0	7
Imprisoned	7	3	0	1	1	12
Probation Act	19	25	6	1	0	51
Suspended Sentence	11	7	1	2	1	22
Struck-out	3	4	0	2	1	10
Bound to the Peace	3	1	0	0	0	4
Liberty to re-enter	1	6	0	0	0	7
Withdrawn	0	0	1	0	1	2
<b>Total</b>	<b>101</b>	<b>87</b>	<b>14</b>	<b>12</b>	<b>8</b>	<b>222</b>

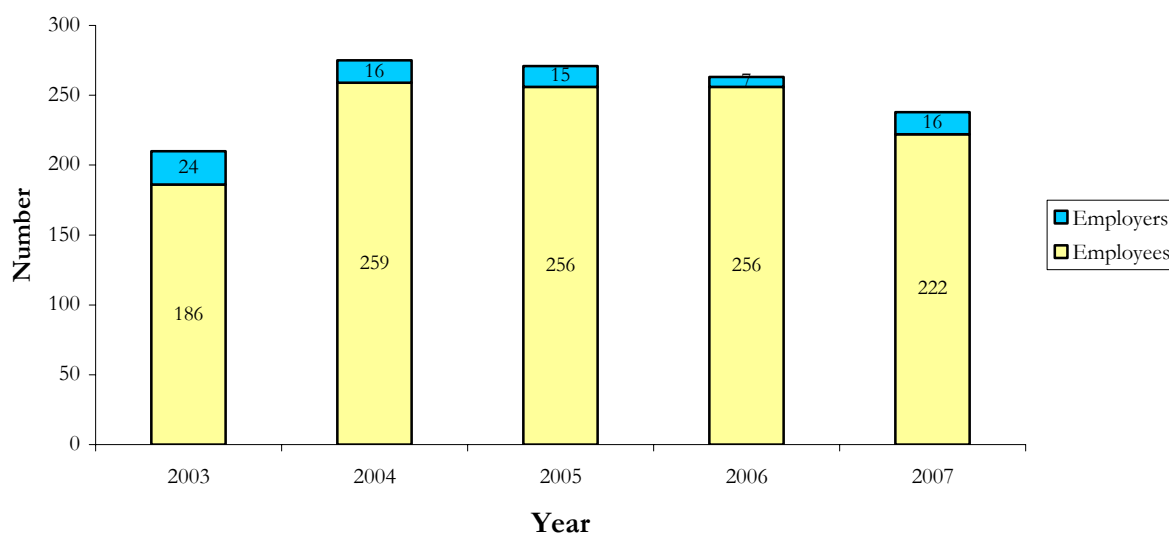
(a) Other 8: Carers Allowance 1, Widow's Contributory Pension 1 and misuse of PPS numbers 6.

(b) Fines to the value of €88,750 were imposed by the courts. Three who received suspended prison sentences were also fined. (€72,321 in 2006 in 99 cases).

Prosecutions of sixteen cases involving employers (2006 – seven employers) were also finalised with ten being fined,<sup>39</sup> four struck out and two given the benefit of the Probation Act.

The number of prosecutions dealt with by the courts since 2003 is summarised in Figure 2.

**Figure 2**



<sup>39</sup> Fines to the value of €8,160 were imposed by the courts (€3,500 in 2006 in six cases).

Between 2003 and 2007 the Department sent a total of 61 scheme and employer civil cases to the CSSO for the pursuit of civil proceedings. In this period, 66 cases (including pre-2003 cases) have been finalised. The breakdown per year is set out in Table 42.

**Table 42 Civil cases sent to the CSSO**

	2003	2004	2005	2006	2007	Total
Sent to CSSO in the year	21	17	13	8	2	61
Finalised in the year	14	12	21	13	6	66

Of the 66 cases finalised, settlement was reached in nine cases without going to court (this involved recovery of €112,002), six were finalised in court (four decrees awarded and two instalment orders granted), 18 cases were not pursued due to the circumstances of the debtor, nine cases were statute barred and 24 made arrangements to repay the debts in instalments. There are 81 cases that have yet to be finalised.

## 12.3 Subvention to the Pensions Board

Personal Retirement Savings Accounts (PRSAs) were introduced by the Pensions (Amendment) Act, 2002. A PRSA is an investment for long-term retirement provision and is a contract between an individual and an authorised provider. The Pensions Board (the Board) supervises the activities of providers and monitors compliance with legislation. The Board is, in the main, self-financing through fees levied on occupational pension schemes and PRSA providers. Annual fees charged to PRSA providers are based on the number of products registered with the Board and assets under management.

Since 2001, the estimate for the Department of Social and Family Affairs (the Department) has made provision for the payment to the Board of a recoverable subvention to finance the regulation of PRSAs. This was designed to cover the development and ongoing regulation costs. In all, a total of €8.1m has been paid by the Department to the Board since 2001, of which €1.1m was paid in 2007.

### Take up of PRSAs

The volume of PRSAs has grown steadily since their introduction. However it has fallen short of the levels envisaged when the scheme was initiated. The take up over the period 2003 to 2007 is shown in Table 43.

**Table 43 PRSAs 2003 to 2007**

Year	Number of PRSAs at Year End
2003	19,022
2004	46,257
2005	68,257
2006	95,045
2007	130,709

The amounts levied by the Board in respect of PRSA supervision to the end of 2007 amounted to a total of €1.7m.

## Pensions Board Annual Accounts Information

Over the period 2001 to 2007 the Board have accumulated considerable reserves. Details of its annual surplus, year end bank balance and revenue reserve for that period are shown in Table 44.

**Table 44 Pensions Board Financial Information 2001-2007**

Year	Surplus €	Year End Bank Balance €	Revenue Reserve €
2001	(236,311)	(254,586)	719,911
2002	418,289	534,893	1,078,662
2003	1,470,775	1,674,551	2,499,437
2004	1,405,684	3,297,861	3,905,121
2005	861,410	4,296,500	4,766,531
2006	965,004	5,204,969	5,731,535
2007	745,298	5,856,314	6,476,833

## Write Off of Amounts Paid

In 2007, the Department sought sanction from the Department of Finance to write off the entire amount, €8.1m, of the recoverable subvention paid. The write off was sanctioned by the Department of Finance in January 2008 and is noted in the Appropriation Account.

### Audit Concern

Taking account of the accumulated reserves I queried the decision to write off the recoverable subvention. I also sought assurance that the Department's monitoring of the Boards fee structures was adequate to ensure that excess levies were not imposed.

## Response of Accounting Officer

In relation to the PRSA subvention, the Accounting Officer stated that, given the manner in which the Board is financed, the introduction of some type of temporary subvention was appropriate to cover the development and regulatory costs of PRSAs supervision until such time as an adequate fee base was created. However, the numbers investing in PRSAs had not grown at a rate that would generate sufficient fee income to cover the cost of this activity within any kind of reasonable timescale. It had been envisaged when the subvention was introduced that any refund would only be made from the excess, if any, of fees paid to the Board by PRSA providers. At present the accumulated PRSA fee income of €1.7m is still a long way short of covering ongoing PRSA costs which, in the period 2001 to 2007, amounted to approximately €9.9m. In such circumstances, it was not considered appropriate that the Board should be asked to refund the subvention paid.

In regard to the overall financing of the Board, the Department has reviewed the situation. Its priority is to ensure that the Board was restored to a self-financing basis as soon as possible and, accordingly, it decided with the agreement of the Department of Finance, to discontinue payment of the subvention.

In regard to how the Board had accumulated such a large cash balance and whether it was considered appropriate that the Board should retain it, she informed me that, in deciding on its fee structure, the Board aims to provide a degree of certainty to pension schemes as to their liabilities in the short to medium term. Accordingly, the Board set a fee that initially generated an accumulated surplus followed by a deficit until reserves reach a point where it is considered a fee increase is again required. Normally, the cycle would be expected to run for five years. Fees charged to occupational schemes were last reviewed in 2002 and, in the normal course of events, it would have been expected that the situation would need to be looked at again in 2007. However, the cash balance has remained favourable because the number of new schemes registering with the Board and overall scheme membership had been growing as a result of improved employment conditions throughout the economy and due to a proactive campaign to cleanup the Board's scheme register that had led to the collection of significant arrears.

She further stated that the Board, through its Finance and Audit Sub-Committee, reviews its financing on a regular basis. It was currently in the process of examining the fee structure and obviously, cash balances built up in recent years will be considered as part of that review. On an ongoing basis the Board closely monitors its requirements as part of its budgetary process. The current cash balance is an important consideration in any such examination and it is projected that it will, in the short-term, be progressively reduced. She informed me that the Department is represented on the Board itself and on its Finance and Audit Committee. She was satisfied that this representation ensures that the Department is aware of issues of concern that arise from time to time. The question of cash balances has been the subject of discussions and has informed the Department's attitude to arrangements in relation to fees and the financing of major policy projects. The Board had yet to submit its proposals to the Department in

respect of its future financing arrangements. Any such proposals would take account of a number of factors including

- the loss of the PRSA subvention
- the results of an application to the Department for increased staffing on foot of a review of its regulatory approach and activities undertaken
- the cash balances held by the Board.

### **Conclusion**

Due to a lower than anticipated take-up of PRSAs the Department has had to subvent the supervisory facilities of the Pensions Board to the extent of €8.1m in the last five years. At the same time, the Board had considerable reserves. A more regular review of the fee structures of the Board is warranted with a view to establishing the contributions from each part of the pension industry at the optimum level taking account of supervision resource demands.



## Chapter 13

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Department of Health and Children

## 13.1 Irish Blindcraft

The Board for the Employment of the Blind (trading as Irish Blindcraft) was established by the Department of Social and Family Affairs in 1957 as a voluntary association of individuals operating a private trust for the benefit of blind persons under powers conferred by the Blind Persons Act, 1920. It has operated under the aegis of the Department of Health and Children (the Department) since April 1972, receiving annual grants towards the deficit on its operations. By 2001 its annual deficits were of the order of €1m.

In June 2003 the Prospectus Report<sup>40</sup> had recommended that Irish Blindcraft be disbanded. In early 2004, the Minister for Health and Children appointed a Board for the period to 31 December 2007 with the remit to disband Irish Blindcraft and to seek alternative arrangements for the staff. A new Board was appointed by the Minister on 1 January 2008 for the period to 30 June 2009. The Minister had, in June 2007, appointed Trustees of Irish Blindcraft for a term of office to 30 June 2009.

Irish Blindcraft owns a property in Goldenbridge, approximately 3.2 kilometres from Dublin city centre. In December 2007 its sale value was estimated at between €5.0m and €5.5m.

In 2007 the Department paid €3.75m to Irish Blindcraft from Subhead F.1 to enable redundancy payments to be made to its former employees. Irish Blindcraft repaid the Department from the proceeds of a commercial loan guaranteed by the Minister.

The gross cost of the redundancy scheme was €4.68m comprising €4.54m for 31 staff<sup>41</sup> who did not opt for redeployment within the health sector and €0.14m for five staff who opted for redeployment.

### Bank Loan

The loan was for an amount up to €5.2m and was negotiated with Irish Blindcraft's existing bankers. No quotes were requested or received from other banks. Irish Blindcraft drew down €3.75m in December 2007 to repay the temporary funding supplied by the Department. A further €0.52m was drawn down in May 2008 to meet outstanding tax liabilities.

The liquidation of the loan is dependent upon the realisation of the value of the property. Consequently, no repayments have been made to date. The interest rate on the original loan was 5.84%. Up to June 2008 the interest accrued on the loan was €89,600. The total amount due to the bank stood at €4.364m at that date.

The Minister for Health and Children gave an undertaking to the bank, which holds the title deeds of the Goldenbridge property, that the Department would fund any shortfall between the proceeds from the sale of the premises and the loan plus accrued interest.

Members of the Board also received an indemnity from the Minister against any personal losses that might arise in the event of any civil proceeding taken against the Board in the discharge of the sale of property, the exit package or the loan.

### Legal Capacity of Board and Associated Trustees

There have been some doubts as to whether the Minister for Social and Family Affairs or the Minister for Health and Children has the legal capacity to appoint Board members. These were raised in legal

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<sup>40</sup> *Audit of Structures and Functions in the Health System.*

<sup>41</sup> Includes two deceased members of staff.

correspondence as far back as 1998. The concern was that the Board should have been appointed by the Minister for Social and Family Affairs and consequently might be acting *ultra vires* and any decisions made by it could be open to challenge. The issues were never fully clarified in the meantime. Legal advice also indicated that, while the Board owned the assets of Irish Blindcraft and the proceeds of the sale of any assets would be due to the Board, it was the trustees that had power to dispose of the assets with the consent of the Board.

### **Audit Concern**

I was concerned in the light of the foregoing as to whether the arrangements for the wind up of the Board could be brought to a speedy conclusion and the accumulation of interest at a rate in excess of the State borrowing cost minimised.

The Accounting Officer informed me that from the outset, the overarching concerns of the Department had been to wind up Irish Blindcraft which had been operating at a loss while, at the same time ensuring that adequate provision was made for the staff. The sale of the premises was designed to pay the cost of the bank loan which was used to fund the redundancy package. The Accounting Officer also said that on a yearly basis, a substantial subvention of well in excess of €1m has been saved by the Department.

In regard to the legal uncertainties he informed me that a decision was taken at the time not to go through a legislative process as the company was to be wound up. He informed me that the Board and the Trustees of Irish Blindcraft are appointed by the Minister for Health and Children in accordance with its Constitution and Regulations which he understands were last adopted in April 1989. He pointed out that the Board and the Trustees had successfully completed the sale of Irish Blindcraft's premises in Rathmines and the purchase of their current premises at Goldenbridge in 1990. He also informed me that the Board and Trustees will shortly complete the transfer of a strip of ground at the Goldenbridge site, which is the subject of a compulsory purchase order made by the Railway Procurement Agency in connection with the development of the Luas line. In the circumstances, the Accounting Officer concluded that the Board and the Trustees would seem to have the legal capacity to wind up the affairs of the organisation and deal with its property transactions.

### **Audit Conclusion**

The repayment of the commercial loan and the wind up of the affairs of Irish Blindcraft is dependent on the successful finalisation of the sale of its premises. In the meantime, the bridging finance made available from the Vote has been repaid in 2008 out of the proceeds of borrowing guaranteed by the Minister. This borrowing is attracting interest in excess of the cost of Exchequer borrowing. Ultimately, while there is some risk that capacity issues could arise in regard to the Board or the Trustees, and prolong the finalisation of the board's affairs – in that event the capacity risk can be managed in that the matter can be dealt with by legislation.



## Chapter 14

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### Health Service Executive

## 14.1 Change Management in the HSE

The HSE, which was established in 2005, sought to create an integrated health service by combining the management and delivery of health services, previously delivered by the Eastern Regional Health Authority, ten regional health boards and a number of other organisations<sup>42</sup>, within one authority.

Initially, progress on integration was slow. A Chief Executive Officer was not appointed until August 2005 and a settled management structure and team took time to develop. The former Health Board Chief Executive Officers were retained until the middle of 2005 and continued to manage services within the old geographic areas. While this was a practical necessity, it did nothing to advance service integration.

After a new CEO was appointed, the Board set about establishing a new organisational structure and an associated delivery system. Three service delivery directorates were created

- The National Hospitals Office (NHO) which manages acute hospital services in 50 hospitals nationally.
- The Primary, Community and Continuing Care (PCCC) Directorate which manages primary and community services.
- The Population Health Directorate which is responsible for promoting and protecting the health of the population.

In addition, support services such as finance, human resources and ICT services were organised on a national basis.

Notwithstanding the new national reporting lines established by the HSE, many of the administrative and service delivery structures at local level did not change significantly. Thus, for example, budgeting and financial accounting still continued to operate through the former health board systems, since a unified national accounting system was not in place.

In December 2006, the HSE launched a Transformation Programme (2007-2010) with five priorities

- to develop integrated services across all stages of a patient's care journey
- to configure PCCC services so that they deliver optimal and cost-effective results
- to configure hospital services to deliver optimal and cost-effective results
- to implement a model for the prevention and management of chronic illness
- to implement standards-based performance measurement and management throughout the HSE.

### **Audit Concern**

I set out to examine progress under the programme and the steps being implemented to support the change effort.

The Accounting Officer supplied me with a report on the progress achieved up to mid 2008.

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<sup>42</sup> Office for Health Management, Health Board Executive, National Disease Surveillance Centre, GMS (Payments) Board, Health Service Employers Agency, and Comhairle na nOspidéal.

## Service Integration

Many health services are fragmented, disjointed and difficult for patients and service users to access and easily find their way through. Consequently, service integration is needed to provide organised services that are seamlessly connected, so that people who need access to more than one service can move easily through the entire care system. At this point, some work has been undertaken on the development of an integrated care journey for patients accessing health and social care services. This work entailed

- an analysis of one complex care journey - the respiratory journey
- a review of national and international best practice
- an examination of a range of reports commissioned on the health service over recent years, including the *Acute Hospital Bed Capacity Review*<sup>43</sup>, *Primary Care Strategy*<sup>44</sup> and the configuration of services in the North East<sup>45</sup>.

This process has informed a draft service delivery model which was presented to the HSE Management Team in December 2007 and described, at a high level, the changes in arrangements, structures and activities that would be required to provide more integrated services.

The model has been used as a basis for consultation with clinicians and managers within the system to determine how the approach to integration envisaged could best be advanced. Following approval from the Board of the HSE and the Department of Health and Children, an Integrated Service Delivery Change Programme was established in June 2008. The aim of this change programme is to implement a single national approach to care, with strengthened local responsibility for service delivery.

Some of the specific organisational changes envisaged in the programme include

- integration of the service delivery components of the different directorates into a single service directorate which would have operational responsibility for all hospital and community based services
- integration of the organisation's current planning functions
- clinical leadership of services.

At area level, clinical and support structures will be modified to reflect these changes. This will involve the appointment of Area Directors who will have operational responsibility and authority to deliver all hospital and community care services and personal and social services in their specific areas.

Three other integration objectives being addressed are

- Integrated discharge planning - a 24 hour, 7 day process for timely and safe discharge of patients from one service area (usually acute hospitals) to another that ensures that patients receive care in the most appropriate setting.
- Establishment of an information governance framework that will enable the sharing of appropriate patient information between different parts of the service.
- Piloting a national client index which will allow service providers link the available information to the patient/client.

The implementation of the Integrated Service Delivery Change Programme is scheduled to take place over the next 18 months. The Accounting Officer has stated that in the meantime integration of services was

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<sup>43</sup> *Acute Hospital Bed Capacity Review* (HSE) PA Consulting 2007

<sup>44</sup> *Primary Care Strategy* (Department of Health and Children) 2001

<sup>45</sup> *An action plan for services in the North East* (HSE) Teamwork Management Services 2006

beginning to show tangible benefits with the functioning of some Primary Care Teams and community based supports for people discharged from hospital.

### **Configuration of Primary, Community and Continuing Care Services**

There is inappropriate use and over-reliance on acute hospital services which often creates inconvenience for patients and clients and unnecessarily overloads the hospitals. The Health Strategy 2001<sup>46</sup> had set out a new direction for primary care as the central focus of the delivery of health and personal social services in Ireland. It envisaged a team-based approach to service provision, aimed at providing a significant range of client services as close as possible to people's homes, while maintaining high quality and safety standards.

The aim is to address local delivery through multidisciplinary Primary Care Teams (PCTs) and local diagnostic services. Each team will serve a population of approximately 8,000 people. Typically, a team will comprise GPs, practice nurses, public health nurses, occupational therapists, physiotherapists and home help personnel. Depending on local need, other disciplines such as speech and language therapists, psychologists, social workers, community welfare officers and dieticians may also be included.

A wider network of health and social care professionals will be formed who will work with these PCTs. The new teams and networks will facilitate structured approaches to chronic disease management, multidisciplinary working and integration between primary and secondary healthcare and acute hospital services.

#### **Primary and Secondary Healthcare**

Primary care is the medical care a patient receives upon first contact with the healthcare system, before referral elsewhere in the system. It is also an approach to care that includes a range of services designed to keep people well, from promotion of health and screening for disease to assessment, diagnosis, treatment and rehabilitation as well as personal social services.

Secondary care is a service provided by medical specialists who generally do not have first contact with patients. Many, but not all of these specialists are hospital based. An objective of the PCT model is to give the GP in the primary care setting direct links to the specialist services that are currently only accessible when the patient enters the acute hospital system.

In regard to the progress to date the Accounting Officer stated that a pilot project involving ten PCTs was initiated in 2003. By the end of December 2007, there were 40 PCTs in development, including the original ten. The target set for 2008 is to have 97 PCTs operational and to progress the development of a further 100 PCTs. The eventual aim is to have a total of 530 PCTs and 134 Health and Social Care Networks.

### **Staffing the Teams**

The development and roll out of PCTs and Health and Social Care Networks requires significant reconfiguration of staff within existing primary, community and continuing care services. So far, approximately 630 allied health professionals have been assigned to PCTs. Almost all of these staff were already working in the community, delivering primary care services but not on a formal team basis. In addition, there are over 240 GPs participating in clinical meetings in the PCTs under development, together with a number of Practice Nurses and other GP practice resources.

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<sup>46</sup> *National Health Strategy - Quality and Fairness* (Department of Health and Children) 2001



In the case of specialist services which have traditionally been provided on a care group basis<sup>47</sup>, transition plans are currently being developed to assist with the reconfiguration of care group specialist staff to PCTs and Networks. Work has commenced with the National Care Group for Mental Health Services on the required principles for reconfiguration of staff.

## Location of Teams

PCTs to be effective need to be located together in primary care centres that will accommodate multi-disciplinary staff, GPs and contracted service providers.

In regard to their provision the Accounting Officer informed me that some of these centres will be in premises owned or leased by the HSE and a number of these are at an advanced stage of development. It is intended that other facilities will be developed privately. In this respect, the HSE sought submissions in late 2007 from individuals or companies who are developing or are planning to develop health facilities in 131 locations with the aim of facilitating the delivery of primary health care in conjunction with local GPs. It has short-listed the applications received, placing an emphasis on GPs being located in the primary care centres. The HSE is initially progressing the 20 highest priority sites and, at this point, the HSE Board has authorised the leasing of four primary care centres. It is expected that agreement to lease a total of 40 centres will be reached by the end of the year.

As well as progressing the remainder of the submissions, the HSE intends advertising for further submissions from individuals or companies to develop health centres in other locations.

## Hospital Services Configuration

The current configuration of acute hospitals services evolved during the former health board period. With the establishment of the HSE there was an opportunity to look strategically at the configuration and development of the country's hospitals. The aim is to provide a full range of services that fit appropriately into the integrated care model and are evidence-based, efficiently run and quality assured. The intention is to encourage and support the move to advanced primary care delivery and chronic illness prevention and care.

This reconfiguration aims to ensure the provision, within each hospital network<sup>48</sup>, of comprehensive 24/7 medical and surgical services and planned day-case activity and diagnostics.

- The majority of patients, those who require only a routine level of urgent or planned care, will be treated at home or in a centre as close to home as possible.
- The minority of patients, who require emergency or more complex planned care, will be treated in regional or national centres of excellence, where all the relevant clinical expertise is concentrated so that consultant-led, high quality care is available around the clock.

Due to the nature and scale of the change envisaged it was necessary to undertake a number of independent reviews at the scoping stage of the project lifecycle.

The direction of future hospital services described above has guided the work of these reviews. An Acute Hospital Bed Capacity Review<sup>49</sup> has been completed and its findings are informing the ongoing work on improving hospital services. A number of other hospital service reviews have been completed (South and

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<sup>47</sup> Mental Health, Older People, Disabilities, Children Services, Palliative Care and Social Inclusion.

<sup>48</sup> For this purpose, a network means a group of hospitals in a geographic area which between them are capable of providing a full range of services other than national specialist services.

<sup>49</sup> *Acute Hospital Bed Capacity Review* (HSE) PA Consulting 2007.

Mid West) or are nearing completion. A detailed National Review of Adult Critical Care<sup>50</sup> services in Ireland commenced in May and will be completed in early September 2008. This review is considered a critical component of the Transformation Programme. Overall, these reviews will provide guidance on governance arrangements within hospitals and between hospitals.

### Specific Hospital Services

Specific service transformation projects in the areas of maternity services and paediatrics are also planned.

In the area of maternity services in the Greater Dublin Area a review has been undertaken and the final report<sup>51</sup> is now being considered by the HSE to determine how its recommendations might best be progressed.

In the area of paediatrics, a decision has been taken to establish a new National Paediatric Hospital. The Development Board for the new Hospital is currently progressing the appointment of a project team, CEO and Clinical Director.

A number of additional paediatric reviews have also been undertaken

- A report on the provision of paediatric neurosurgery<sup>52</sup> services has been completed. This is currently being considered by the HSE.
- A review of the requirement for the development of paediatric critical care facilities and services in the Dublin children's hospitals<sup>53</sup> between now and the completion of the National Paediatric Hospital has been undertaken and is currently being considered by the HSE.
- A new model of care as defined by international best practice for the National Paediatric Hospital is being developed.

### Reconfiguration of Hospital Services in the North East

Initially, as part of integrated service implementation the hospital services in the North East were chosen for reconfiguration. Based on a report on the development of services in the area<sup>54</sup>, a plan of the detailed changes envisaged was drawn up in 2007. While the longer-term plan for the North East entails the establishment of a single regional hospital, the current Transformation Programme (2007-2010) is focusing on the work required to centralise acute and complex care from five to two acute hospitals within the period of the Programme. A detailed planning exercise for the first phase of the configuration of services in the North East has been completed and a draft interim report was produced and distributed to key stakeholders in April for consideration. This report focused primarily on the planned changes in the Cavan/Monaghan hospital group.

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<sup>50</sup> *Independent Review of Critical Care Services* (HSE) Prospectus (underway).

<sup>51</sup> Work in progress. *Independent Review of Maternity and gynaecological services in the Greater Dublin Area*. (HSE) KPMG 2008.

<sup>52</sup> *Review of Paediatric Neurosurgery Services* (HSE) Howarth Consulting (unpublished).

<sup>53</sup> *Review of the immediate requirement for the development of paediatric critical care facilities and services in the Dublin children's hospitals* (HSE) DNV (unpublished).

<sup>54</sup> *An action plan for services in the North East* (HSE) Teamwork Management Services 2006.

**Acute and Complex Care**

Acute care is medical or surgical treatment of relatively short duration, usually in a hospital, for patients having an episode of illness or injury. Complex care refers to the specialist care provided to patients with multiple clinically advanced illnesses who may require periods of acute care as well as ongoing managed care, for example a patient with chronic obstructive pulmonary disease and cancer.

The timelines for delivering these changes are tentative, but implementation is anticipated during the period July to December 2008. A number of critical dependencies will need to be managed as part of the overall project management including putting appropriate community support in place, enhancing the ambulance service, developing the infrastructure in Drogheda and resolving human resources/industrial relations issues.

Staged Interim Reports will provide additional planning details for all the remaining service changes. A further planned Interim Report was scheduled for presentation to the North East Regional Partnership Forum by the end of August 2008. In an effort to ensure full clinical engagement in the process, nine Clinical Networks have been established in the North East. Their responsibilities are to shape and validate the changes outlined above. Interim Joint Acute Hospitals and PCCC governance structures for delivering the change programme in the North East are currently under review in order to progress local delivery of the planned service changes.

**Population Health and Chronic Illness Prevention**

The HSE has completed the first stage of a national population health strategy, which sets out an approach to promoting and protecting health. Work is underway on defining the priorities for implementation, actions to be undertaken and on setting up a process for implementation.

A key aspect of the strategy is chronic illness prevention and management. This is being targeted because chronic illness accounts for two thirds of medical emergencies and 5% of inpatients with chronic illness use 40% of all bed days. As the population gets older, chronic illness becomes a more significant factor when planning health services. During 2008 a chronic illness framework was developed by the HSE which sets out, at a high level, an overall approach to dealing with the challenges of chronic illness including prevention, diagnosis, early intervention and patient self-management. This framework will be aligned with the Department of Health and Children Policy Framework for the Management of Chronic Diseases<sup>55</sup>.

Other actions being taken include

- the development of a five-year Action Plan on Obesity
- the commissioning of an Infant Feeding Survey, as part of an action plan on breastfeeding.

One of the other HSE priorities for protecting health is the control and management of healthcare associated infection. This is being addressed through the establishment of a National Steering Committee and a national infection control action plan.

Local infection action plans are also being developed. Some 52 infection control posts have been funded, including consultant microbiologist, antibiotic pharmacists, surveillance scientists and infection control nurses. Eight regional infection control committees have been set up and an infection control e-learning module has been developed for staff. Guidelines are in place for hospital staff, aimed at keeping patients

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<sup>55</sup> *Tackling Chronic Disease – A Policy Framework for the Management of Chronic Diseases* (2008).

and their families fully informed about MRSA. A GP education programme on the prescribing of antibiotics and related drugs has also been developed and is being rolled out to GPs.

## Performance Management

A performance measurement system has been developed at corporate level and is operational. This, together with a service and business planning process and associated monitoring arrangements is part of the routine business of the organisation.

A HealthStat system which provides detailed performance measurement down to individual clinical level is now operational for hospitals and the project will be extended to the PCCC area. This system will be central to establishing a performance management culture in the HSE.

## Managing the Change

### Audit Concern

Implementing a fundamental change programme on the scale envisaged necessitates a complex dynamic process for engagement, implementation and feedback. I asked the Accounting Officer about how the change process was being managed particularly in relation to risk management, the sequencing of projects and their piloting, and the arrangements for communication and engagement with stakeholders.

The Accounting Officer informed me that the HSE Management Team acts as the Steering Group for the overall change programme. Individual members of this Team are the sponsors for particular sub-programmes and are supported by Programme Managers who meet together as a group. This group reviews cross-programme issues, takes cross-programme decisions and identifies issues to be raised at the HSE Management Team level.

In regard to overall governance a corporate governance framework has been developed and approved by the Minister for Health and Children and is now moving to the implementation stage. Also, a national quality and risk framework has been developed and is being rolled out across the HSE as part of operational management structures.

An approach to managing change across the HSE has also been developed. This approach<sup>56</sup> is designed to provide staff across the organisation with the information and tools for managing change.

The sequence in which projects are progressed is considered as part of the project planning process and reviewed as projects are implemented. Dependencies between projects are identified at planning stage and managed directly within individual programmes. Factors that are taken into account in determining the order in which change will take place include budgetary constraints, availability of physical infrastructure on which to develop services and organisational capability to implement the change.

The existing management structures have quality and risk management processes in place. Risk assessment by project is also carried out and risk management strategies are developed to assist in the management of their key risks during implementation.

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<sup>56</sup> *Improving our Services - HSE Change Framework* (HSE) 2008.

Successful change will involve alterations in the culture of the organisation and evolving new ways for staff to interact in pursuit of enhanced performance. In the area of culture, work on developing a set of organisational values for the HSE has been finalised.

As regards piloting the changes, the first integrated service implementation is being undertaken as part of the North East programme. The lessons learned from this will determine how the HSE implements its subsequent change strategy in the Mid West and South. In addition, wider implementation of the PCT structures will be built on the outcomes and lessons learned from the HSE's experience with the ten initial pilot sites.

### **Communication and Engagement with Stakeholders**

The launch of the Transformation Programme was accompanied by a structured communication process where managers throughout the organisation held briefing sessions for staff where the vision and objectives of the Transformation Programme were communicated. Updates on the Transformation Programme's progress are also given as part of the CEO's monthly communication letter to staff. Management Team updates are also given on a monthly basis.

There was extensive clinical and staff engagement as part of the process of developing the Integrated Service Model. Other programmes have also undertaken specific engagement programmes with staff through the partnership process.

A HSE Leadership Development Programme has commenced and is being delivered to senior managers and clinicians across the HSE during 2008 and 2009. A staff engagement survey, which will provide the baseline for developing and implementing a staff engagement strategy has been planned, commissioned and designed. Implementation of the survey was delayed until the new National Director for Human Resources (HR) was in position and has had the opportunity to assess the proposed activity. In the area of teamwork, a Team Development Programme was developed during 2007 and is being used to support the development of PCTs across the HSE.

Expert Advisory Groups have been convened in the areas of Diabetes, Mental Health, Children and Older Persons. These groups have a strong clinical membership and now inform and advise on service development across the HSE. Other such groups are planned.

In the area of stakeholder involvement, it is recognised that service users have an important part to play in the development and improvement of health services. A framework for the Involvement of Service Users and Communities has been adopted and is currently being introduced throughout the organisation. In addition, a Communications Strategy and implementation plan has been completed and a National Director of Communications is to be appointed.

### **Constraints and Challenges**

One of the principal challenges in implementing the Transformation Programme remains how to effectively integrate services. The Integrated Service Delivery Change Programme to be conducted over the next 18 months is intended to address the organisational constraints to integration.

Budgetary constraints facing the HSE in 2008 are having an impact on the Transformation Programme in terms of what can realistically be achieved within the timeframes. Each Programme is currently assessing its objectives in the light of these constraints. A sub group of the Management Team has been established to oversee this process. This exercise is expected to be completed in the coming months.

The reconfiguration of both hospital services and those delivered by way of primary, community and continuing care requires a significant realignment of staff resources. Achieving this rapidly in an

environment where there are strict employment controls is a challenge. This process is, however, being managed both at programme level and through routine employment monitoring processes.

## Supporting the Change

### Audit Concern

The HSE's capacity to implement and manage the change depends on the quality of support from key functions within its administrative infrastructure. I asked the Accounting Officer what steps are being taken to ensure that the change will be supported by functions such as finance, personnel and information.

### Finance and Procurement

The Accounting Officer informed me that in the area of budgeting it was recognised that the historical, geographically based method of funding services has not always led to an equitable distribution of resources. To address this, the HSE intends to move from the present funding model based around service units to a model based on funding the entire continuum of care across organisational boundaries.

Work has been completed on developing the governing principles for such an approach. These principles will guide the next stage of the model's development by balancing resource allocation requirements that are driven by population needs with those that relate to the other elements such as national specialist services, capacity and infrastructural development, nursing and medical training and education. In the next stage of the project, demographic and other factors such as the needs of specific population groupings (*e.g.* mental health, disabilities *etc.*) will be charted.

The development and roll out of the new model will be undertaken between now and 2010 in parallel with the integrated care structures being put in place. In the meantime, an extension of the current Casemix reimbursement in the acute sector should drive further performance improvement. There will also be a focus on targeting new revenue and capital funds at initiatives designed to shift services to a community setting.

A business case for implementing a national financial and procurement system to replace the multiple legacy systems in operation within predecessor agencies has been completed and is with the supervising Departments for approval. A value for money function has been established within the national finance directorate as an ongoing operational function. This is targeting €300m in savings in 2008. The revised procurement approach should enable the HSE to benefit from economies of scale in procurement. Meanwhile options within the current structures and with current and projected resources are being considered, including a more focused approach to the sourcing and selection of suppliers and product categories.

### Human Resources

In the area of human resource development the Accounting Officer informed me that

- A draft HR Strategy has been completed and will be reviewed for sign off by September 2008.
- A new team and individual Performance Planning and Review system was developed and launched in January 2008 and will be rolled out across the HSE during 2008.
- Following on from the review of the PPARS system undertaken by the HSE in 2006, a revised approach to the implementation of critical HR information management systems has been submitted to the Department of Health and Children for approval.

- A recruitment shared services function has been established.
- A project has been established to develop shared services for superannuation, payroll and personnel administration.

He added that if optimal efficiency and effectiveness in human resource management is to be achieved, the continued development of HR shared services is highly dependent on implementing a single HR management system.

## **Information and Communications Technology (ICT)**

The Accounting Officer informed me that a national ICT strategy is currently being prepared. It is expected that the strategy will be presented to the Board of the HSE for approval before the end of 2008. It will guide the development of ICT services and systems for the HSE in a way that will support co-ordinated national developments rather than the multiple disparate systems operated in the former health boards.

A National ICT Steering Group was established in 2007 with an independent chair and external experts to oversee the development and implementation of ICT projects. A formal project management methodology has been adopted and deployed across all ICT projects.

In relation to ICT infrastructure, priority projects have been established (including a single data network, national directory services and data centre consolidation as the basic building blocks for storing, managing and sharing data and information across a single organisation) and it is expected that the related tender processes will be completed by the end of 2008.

The priority projects in terms of clinical systems are a national integrated medical imaging system (NIMIS) and a laboratory information management system (LIMS). As regards the NIMIS project, the procurement documentation is currently being prepared. Consequently, the project is at a relatively early stage. Decisions have yet to be made regarding the sequence of rollout of the new imaging system to hospitals. A process of evaluating the readiness of sites for the new system is underway. Final decisions on the rollout sequence will be made later in 2008. The first sites are expected to reach go-live stage in 2009 with the last sites live by 2011.

The LIMS proposal is currently being assessed by the Department of Finance.

## **Audit Conclusions**

The foregoing review sets out the key elements of the envisaged change and the progress to date.

The main focus of the drive – service integration, while at the same time reshaping primary, community and continuing care and reconfiguring hospital services – involves a set of changes that are both interdependent and significant in scale. Piloting them will be important both for organisational learning and to build confidence that they can yield the desired benefits.

Change management is a multi-year undertaking. The HSE faces a considerable challenge in achieving transformation within and between its main service delivery channels. Much of the work to date could be characterised as review and planning.

While acknowledging that organisational change is dynamic and emergent, if the transformation envisaged is to be successfully achieved by the end of 2010 the HSE will need to ensure that milestones and deadlines are established, monitored and adjusted in the light of emergent factors and ongoing learning.

The changes proposed will necessarily involve adjustments in the routines of staff and contractors and changes in the way in which patients and clients access health and social care. They will also require reallocations of resources. While a considerable amount has been done to explain the consequences of change to staff and to their engagement with the change, significant further efforts may be needed to communicate the potential benefits to other stakeholders, particularly local communities.



## 14.2 Budget Management

The total original gross Vote for the HSE for 2007 was €13.98 billion, made up of

- €13.07 billion allocated for current services and administration,
- €0.55 billion allocated for capital purposes, and
- €0.36 billion in respect of the cost of the Long-Term Charges Repayments Scheme<sup>57</sup>.

In 2007, the HSE's net additional spending on current services and administration exceeded the provision in the original Estimates by €245m. This net additional spending is calculated after taking account of savings generated from the delayed start-up of new services for which provision had been made in the financial allocation of the year<sup>58</sup>. Under the supplementary estimates process, provision was made for an increase in most subheads from which day-to-day expenditure is met, with an offset of savings from a number of other subheads. The largest saving transferred in this way was an amount of approximately €216m from the Long-Term Charges Repayments Scheme subhead. The provision in respect of the Long-Term Charges Repayments Scheme was originally intended to be applied only for that purpose.

### **Audit Concern**

As the net overspend of €245m and the deferral of new services for which €208m had been provided raise concerns as to budget management and control in the HSE, I reviewed the budget process in the course of my 2007 audit. In particular, I set out to examine the HSE's budgetary and reporting mechanisms and the factors which gave rise to the overrun.

The main focus of my review was on hospital services<sup>59</sup>. It comprised an examination of

- the most significant budget overruns
- a sample of correspondence between managers and budget holders
- the files of the Department of Health and Children (the Department) in relation to the setting of the 2007 Estimate.

Interviews were conducted with HSE managers and budget holders at different levels of the organisation.

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<sup>57</sup> The purpose of this scheme is to reimburse people who were required to pay charges in respect of public nursing home accommodation at a time when there was no correct legal basis for such charges.

<sup>58</sup> Their postponement contributed an estimated €208m in savings in the year.

<sup>59</sup> The overrun on schemes where there was statutory entitlement to services was €177m which represents under 40% of the gross overrun.

## **Cost Pressures on Health Services**

As with health services worldwide, there are considerable cost pressures on the Irish health system. These derive from

- demography
- changing health and social status of the population
- the level and management of chronic illness
- changing health technology
- changing legislation and increasing user expectation.

## **Service Planning and Budgeting**

Under the Health Act, 2004, the HSE is required to prepare a National Service Plan (NSP) for each financial year.

The NSP attempts to balance the requirements of service delivery and patient care within the determined financial allocation. Once adopted by the Board of the HSE, the NSP must then be submitted to the Minister for Health and Children for approval. While the Act stipulates that this should be done no later than 21 days after the publication of the Estimates, the Minister, using powers set out in the Health Act, extended the time for submission of the NSP 2007 to 17 January 2007 in order to allow the Board time to take account of the additional funding and measures which the Government had announced in the Budget. The 2007 NSP, as finalised, outlined the agreed level of health and personal social services to be provided by the HSE for 2007 within the allocation voted by Dáil Éireann and in accordance with Government policy on employment control within the health service. It was approved on 7 February 2007.

In practice, the HSE's financial allocation is determined by taking the core budget (*i.e.* excluding non-recurring items) for the previous year and making a number of technical adjustments for pay increases, non-pay inflation and the current-year cost of developments commenced in the previous year. The cost of proposed new services in the current year is added to this.

Ultimately, a final Estimate, which forms the basis for the appropriation by Dáil Éireann, is arrived at following negotiations between the Minister for Health and Children, the Minister for Finance and their respective officials and is agreed by Government.

## **Allocating the Budget**

When the NSP has received Ministerial approval, the Finance Directorate of the HSE determines the budget allocations for individual hospitals and local health offices. In practice, the starting point is a roll-forward of the previous year's closing budget (adjusted down by once-off items specific to that year) with additions for known new developments specific to the current year. These baseline allocations are then adjusted for pay awards, increments, non-pay inflation and other current year cost increases.

## **Monitoring the Budget**

If the budget is to be managed to target, it is necessary that the outturn at local level be captured and acted upon. The HSE has a standardised Performance Monitoring Framework in place which is intended to allow all levels of the organisation to monitor the achievement of the objectives in the NSP, taking account of allocated resources and approved employment levels and to take the necessary corrective

action, as appropriate. A monthly performance monitoring report (PMR) is produced which gives a wide range of performance data both at national level and for the various pillars and units of the organisation. This report also contains details of related financial performance, showing performance against budget and a comparison with the previous year.

Although both the financial and non-financial data are contained in a single report (and variances, both in relation to budget and service activities are reported) little or no attempt is made to explain budget variances, to relate them to changes in the level of activity or to indicate what specific plans are in place by local management to bring their units back on budget.

Interpreting the reports is hampered by the treatment of minor capital expenditure in the PMR. This expenditure is reported as current expenditure in the PMR even though in due course it will be met out of the capital budget. It is not clear when examining the budget performance of an individual unit whether, and to what extent, a reported budget overrun is a current overrun or is attributable to minor capital expenditure.

Despite these deficiencies, the PMR, which is reviewed by the Management Team and the Board, contains enough information to flag clearly the units where there are budgetary problems.

The Accounting Officer said that local systems were adequate for managers on the front line and information to effectively manage services was available to them. The HSE consolidates financial results from the accounting systems of 17 predecessor bodies and 39 major voluntary providers of services. It had implemented a Corporate Reporting Solution (CRS) to consolidate all 56 systems each month. However, there was no doubt that there was complexity in providing timely and relevant service-related monthly information for senior managers nationally. The absence of a standardised coding system impacted on the quality of data. The HSE did not have a single integrated budgeting system. A legacy system, used to maintain national budgets, was not linked directly to the ledgers in the financial environment of the HSE. There was an inherent risk that budget setting nationally could be inconsistent with the budgets as reflected in the local ledgers. The HSE had put in place manual interventions to ensure that budgets were reconciled monthly and reflected the national position.

The Accounting Officer acknowledged that there was little connection between activity, headcount and financial data stating that the absence of a national financial system, coupled with the fragmented configuration of the systems inherited from predecessor bodies, presented enormous challenges in the integration of financial and non-financial data. The PMR was designed for Management Team and HSE Board purposes and there were limitations on the volume of detail it could convey in respect of 53 individual hospitals and 32 local health offices. The PMR contained a CEO commentary whose purpose was to highlight and explain the key issues which were arising and the management teams of the National Hospitals Office (NHO) and Primary, Community Continuing Care (PCCC) were structured to manage these issues.

## **Budget Control at Organisational Level**

For 2007, the HSE knew by November 2006 the level of funding available to meet the cost of existing services for the following year. At that point it considered the implications of the funding package available and an assessment prepared for senior management concluded that the funding provided to deliver its existing services was about €341m short of what the HSE had sought and that, as a consequence, it would have to find savings of this amount.

The Accounting Officer confirmed that the HSE recognised that the 2007 estimate fell some €341m short of what was sought, but said that the NSP was framed to deliver services consistent with the budgeted allocation.

Despite its initial assessment of the financial position, the HSE Senior Management Team did not direct any specific action at this point to achieve the savings that were likely to be needed to stay within budget. In rolling out the budget it did warn managers that the budgetary position was tight but, for example, it did not ask for specific plans to achieve quantifiable savings. The Accounting Officer informed me that managers were required to produce business plans to live within budget. He said that in 2007 this automatically involved reduction of costs and, in a number of cases, proposals to limit service. He also stated that the financial position, including management's proposed remedial measures, was communicated to the Department, and onward to the Department of Finance, throughout the year.

He informed me that the HSE Control Group, comprising senior HSE management, reviewed the PMR continuously throughout 2007. The Control Group was aware from February 2007 that HSE expenditure was already over budget and of the likelihood of significant financial difficulties for the HSE Vote if activity and spending continued at the levels then pertaining. As the year progressed, the Control Group grew more concerned about the budgetary position and began to take action to try to stay within target. In April 2007, it decided that financial savings targets should be set for each HSE Directorate and that each Directorate would undertake an impact assessment arising from those targets.

In June 2007, it requested break-even plans to be submitted immediately to facilitate an organisational approach to be taken and to allow the CEO to agree actions going forward.

As the financial situation continued to deteriorate, it prepared a break-even plan in July which was designed to address the €341m shortfall which had first been identified in November 2006. Table 45 sets out the savings that were expected in the course of the break-even plan and the elements of the plan.

**Table 45 Savings Expected by the HSE Break-even Plan July 2007**

	<b>Total €m</b>
Reallocation of Capital Funds to Current Purposes	142.9
VFM/Cost Containment Initiatives	133.7
Service Curtailments	16.5
Use of Primary Care Reimbursement Service Projected Surplus	48.0
<b>Total</b>	<b>341.4</b>

Local management were instructed to begin to implement the actions necessary to achieve the break-even plan targets that included

- reduced staff travel
- reduced overtime
- more consideration to be given to the need to replace absent staff
- delaying new appointments
- delaying capital expenditure.

However, by October 2007, the Control Group noted that the break-even plan was progressing at a slower rate than had been expected. It called for an immediate intensification. These actions did not result in the HSE coming within its budget but the Accounting Officer has indicated that their combined effect was to reduce expenditure by €96m for the year.

The Accounting Officer told me that as well as curtailing existing expenditure, certain developments had to be delayed due to the requirement to achieve financial break-even for the year. This strategy was the subject of correspondence with the Department.

The estimated savings as a result of delaying service developments amounted to €208m. The main areas affected were services for older people (€74m), sundry hospital services (€38m), disability services (€31m), primary care (€22m), mental health services (€22m), other services (€21m).

The Accounting Officer stated that, ultimately, the challenge which is extremely difficult if not impossible for the HSE to fully manage derives from the increasing costs associated with demand-led schemes, which have a statutory basis. As each year progresses the HSE is challenged by the prescribing of new and highly expensive medications especially in the cancer and cardiovascular areas. The number of items prescribed for patients is also increasing at a rapid rate year on year, and this trend will continue as our population over 65 years grows. In addition, the number of medical cards issued can increase substantially above planned levels based on changing national economic circumstances, with each card costing in the order of at least €1,500 per year to the HSE.

### **Views of the Department on Budget Management**

The general views of the Department were outlined in a letter of September 2007. The Accounting Officer pointed out that the Government decides what level of funding should be made available to the HSE each year following consideration by the Minister of Finance of the expenditure proposals submitted by all Ministers across the full range of expenditure areas. In the case of health, the information provided to the Department by the HSE is taken into account, as well as the Minister's priorities in relation to service developments. Once the Vote has been determined, it is a matter for the HSE to develop a national service plan within this budget which reflects these priorities, *i.e.* which sets out how the total resources will be allocated and what will be achieved for the resources. Assuming approval by the Minister for Health and Children, the HSE needs to ensure that its national budget and service plan cascades down through the organisation, e.g. that each hospital and ultimately each service unit has a budget and a set of service objectives which are consistent with the budget.

The Accounting Officer also stated that, given the complexities involved in managing the health services and the obligation on the HSE to provide the most effective services possible within approved resources, some adjustment to service objectives may be required as the year progresses in order to remain within budget. Assuming Ministerial agreement to the overall approach, or to an alternative overall approach including, if the Minister for Finance were to so decide, additional funding, the HSE proceeds to deliver the most effective quantum and quality of services possible within its approved allocation. In due course, after end-year, the HSE reports on how its allocation was actually spent and what was actually achieved, and it should in that context be able to explain and if necessary justify departures from the initial service plan.

### **Local Budget Management**

Ultimately, the quality of the communications between the centre and local managers and their response is crucial in managing to budgetary targets. In the course of the review, local management generally acknowledged that it was their responsibility to devise service plans that fit with the delivery targets set out in the NSP and the budget allocation. However, in doing so, they reported encountering the following difficulties

- Cost pressures were not adequately factored into the allocation method.

- The baseline figure on which the budget allocations were founded were unrealistic in that employee numbers, agreed in the past to provide new and developing services, were often not reflected in this baseline budget.
- The costs associated with developments delayed in the past due to budgetary constraints were not adequately reflected in the allocation process.

Overall, it was apparent that some units managed to keep more or less within budget and others incurred substantial overruns. This suggests that overruns may be due to other factors, including delay in reducing activity.

In addition, while accepting that budgets and employment ceilings are not fully aligned, in the case of any divergence if budgetary control is to function the budget should be the determinant of expenditure decisions, not the employment ceiling.

Comments made by managers in relation to new developments suggest that, in the past, some developments may not have been fully costed. In other instances, initial funding of developments may have been adequate but took no realistic account of service growth. Unplanned service growth means increased, and possibly unsustainable, pressure on a unit's budget in future years.

The Accounting Officer said that underestimation of costs when service developments were being approved was not a deliberate practice. He noted that, in the past, approval could have been given for a consultant but that, in the development of the service, ancillary costs of administrative support, medical team, drugs, laboratory, blood *etc.* often came 12 to 18 months later and that in some instances these costs had not been specifically identified with that development at the time it was costed. However, he assured me that this practice does not now occur within the HSE.

## Review of Four Hospitals

In the course of the examination, some of the highest overruns in the hospital services were reviewed. These are shown in Table 46.

**Table 46 Hospital Overruns in 2007<sup>(a)</sup>**

Hospitals	Original Allocation	Final Allocation <sup>(b)</sup>	Outturn	Overrun	
	€000	€000	€000	€000	%
Adelaide & Meath Hospital	203,907	209,649	225,620	15,971	7.6%
Sligo General	104,655	108,570	119,454	10,884	10.0%
Mayo General	72,525	72,384	83,128	10,744	14.8%
Our Lady's Hospital, Crumlin	121,694	128,359	138,311	9,952	7.8%

<sup>(a)</sup> In allocating budgets to individual units the HSE plans on an accruals basis. Hence, all figures relating to individual units in this paragraph are presented on an accruals basis. The total budget overrun on an accruals basis in relation to current services and administration costs (excluding the costs of the Long-term Charges Repayment Scheme) was €261m, compared to a cash based overrun of €245m on the relevant Vote subheads.

<sup>(b)</sup> The bulk of the final allocation was notified to hospitals before the end of February 2007.

Taking the four hospitals together, the combined overrun in 2007 represented an average for this group of 9.2% for the year. Overruns of this scale are unlikely to have arisen from previously unforeseen service pressures and associated costs. While the detailed reasons for the overruns varied from hospital to hospital, it is clear from interviews with hospital managers that there are significant underlying behavioural issues arising from the expectations of managers about how the budget would, in practice, be managed by the HSE. These can be summarised as follows

- A belief that the budget as communicated to the hospital is flexible because past experience had shown that further money would become available during the year, that if budgets were exceeded the hospital would not be penalised and that by adhering to the budget the hospital would lose out to other parts of the system which ignored the rules.
- A view that the level of funding was incompatible with the role that the hospital believed it was mandated to discharge.
- A view that maintaining the level of service provided in the previous year had either explicit or implicit approval and that, therefore, money would be made available to fund this.
- A view that any action taken to keep within budget that impacted on patient services would not be accepted by senior management.

Previous experience suggests that the managers had grounds for believing that the initial allocation of funding was not the last word. Table 47 shows the original allocation, final allocation and outturn for 2006 for each of the hospitals already referred to in Table 46.

**Table 47 Hospital Overruns in 2006**

Hospitals	Original Allocation €000	Final Allocation €000	Outturn €000	Overrun over Original Allocation €000	% Over Original
Adelaide & Meath Hospital	196,278	202,840	202,531	6,253	3.2%
Sligo General	94,925	99,447	110,059	15,134	15.9%
Mayo General	66,861	75,338	75,391	8,530	12.8%
Our Lady's Hospital, Crumlin	113,604	120,970	121,001	7,397	6.5%

The Accounting Officer noted that there was no doubt that prior to the establishment of the HSE additional funding had been made available to the health boards and the Eastern Regional Health Authority (ERHA) during the financial year, and often in December. This acted as a perverse incentive and encouraged a 'wait-and-see' attitude among managers who behaved accordingly. He said the HSE had worked hard to break this culture, by making budgets clear early in the year and by fostering a culture of accountability among managers.

He stated that hospitals had been informed at meetings throughout 2007 that they had been allocated substantially all their budget at the start of the year and that there would be only a small additional element drawn from a national contingency provision which the HSE maintained in line with Department of Finance requirements. He also noted that five hospital networks<sup>60</sup> achieved a balanced outcome in 2007 and three networks had deficits. While some managers may have cited 'expectations' as a reason for poor performance, the managers who delivered break-even were very clear that the culture of 'allocations in December' was over and managed accordingly. However, he said that, in hindsight, it was clear that more intense management was required in two hospital networks during 2007.

<sup>60</sup> A hospital network is a group of hospitals that work together to coordinate and deliver a broad spectrum of services in a geographic area. There are eight hospital networks in the four HSE administrative areas - two networks per area.

## Alignment of Budget and Service Plans at Business Unit Level

Each element of the NSP is intended to be supported by a range of business plans at area, local and unit level that translate the national deliverables into local deliverables at all levels of the system. In the course of the review I examined the linkage between local plans, budgets and NSP. Local business plans varied widely from, on the one hand, comprehensive plans which described in detail the services which it was proposed to deliver, to, on the other hand, plans that described proposed activities in very general terms. The plans examined contained little or no financial information. At most, new service developments were costed. There was no information on how, for example, existing deficits would be managed nor was there any information about the financial effects of redeploying resources. In effect, there is considerable scope for creating more transparent linkages between budgets and service plans by setting out in business plans the cost implications of those plans against the budgets available.

### Case Study - Our Lady's Children's Hospital, Crumlin

Some local business plans did not appear to be aligned with the NSP and some business units implemented local plans without regard to what the NSP and its associated budget contained.

Our Lady's Children's Hospital, Crumlin submitted a business plan for 2007 to the HSE in October 2006 with a proposed budget of €139m. This represented an increase of almost 15% over its 2006 final budget. The Hospital's view was that over a period of years the Department, the ERHA and the HSE had designated it as the national tertiary Paediatric service provider and up to and including 2006 it had been funded accordingly. Its view was that the proposed increase in budget was needed to meet the full year cost of services developed in 2005 and 2006 and for other services whose implementation had been deferred until 2007. However, it is clear that the budget allocated by the HSE was prepared on a completely different basis.

The Accounting Officer informed me that Section 38 of the Health Act, 2004, defined the legal basis for dealing with voluntary service providers such as Our Lady's Hospital, Crumlin. The Act does not consider the hospital's view of its role but requires the HSE to provide a defined level of funding for a prescribed level of service. The level of service for each provider was set out in the NSP. He also stated that, in relation to voluntary service providers, the HSE had a duty to set a limit within the Vote which was not always consistent with the providers' view of their roles.

He said that virtually every provider of service to the HSE had aspirations for the development of its services, many of which would be shared by the HSE. However, the fixed nature of the HSE's funding environment and its role in funding providers accordingly could not be over-emphasised. The HSE had to operate within its Vote and could not provide a 15% increase in budget to one hospital to develop its services in 2007. Accordingly, a budget increase in line with available funding was given to each hospital.

In regard to the link between business plans and budgets the Accounting Officer pointed out that the HSE had a defined Business Planning Model that applied to all areas of the HSE business in 2007. The financial basis for business plans was the budgetary allocation provided to the manager, translated into cost centres within the general ledger for the relevant service. He said managers were fully aware of the budget on their general ledger and the business plan was designed to reflect the services which could be delivered for this budget.

## Actions to Improve Financial Management

The Accounting Officer informed me that a number of initiatives have been taken or are proposed to improve financial management in the HSE



- An improved Corporate Performance Measuring System had been implemented in 2007. This initiative focused attention on the relationship between responsibility, authority and accountability at each level of the organisation.
- A Healthstat system had been introduced in 2008, focusing on key service deliverables for both hospitals and PCCC. This represents a further improvement in the information provided to managers and includes a focus on issues such as control of absenteeism which have direct cost implications.
- In 2008, budgets were notified to managers prior to the 2007 year end. Managers are aware that they received no new money late in 2007. The message that no further money will be available later in the year is increasingly becoming the reality and cultural change is being embedded.
- The new Director of the NHO has implemented an enhanced governance model with specific NHO Executive meetings devoted to performance in respect of finance, activity and headcount.
- The Control Process is now chaired by the Director of Finance rather than the Director of Corporate Planning and Control Processes.
- A Performance Planning and Review system has been implemented for senior managers which involves the development of Key Performance Indicators. One of the most significant indicators upon which senior managers are being measured is delivery on their budgets and financial plans.
- A single integrated national financial and procurement system is planned. An internal project was currently underway which would support the overall business case in terms of cost, design, implementation plan and rollout strategy. He said that the challenge here remained significant. In the meantime, current systems would continue to operate.

## Conclusions

After diverting development funding, the budgetary overrun on the HSE's core services for 2007 was €245m. There was considerable delay in addressing the emerging deficit. In a number of instances where significant overruns were occurring, it could have been expected that specific action would have been taken but the review found no evidence that any such action was taken. A dysfunctional effect of delaying action is that across-the-board savings have then to be targeted, affecting units that are operating within budget as well as those that are not.

The HSE, and the health boards before it, had a practice of using development moneys to subsidise the cost of existing services by delaying the introduction of new services. €208m was generated in 2007 from this approach. Such budget balancing practice is only sustainable during an expansionary phase. Where the rate of new developments being commissioned reduces, a budget deficit will result.

Previous practice in dealing with budget overruns has led to an expectation on the part of certain managers that they will be 'bailed out' in due course. This is beginning to be addressed but it demands enhanced monitoring in areas where deficits arose in 2007.

In the case of demand-led schemes where an overrun of €177m occurred there would be merit in providing more detailed information in both internal and external reports capable of distinguishing between variances in component factors including number of recipients, volumes of service and unit prices.

Based on the foregoing the key factors which need to be addressed by the HSE are

- Ensuring that once service choices and priorities have been established and included in a service plan with an associated allocation that the focus at each level of the organisation is on providing the agreed level of service within the agreed resource allocation.
- Active use of the PMR data to investigate trends and trigger early corrective action .
- Ensuring that appropriate local budget management responses are actioned and the "wait and see" culture discouraged.
- Integrated budget management taking account of planned activities, staff resources and financial allocation.

Overall, the incremental nature of the service funding in the HSE and its predecessors leads to a risk that resources may be allocated on the basis of historic rather than current need with the result that resources may not be used to best effect. In the longer term, a new resource allocation model may deal with this. However, in the interim, there could be value in introducing a zero-based budgeting approach, perhaps implemented across services over a cycle, in order to identify any scope for redistribution.

## Chapter 15

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### National Treasury Management Agency

## 15.1 National Treasury Management Agency

The National Treasury Management Agency (the Agency) borrows moneys on behalf of the Exchequer and manages Ireland's National Debt. It carries out these functions under the control and general superintendence of the Minister for Finance. In recent years it has also been given a range of other functions, the principal ones being to

- act as the Manager of the National Pensions Reserve Fund
- manage compensation claims on behalf of State agencies
- discharge the functions of the National Development Finance Agency.

In 2007 it took on some additional functions

- It now purchases carbon credits<sup>61</sup> required to meet Ireland's climate change obligations.
- Its central treasury services were expanded to include all non-commercial State bodies and the procurement of foreign currency on behalf of the Department of Foreign Affairs. It also commenced managing moneys<sup>62</sup> in patients' private property accounts on terms agreed with the Health Service Executive.
- In the area of public private partnership schemes its remit was widened<sup>63</sup> to undertake procurement and delivery of projects in all sectors, apart from transport and local government.

### Audit of the Agency

Under the provisions of the National Treasury Management Agency Act, 1990, I am required to audit the accounts of the Agency and, when making my statutory Annual Report on the Appropriation Accounts, to also make a report to Dáil Éireann regarding the correctness of the sums brought to account by the Agency in the year.

The Agency's accounts for 2007 have been audited and the accounts, including an administration account and accounts relating to the National Debt, have been presented to the Minister who has laid copies of them before both Houses of the Oireachtas.

I am satisfied that the accounts properly present the transactions of the Agency for 2007 and its balances at year end.

### National Debt and Pensions Reserve Fund

At 31 December 2007 Ireland's National Debt stood at €37.6 billion (2006: €35.9 billion). This increase of €1.7 billion on the previous year was a result of an equivalent State budgetary deficit. When account is taken of the effect of derivatives the entire National Debt exposure was in Euro at year end and was made up for the most part of government bonds.

Government bonds are stated at nominal values - these values are the basis for determining dividends and the amounts that will have to be ultimately repaid. In market value terms the value of the overall debt at 31 December 2007 was €39 billion.

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<sup>61</sup> Under the Carbon Fund Act 2007.

<sup>62</sup> Under the Health Act 2007.

<sup>63</sup> Under the National Development Finance Agency (Amendment) Act 2007.

The value of the National Pensions Reserve Fund which, unlike the National Debt, is stated at market values stood at €21.2 billion at 31 December 2007. Its value increased by €2.3 billion in the year of which approximately €1.6 billion was attributable to the State contribution of 1% of gross national product as estimated in the annual budget.

**Table 48 National Debt and Value of National Pensions Reserve Fund from 2003 to 2007**

Year End	National Debt <sup>(a)</sup> €m (at nominal value)	National Pensions Reserve Fund €m (at market value)
2003	37,610	9,561
2004	37,846	11,689
2005	38,182	15,418
2006	35,917	18,900
2007	37,560	21,153

<sup>(a)</sup> The movement in the nominal value of the debt does not equate to the cash proceeds of borrowing due to the effect of tranching and cancellations of existing bonds.

The cost of servicing the National Debt for 2007 was €2.1 billion. However, this includes a transfer of €466m from current funds to a sinking fund to repay debt bringing the current servicing cost to €1.6 billion or around 4.4% of the average debt over the year.

## Measuring the Agency's Performance

The Agency's day-to-day responsibility for borrowing and management of the National Debt is exercised in accordance with guidelines given by the Minister for Finance. Detailed benchmark targets and performance measurement rules are subsequently agreed with his Department. The agreed benchmarking system compares the performance of the Agency against a monetary benchmark target in relation to its debt management activities and its portfolio fees<sup>64</sup>.

A firm of accountants is engaged to independently audit the benchmark results. In undertaking their audit they determine that

- The input of actual portfolio transactions during the year is in line with the Agency's records.
- The benchmark portfolio transactions are formulated in line with the rules in respect of the relevant funding portfolios and are correctly input into the system.
- The calculation of valuations and aggregation of both the benchmark and actual funding portfolios, and the calculation of portfolio fees are correctly performed.

For 2007 these results indicate that the Agency outperformed its benchmark by €31m in relation to its management of the National Debt and other Agency portfolios<sup>65</sup>.

<sup>64</sup> Portfolio fees represent a measure of the additional costs that the Exchequer would incur in respect of fees for fund management and other services if those services were not provided by the Agency.

<sup>65</sup> These portfolios consist mainly of Housing Finance Agency borrowings, the Social Insurance Fund and central treasury services.

In addition the Agency generated notional portfolio fees of €15m in accordance with the benchmark rules. These fees were generated mainly in connection with the management of the National Pensions Reserve Fund, the Social Insurance Fund and the National Development Finance Agency.

The National Pensions Reserve Fund (NPRF) is governed by a Commission but is required to perform its functions through the Agency for the period to April 2011<sup>66</sup>. The Agency passively manages a portion of the fund invested in foreign government bonds in line with the Commission's overall investment strategy. It also manages cash assets and currency overlay<sup>67</sup> on behalf of the Commission. Of the €15m in notional portfolio fees recorded by the Agency, €5.2m relate to its activities on behalf of the NPRF.

The equity assets of the NPRF are managed by external investment management firms which are selected by the Agency on behalf of the Commission. The Commission sets the performance benchmark for investments and the managers, and the Agency has processes to regularly review the performance of managers and report the results to the Commission. Each investment manager is subject to a formal annual performance review by the Commission. The Commission determines the appropriate course of action in relation to any performance issues.

## Expenses of the Agency

The total administrative income of the Agency was €32.4m of which €31.3m was provided by the Exchequer. This administrative income was applied for the following purposes

Debt management expenses	€9.0m
Expenses of State Claims Agency	€7.2m
National Development Finance Agency expenses	€4.4m
Expenses of National Pensions Reserve Fund	€6.8m
Additional contribution to a defined benefit pension fund approved by the Minister of Finance <sup>68</sup>	€5.0m

The costs associated with discharging the Agency's functions under the Carbon Fund Act, 2007 were not significant in 2007.

## Carbon Fund

Ireland can meet its obligations under the 1992 United Nations Framework Convention on Climate Change and the 1997 Kyoto Protocol to that Convention in two ways

- purchasing carbon credits<sup>69</sup> directly from the market or from other Kyoto Protocol parties
- purchasing carbon credits indirectly through investment in managed funds<sup>70</sup> or carbon reducing projects.

The Carbon Fund was established under the Carbon Fund Act, 2007 to facilitate the acquisition of carbon credits. The Agency has been designated as the purchasing agent on behalf of the State and will administer and manage purchases of carbon credits.

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<sup>66</sup> At the end of this period, and at five-yearly intervals thereafter, the Commission may with the agreement of the Minister for Finance reappoint the Agency for a further five-year term or may appoint an alternative Manager.

<sup>67</sup> Currency overlay is the hedging of a proportion of the currency exposure of the National Pensions Reserve Fund.

<sup>68</sup> This contribution is over and above the normal annual contribution made to the scheme.

<sup>69</sup> Termed Kyoto Units under the Carbon Fund Act 2007.

<sup>70</sup> Managed funds encompass a number of carbon reducing projects. There is an element of uncertainty with regard to the extent of carbon credits that are ultimately produced from these investments.

Under the terms of the Kyoto Protocol, Ireland has undertaken to limit its average annual emissions of greenhouse gases in the period 2008 to 2012 to a maximum of 13% more than the level of emissions in 1990. Ireland's strategy to achieve this target is set out in *The National Climate Change Strategy 2007-2012* published by the Department of the Environment, Heritage and Local Government. The strategy includes the purchase of carbon credits in respect of emissions reductions achieved elsewhere as an offset for any emissions by Ireland in excess of its Kyoto limits. It is currently estimated that it will be necessary for the Government to purchase carbon credits for over 3.6m tonnes of excess emissions in respect of each year of the 2008 to 2012 period.

In the *National Development Plan 2007–2013* the Government designated €270m for the purchase of carbon credits in the Kyoto commitment period 2008 to 2012. This is in addition to an initial investment of €20m by the Department in 2006.

To the end of 2007 the Government has entered into commitments of €39m to invest in three funds managed by two international institutions. Payments of €23.7m have been made to these funds of which €3.7m was paid in 2007. These managed funds invest in carbon reducing projects in various countries with the expectation that they will produce carbon credits to offset against excess emissions by Ireland. The number of carbon credits which will ultimately result from these investments will only be quantified by the international institutional fund managers as projects advance and come to completion.

## Funding the Agency's Pension Obligations

The Agency operates a defined benefit pension scheme for certain employees<sup>71</sup>. The associated fund is administered by external managers and overseen by scheme trustees. The Agency makes annual contributions to the fund and these amounted to €6.8m in 2007. The annual contribution to the fund in recent years has consisted of

- A proportion of payroll costs made at a rate, currently 25%, determined by the Agency on the advice of an independent actuary.
- An additional contribution over and above the determined funding rate subject to the approval of the Minister for Finance.

The Agency's financial statements disclose the deficit or surplus in the pension fund for accounting purposes in accordance with *Financial Reporting Standard 17 (Retirement Benefits)* at each financial year end.

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<sup>71</sup> The Agency also makes contributions to Personal Retirement Savings Accounts (PRSA) for employees who are not members of the Defined Benefit Scheme and €0.5m was paid into these in 2007.

Table 49 sets out the deficit or surplus in accounting terms since 2004 and the associated contributions to the fund.

**Table 49 Surplus/Deficit on Pension Fund and Contributions made to Fund in period 2004 to 2007**

Year	Surplus/(deficit) in Pension Fund €000	Contributions at 25% of Payroll €000	Additional Contribution €000
2004	(12,888)	1,409	2,000
2005	(12,399)	1,171	3,000
2006	(2,922)	1,593	7,500
2007	2,443	1,772	5,000

Up to the end of 2006 additional contributions of €12.5m had been made for the purpose of reducing the fund deficit. In 2007, an additional contribution of €5m was made to the fund for which the approval of the Minister for Finance was sought and obtained.

The trustees of the pension scheme commission actuarial valuations periodically, as they are required to do by the Pensions Act, 1990. One of the purposes of these valuations is to assess the adequacy of the contributions being made by the Agency and to recommend a future contribution rate, taking account of the funding level of the scheme at the valuation date. When the position was reviewed in 2004 the actuarial valuation suggested that a long-term funding rate of 29.5% of salaries would be appropriate, having regard to the deficit in the scheme at that stage. Taking account of the additional contributions in the form of lump sum payments, which would have the effect of reducing the fund deficit, the Agency decided to continue to fund at its then existing rate of 25% of salaries.

The most recent actuarial valuation of the scheme was carried out in September 2007, using a January 2007 valuation date. It concluded that an appropriate long-term valuation rate would be 20% of salaries. Notwithstanding this, it recommended that the current level of contribution of 25% be maintained.

Different actuarial bases have been used for valuing scheme liabilities for accounting and funding purposes. Thus, the funding valuation calculated the scheme deficit at 1 January 2007 as €200,000 whereas the deficit for accounting purposes was €2,922,000. However, it is the former valuation which forms the basis for deciding on the contributions to the fund.

### **Audit Concern**

The level of funding being provided to the externally managed scheme appeared to exceed its current requirements. The principle of economy should dictate that outflows of exchequer resources should not exceed the demand for funding. I sought the Accounting Officer's views as to why the additional contribution of €5m was made in 2007.

In response the Accounting Officer informed me that on an accounting reporting basis the defined benefit scheme had a deficit of €2.9m at the end of 2006 and would have been in deficit again at the end of 2007 by €2.557m had the additional contribution not been made. The actuarial valuation which forms the basis of a recommended funding level was based on the financial position as of 1 January 2007. Worldwide economic conditions were more stable at that point as it was before the emergence of the credit, liquidity and subprime issues which started in the US and in late 2007 began to affect Europe. These emerging issues were not conducive to stability in the financial markets to which the scheme's



investments were exposed, and in the final quarter of 2007 the Irish Stock Exchange was down 12.04%, Bloomberg European 500 stock index was down 3.14%, and the Dow Jones was down 4.54%. Markets have continued to be dislocated since the end of 2007 and the Accounting Officer expects the scheme to be back in deficit at the end of 2008 if these market conditions prevail. He also informed me that it is important to consider the fact that unlike other State entities or Government Departments who take money out of the Exchequer on a “pay as you go” basis for pensions that the NTMA operates with its own pension scheme where the full contributions to the scheme are charged up annually to its administration budget. Furthermore, he advised that the actuarial report states that the main purpose of the valuation is to review the employer contribution rate taking account of the trustees’ funding objectives. As Accounting Officer, and being mindful of this fact, he deemed it important that the scheme should, if possible, be fully funded on both a FRS17 basis and an actuarial basis.

### **Audit Conclusions**

Because pension liabilities are long-term obligations, a longer term view of market performance would be appropriate when deciding on the level of contribution to a funded scheme.

This, together with the desirability of minimising outlays by the State, would suggest that schemes should not be funded in advance of need and that fund deficits should ordinarily be dealt with through an appropriate periodic adjustment to the annual funding rate recommended by the actuary.

### **An Post - Management Fees**

An Post manages a number of Government retail savings products including the Post Office Savings Bank (POSB) on behalf of the Agency. In 2007 these savings amounted to €5.6 billion which represents approximately 15% of the National Debt.

For a number of years the Agency has been in negotiations with An Post on an appropriate long-term fee structure for operating these schemes. Fees had been held at previous year levels or in some cases reduced, pending the finalisation of an agreement with An Post.

In late 2007 the Agency finalised an agreement with An Post for the period 2007 to 2010, inclusive, which encompassed

- Revised management fees for the three saving schemes - Saving Certificates, Savings Bonds and National Instalment Savings - based on amounts saved and transactions in the year.
- A revised management fee for the Post Office Savings Bank based on amounts saved and which is subject to an overall fee limit.
- An additional management fee in respect of the Special Savings Incentive Accounts (SSIAs) based on amounts saved since the inception of the scheme.

A Service Level Agreement (SLA) was concluded which aims to achieve best industry standards in the provision of all services associated with the retail savings products. Under the SLA certain services to be delivered by An Post to the Agency and retail savings customers will be defined and measured in detail and a formal system of objective service level monitoring will be instituted.

Table 50 shows the debt raised and fees paid in respect of the schemes administered by An Post.

**Table 50 Amounts Outstanding<sup>(a)</sup> on Retail Savings Products and the Related Management Fees**

	2005		2006		2007	
	Debt €m	Fees €m	Debt €m	Fees €m	Debt €m	Fees €m
Savings Certificates	2,208	4	2,215	4	2,223	5
Savings Bonds	1,585	2	1,709	3	1,675	4
National Instalment Savings	385	2	394	3	409	2
Savings Stamps <sup>(b)</sup>	2	1	2	1	2	1
Post Office Savings Bank <sup>(c)</sup>	1,486	28	1,543	25	1,302	35
<b>Total</b>	<b>5,666</b>	<b>37</b>	<b>5,863</b>	<b>36</b>	<b>5,611</b>	<b>47</b>

<sup>(a)</sup> The balances on the three saving schemes do not include accrued interest. At the end of 2007 an amount of €780m is outstanding in accrued interest on these schemes.

<sup>(b)</sup> The balance is net of transfers to the POSB.

<sup>(c)</sup> The drop in deposits with the POSB at the end of 2007 is mainly due to the payments to maturing SSIA account holders.

The total management fees and expenses paid to An Post in 2007 amounted to €47.1m and reflect the agreement reached in the year. The management expenses for the Post Office Savings Bank of €34.6m includes an amount of €5.7m in respect of SSIA management. Except for the SSIAs, in respect of which no management fees had been paid since their beginning in 2001, there was no element of retrospection in the agreement other than that it had effect for all of the year in which it was concluded.

The expected fees payable to An Post in 2008 are estimated to be €42m, of which €30m relates to the POSB.

## Savings Scheme for Children

Savings Stamps is a long established scheme, pre-dating the setting up of the Agency. It was designed to encourage children's savings. The stamps are sold to primary school children at post offices and through schools. They are affixed to cards which are then used to open POSB deposit accounts or added to existing POSB accounts. As shown in Table 50 the average balance outstanding on the scheme in recent years amounted to only €2m and the Agency pays an annual management fee to An Post of approximately €1m. Since 2004 the Agency has paid a total of €4m in fees to An Post. Average sales of savings stamps in this period amounted to between €4m and €4.5m per annum, and most of this was eventually passed to the POSB.

### Audit Concern

Since no net additional funding had derived from savings stamps since 2004 and the average sales were so low the question arose as to how the outlay on management fees could be justified and whether any action had been taken or is proposed on this matter.

In response the Accounting Officer informed me that the scheme cannot be regarded as a fund raising vehicle, but rather as a means of encouraging children to begin the savings habit. Nevertheless, the Agency has been of the opinion for some time that the costs of the scheme are disproportionate to the benefits. The Agency accordingly proposed its abolition in 1992, 1997 and 1998. These proposals were rejected by successive Ministers for Finance because of the scheme's perceived value in promoting the savings habit in young people and its possible beneficial effect on other Government retail savings

schemes. In 2007, the Agency again sought Ministerial approval to abolish Savings Stamps but on the basis that a replacement savings scheme for children would first be put in place. The details of this new scheme are now being finalised with An Post, and An Post have committed to introduce it with effect from the start of the 2008-2009 school year.

### **Audit Conclusions**

While recognising the argument that the savings habit should be encouraged, a move to a less costly administrative mechanism is desirable.



# Appendix 1

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## Revenue

# **Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007**

## **Statement by Accounting Officer 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.

The position in regard to the financial control environment, the framework of administrative procedures, management reporting and internal audit is as follows

### **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.

### **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 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 ICT systems.

**Internal Audit**

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 the Audit Committee and me. I have put procedures in place to ensure that the reports of the internal audit function are followed up.

**JOSEPHINE FEEHILY**

**Accounting Officer**

**Office of the Revenue Commissioners**

**31 March 2008**

# **Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007**

## **Report of the Comptroller and Auditor General**

I have examined the financial statements relating to the Receipt of Revenue of the State collected by the Revenue Commissioners set out on pages 150 to 157 under Section 3(7) of the Comptroller and Auditor General (Amendment) Act, 1993.

The financial statements, which have been prepared under the accounting policies therein, comprise the Accounting Policies, the Account of Receipts and Disposal of Revenue Collected, the Statement of Balances and the related notes.

### **Respective Responsibilities of the Revenue Commissioners and the Comptroller and Auditor General**

The Revenue Commissioners are responsible for preparing the financial statements and for ensuring the regularity of transactions.

My responsibility is to examine the financial statements in accordance with the relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements are properly presented in accordance with the Accounting Policies. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my examination.

### **Basis of Opinion**

In the exercise of my function as Comptroller and Auditor General, I conducted my examination of the financial statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Audit Practices Board and by reference to the special considerations that attached to State bodies in relation to their management and operation. My examination was conducted on a test basis that reviewed evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also included an assessment of the significant estimates and judgements made in the preparation of the financial statements, and of whether the accounting policies were appropriate, consistently applied and adequately disclosed.

I planned my examination so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.



## **Opinion**

In my opinion, the financial statements properly present the receipt and disposal of the revenue collected for the year ended 31 December 2007 and the residual balances at that date.

In my opinion, proper books of account have been kept by the Revenue Commissioners. The financial statements are in agreement with them.

A handwritten signature in dark ink, appearing to read 'John Buckley', with a long, sweeping horizontal stroke extending to the right.

**JOHN BUCKLEY**

**Comptroller and Auditor General**

**19 September 2008**

## **Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007**

### **Accounting Policies**

1. These accounts present the collection and allocation of taxes and duties by the Revenue Commissioners and the transfer of the proceeds to the Exchequer. The accounts have been prepared pursuant to Section 3(9) of the Comptroller and Auditor General (Amendment) Act, 1993.
2. No charge is included in these accounts for the administration or operational costs of the Office of the Revenue Commissioners. Funds for this purpose are voted by the Oireachtas and accounted for in the annual Appropriation Account for Vote 9 - Office of the Revenue Commissioners.
3. Amounts received in respect of penalties and interest imposed by the Revenue Commissioners are brought to account with the related tax and duty settlements. Court fines and penalties are brought to account as Appropriations-in-Aid of Vote 9.
4. These accounts also present the receipts collected by the Revenue Commissioners for other Government Departments and agencies as follows
  - Department of Social and Family Affairs (PRSI Contribution)
  - Health Service Executive (Health Levy and Tobacco Levy)
  - Department of Environment, Heritage and Local Government (Environmental Levy on Plastic Bags)
  - Department of Enterprise, Trade and Employment (Employment and Training Levy)
  - Commissioners of Irish Lights (Light Dues)
  - Department of Transport (Marine Fees)
  - Fee Stamps in respect of Registry of Deeds, Arbitration Fees and Fee Stamps in respect of Companies Registration Fees are paid to the Exchequer.
5. A charge is levied by the Revenue Commissioners for the collection of PRSI Contributions, the Environmental Levy on Plastic Bags and Light Dues. Amounts received in respect of those charges are not included in these accounts but are accounted for as Appropriations-in-Aid of Vote 9.
6. These accounts have been prepared on a cash basis in accordance with the principles of Government Accounting. Except where described at paragraph 7, the accounts show the actual amounts received and paid in the year. Where further amounts of taxes, duties, *etc.* are received in subsequent years or where amounts received in the current or earlier years are repaid, such items are recorded in the year of receipt or repayment.
7. Certain Customs and Excise Duties and VAT on imports are accounted for on an accruals basis in that they are recorded as receipts in the year to which they relate even though they are not received until after the year end. The corresponding asset is shown as accrued income in the Statement of Balances.
8. The gross receipts and repayment figures for each taxhead include offsets *i.e.* cases where the repayment is not directly paid to the taxpayer but offset against other outstanding taxes.

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Account of the Receipt and Disposal of Revenue Collected

	Notes	2007 €000	2006 €000
<b>Gross Receipts</b>			
Taxes and Duties Collected	1	56,639,866	53,787,701
Receipts Collected on behalf of Other Departments/Agencies	2	9,508,543	8,542,238
<b>Total Gross Receipts of Revenue Collected</b>		<b>66,148,409</b>	<b>62,329,939</b>
<b>Repayments</b>			
Repayments of Taxes and Duties	3	(9,137,372)	(8,251,283)
Repayment of Receipts Collected on behalf of Other Departments/Agencies	6	(74,677)	(68,450)
<b>Total Repayments</b>		<b>(9,212,049)</b>	<b>(8,319,733)</b>
<b>Net Receipts</b>			
Taxes and Duties Collected	4	47,502,494	45,536,418
Receipts Collected on behalf of Other Departments/Agencies	6	9,433,866	8,473,788
<b>Total Net Receipts of Revenue Collected</b>		<b>56,936,360</b>	<b>54,010,206</b>
<b>Disposal of Net Receipts</b>			
Taxes and Duties Transferred to the Exchequer	5	(47,246,851)	(45,535,997)
Transfer of Tobacco Levy to Health Service Executive	5	(167,605)	(167,605)
Transfer of Receipts to Other Departments/Agencies	6	(9,432,944)	(8,466,636)
<b>Total Disposal of Receipts of Revenue Collected</b>		<b>(56,847,400)</b>	<b>(54,170,238)</b>
<b>Net Receipts Retained at Year End</b>		<b>88,959</b>	<b>(160,032)</b>
Opening Balance on the Account of Receipt and Disposal of Revenue at 1 January		(403,917)	(243,885)
<b>Closing Balance on the Account of Receipt and Disposal of Revenue at 31 December</b>		<b>(314,958)</b>	<b>(403,917)</b>

*Any apparent discrepancies in totals are due to rounding of constituent figures.*

The Accounting Policies and Notes 1 to 12 form part of these Accounts.

**LIAM IRWIN**  
**Accountant General**  
**Office of the Revenue Commissioners**  
**31 March 2008**

**JOSEPHINE FEEHILY**  
**Accounting Officer**  
**Office of the Revenue Commissioners**  
**31 March 2008**

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Statement of Balances

	Notes	2007 €000	2006 €000
<b>Assets</b>			
Cash at Bank and in Hand	7	40,132	123,553
Accrued Income	8	20,367	31,696
Advances for Revenue Purposes	9	146	112
Amounts due from Government Departments	10	3,465	1,046
<b>Total Assets</b>		<b>64,110</b>	<b>156,407</b>
<b>Liabilities</b>			
Amounts awaiting Receipt and Allocation	11	(83,732)	(148,254)
Deposits Held	12	(295,336)	(412,070)
<b>Total Liabilities</b>		<b>(379,068)</b>	<b>(560,324)</b>
<b>Net Assets/(Liabilities)</b>		<b>(314,958)</b>	<b>(403,917)</b>
<b>Represented by:</b>			
<b>Closing Balance on the Account of Receipt and Disposal of Revenue</b>			
Balance of Taxes and Duties due to/(from) the Exchequer	5	(329,052)	(417,090)
Balance of Receipts Collected and due to/(from) Other Departments/ Agencies	6	14,094	13,173
		<b>(314,958)</b>	<b>(403,917)</b>

*Any apparent discrepancies in totals are due to rounding of constituent figures.*

The Accounting Policies and Notes 1 to 12 form part of these Accounts.

**LIAM IRWIN**  
Accountant General  
Office of the Revenue Commissioners  
31 March 2008

**JOSEPHINE FEEHILY**  
Accounting Officer  
Office of the Revenue Commissioners  
31 March 2008

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Notes to the Accounts

### Note 1. Gross Taxes and Duties Collected

	2007 €000	2006 €000
Value Added Tax	19,248,495	17,808,991
Income Tax	16,788,418	15,449,609
Corporation Tax	7,329,215	7,270,704
Excise Duty	6,126,508	5,833,978
Stamp Duties	3,308,864	3,674,511
Capital Gains Tax	3,160,762	3,134,123
Capital Acquisitions Tax	397,482	354,818
Customs Duty	280,123	260,739
Residential Property Tax <sup>(a)</sup>	—	228
	<b>56,639,866</b>	<b>53,787,701</b>

<sup>(a)</sup> Residential Property Tax is included as part of Capital Acquisitions Tax effective from 1 January 2007.

### Note 2. Gross Receipts Collected on behalf of Other Departments/Agencies

	2007 €000	2006 €000
Department of Social and Family Affairs	9,291,349	8,347,902
Health Service Executive	187,655	168,682
Department of Environment, Heritage and Local Government	22,499	18,704
Department of Enterprise, Trade and Employment	1,838	1,748
Commissioner of Irish Lights	4,760	4,572
Department of Finance (Miscellaneous Revenue)	427	622
Department of Transport (Marine Fees)	15	7
	<b>9,508,543</b>	<b>8,542,238</b>

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Notes to the Accounts

### Note 3. Repayments of Taxes and Duties

	2007 €000	2006 €000
Value Added Tax	(4,729,677)	(4,357,583)
Income Tax	(3,206,246)	(3,074,849)
Corporation Tax	(935,822)	(586,092)
Excise Duty	(123,141)	(137,571)
Stamp Duties	(64,860)	(42,447)
Capital Gains Tax	(63,384)	(34,891)
Capital Acquisitions Tax	(6,860)	(11,607)
Customs Duty	(7,381)	(5,980)
Residential Property Tax <sup>(a)</sup>	—	(264)
	<b>(9,137,372)</b>	<b>(8,251,283)</b>

<sup>(a)</sup> Residential Property Tax is included as part of Capital Acquisitions Tax effective from 1 January 2007.

### Note 4. Net Receipts of Taxes and Duties

	Gross Receipts 2007 €000	Repayments 2007 €000	Net Receipts 2007 €000	Net Receipts 2006 €000
Value Added Tax	19,248,495	(4,729,677)	14,518,817	13,451,408
Income Tax	16,788,418	(3,206,246)	13,582,172	12,374,760
Corporation Tax	7,329,215	(935,822)	6,393,392	6,684,612
Excise Duty	6,126,508	(123,141)	6,003,366	5,696,408
Stamp Duties	3,308,864	(64,860)	3,244,004	3,632,065
Capital Gains Tax	3,160,762	(63,384)	3,097,378	3,099,232
Capital Acquisitions Tax	397,482	(6,860)	390,623	343,211
Customs Duty	280,123	(7,381)	272,742	254,759
Residential Property Tax <sup>(a)</sup>	—	—	—	(36)
	<b>56,639,866</b>	<b>(9,137,372)</b>	<b>47,502,494</b>	<b>45,536,418</b>

<sup>(a)</sup> Residential Property Tax is included as part of Capital Acquisitions Tax effective from 1 January 2007.

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Notes to the Accounts

### Note 5. Taxes and Duties Transferred to the Exchequer

	Balance at 1 January 2007 €000	Net Receipts 2007 €000	Total Transfers 2007 €000	Balance at 31 December 2007 €000
Value Added Tax	7,840	14,518,817	(14,496,588)	30,070
Income Tax	(34,572)	13,582,172	(13,572,410)	(24,810)
Corporation Tax	(1,450)	6,393,392	(6,390,625)	1,318
Excise Duty	(155,729)	6,003,366	(6,005,483) <sup>(a)</sup>	(157,846)
Stamp Duties	(235,195)	3,244,004	(3,185,602)	(176,793)
Capital Gains Tax	13,620	3,097,378	(3,105,495)	5,503
Capital Acquisitions Tax	(8,968)	390,623	(392,349)	(10,695)
Customs Duty	(2,637)	272,742	(265,904)	4,201
	<b>(417,090)</b>	<b>47,502,494</b>	<b>(47,414,456)</b>	<b>(329,052)</b>

<sup>(a)</sup> The amount of €6,005,483,000 includes €167,605,000 which was paid from the proceeds of Tobacco Excise Receipts to the Health Service Executive under Section 3 of the Appropriation Act, 1999, as amended by the Appropriation Act, 2005.

# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the Year ended 31 December 2007

## Notes to the Accounts

### Note 6. Transfer of Receipts to Other Departments/Agencies

	Balance at 1 January 2007 €000	Net Receipts 2007 €000	Total Transfers 2007 €000	Balance at 31 December 2007 €000
Department of Social and Family Affairs	10,299	9,216,674 <sup>(a)</sup>	(9,218,617)	8,357
Health Service Executive	2,398	187,655	(185,199)	4,853
Department of Environment, Heritage and Local Government	136	22,497 <sup>(b)</sup>	(22,212)	421
Department of Enterprise, Trade and Employment	90	1,838	(1,710)	218
Commissioner of Irish Lights	159	4,760	(4,790)	129
Department of Finance (Miscellaneous Revenue)	84	426 <sup>(b)</sup>	(409)	101
Department of Transport (Marine Fees)	7	15	(7)	15
	<b>13,173</b>	<b>9,433,866</b>	<b>(9,432,944)</b>	<b>14,094</b>

<sup>(a)</sup> The amount shown of €9,216,674,196 is net of repayments of €74,674,438.

<sup>(b)</sup> The amounts shown of €22,497,177 and €426,098 are net of repayments of €1,966 and €1,157 respectively.

### Note 7. Cash at Bank and in Hand

	2007 €000	2006 €000
Balance in Revenue Accounts at Central Bank	21,613	34,986
Cash in Hand <sup>(a)</sup>	18,519	88,567
	<b>40,132</b>	<b>123,553</b>

<sup>(a)</sup> Cash in Hand represents amounts held in Revenue accounts in commercial banks pending completion of processing through Revenue's accounting systems.

### Note 8. Accrued Income

Accrued income represents amounts due to Revenue which are proper to 2007 for which payment was received after the year end. These amounts are recorded as the cash amounts received in 2008.



# Account of the Receipt of Revenue of the State collected by the Revenue Commissioners in the year ended 31 December 2007

## Notes to the Accounts

### Note 9. Advances for Revenue Purposes

Advances for Revenue Purposes arise due to the operation of a local accounting procedure in districts for Customs and Excise Duties whereby a shortfall in the collection of moneys arising from items such as an unpaid cheque is temporarily met through the mechanism of an “advance” drawn on a Revenue account. These “advances” are subsequently cleared when payment is received from the trader.

### Note 10. Amounts Due from Government Departments

Where a liability arises as a result of the importation of goods by Government Departments, the goods are released without immediate payment of duties or taxes and the Department is subsequently charged for the amount due.

### Note 11. Amounts Awaiting Receipt and Allocation

	2007 €000	2006 €000
Unallocated Tax Deposits <sup>(a)</sup>	(21,612)	(35,006)
Tax Receipts Awaiting Transfer and Allocation	(61,998)	(113,137)
Miscellaneous	(112)	(112)
	<b>(83,732)</b>	<b>(148,254)</b>

<sup>(a)</sup> Unallocated Tax Deposits (UTD) comprise mainly of payments made on account during tax audits and audit settlements for which accounting instructions have not been completed. Consequently, the payments cannot be allocated to the appropriate taxheads and are held by Revenue in a UTD account in the Central Bank.

### Note 12. Deposits Held<sup>(a)</sup>

	2007 €000	2006 €000
Stamps	(160,199)	(239,115)
C&E Collectors	(25,924)	(139,194)
AEP Collector	(109,213)	(33,762)
	<b>(295,336)</b>	<b>(412,070)</b>

<sup>(a)</sup> Deposits held represent amounts paid by taxpayers for transactions not yet processed through Revenue’s accounting systems.