



Comptroller and Auditor General

**Report on the
Accounts of the Public Services 2017**

September 2018

Report of the Comptroller and Auditor General

Accounts of the Public Services 2017

Article 33 (4) of the Constitution of Ireland requires me to report to Dáil Éireann at stated periods as determined by law. The Comptroller and Auditor General (Amendment) Act 1993 provides the main basis for such reporting.

Statutory Reporting Provisions

Section 3 (10) of the 1993 Act requires me each year to prepare a written report that includes

- any matters I consider it appropriate to report arising from my audits of the appropriation accounts prepared by the Accounting Officers of government departments and offices in relation to the appropriations voted by Dáil Éireann for the previous financial year
- any matters I consider it appropriate to report arising from my examinations of the internal accounting controls operated by government departments and offices (in the current or previous financial year) to ensure the regularity of their financial transactions, the correctness of their payments and receipts, the reliability and completeness of their accounting records and the safeguarding of the assets owned and controlled by them
- the results of my examinations of the accounts of the revenues collected by the Revenue Commissioners – these examinations include assessment of whether the accounts are complete and accurate, and whether the Revenue Commissioners have established and applied systems, procedures and practices that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenues.

Other statutes require me to prepare and present reports to Dáil Éireann on certain specific matters together with my section 3 (10) report.

Separately, section 11 of the 1993 Act provides for the preparation by me of certain special reports.

Presentation of this Report

This is my report under Section 3 (10) of the 1993 Act relating to the 2017 financial year. The report is set out in four parts, which deal with the following matters

- the Central Fund of the Exchequer
- voted expenditure in 2017
- examination of Revenue systems
- statutory reports on the audits of the accounts of the National Treasury Management Agency, and of the Irish Fiscal Advisory Council.

The report was prepared on the basis of audited information, where available, and other information, documentation and explanations obtained from the relevant government departments and offices. Drafts of relevant parts of the report were sent to the departments and offices concerned and their comments were requested. Where appropriate, those comments were incorporated into the final version of the report.

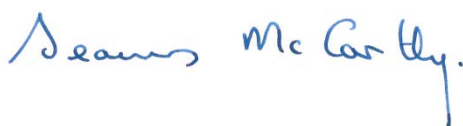
The report is concerned with the accountability of departments and offices in respect of their administration of public funds. References to third parties should be read only in that context.

I hereby present my report for the year ended 31 December 2017 to Dáil Éireann in accordance with Section 3 (11) of the 1993 Act.

Presentation of Appropriation Accounts 2017

Section 3 (11) of the 1993 Act also requires me to present the appropriation accounts for the various Votes to Dáil Éireann together with the report prepared under section 3 (10).

I have certified each appropriation account for the year ended 31 December 2017 and, in an associated volume, submit those accounts, together with my audit certificates, to Dáil Éireann.



Seamus McCarthy
Comptroller and Auditor General

28 September 2018

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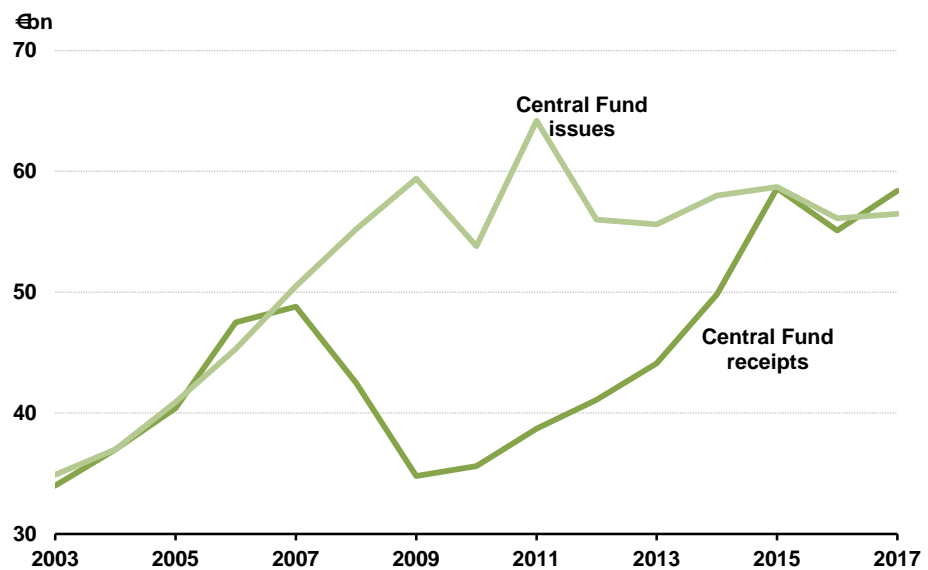
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Central Government

1 Exchequer financial outturn for 2017

- 1.1** All revenues of the State are paid into the Central Fund of the Exchequer unless otherwise determined by law.¹ Central Fund receipts include tax revenues and the proceeds of borrowing undertaken on behalf of the State by the National Treasury Management Agency (NTMA). Issues from the Central Fund are used mainly to fund expenditure on State services and to service and pay back State debt.
- 1.2** The annual Finance Accounts present the receipts into and issues from the Central Fund together with details relating to NTMA borrowing and information about certain liabilities and assets of the State. This report summarises the transactions on the Central Fund and highlights some key trends. Because the Finance Accounts do not include a balance sheet, the summary position in relation to key assets and liabilities, including the national debt, is also set out.
- 1.3** Excluding borrowing, the movement in the Central Fund receipts and issues over the period 2003 to 2017 is set out in Figure 1.1. For the first time in over a decade, receipts exceeded issues in 2017.

Figure 1.1 Central Fund receipts and issues, 2003 to 2017



¹ State revenue not paid directly into the Central Fund includes, for example, Pay Related Social Insurance receipts, which are paid into the Social Insurance Fund.

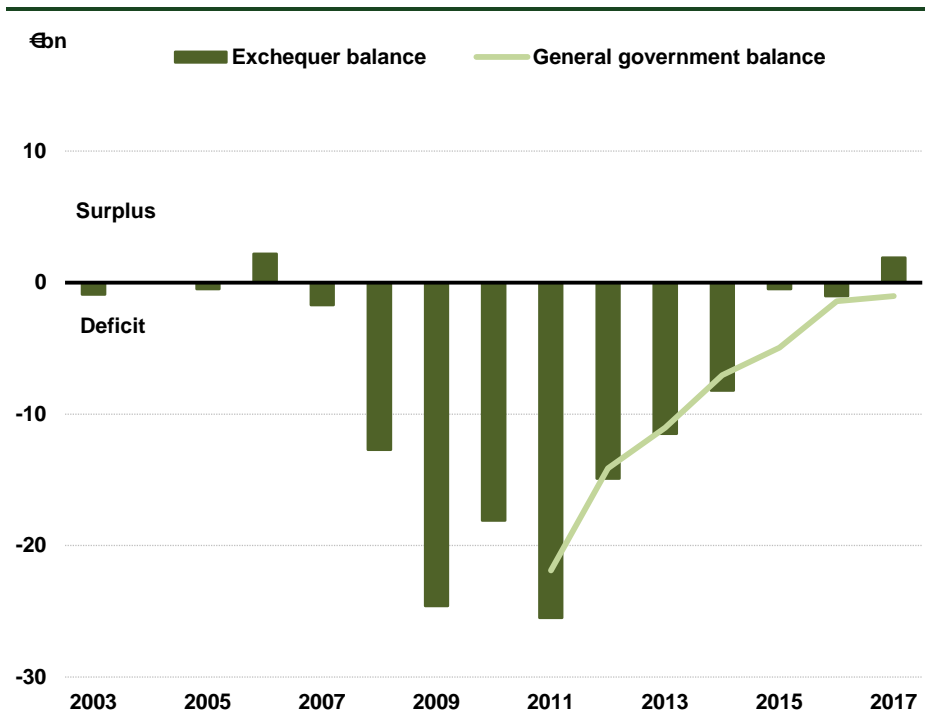
Source: Finance Accounts 2003 to 2017

Note: Receipts and issues shown exclude borrowing and repayment of national debt.

Exchequer balance

- 1.4** The Exchequer balance is the net surplus or deficit position of the Central Fund i.e. the surplus or deficit of Central Fund receipts over issues. In 2017, the Exchequer surplus was €1.9 billion. This compared to a deficit of €1 billion in 2016.
- 1.5** The general government balance is a broader measure than the Exchequer balance. It measures the fiscal performance of the general government sector, which comprises central government, local authorities, non-commercial State sponsored bodies, and funds such as the Social Insurance Fund managed by Government bodies. It does not include the transactions of commercial State sponsored bodies. It is the standard measure used for comparative purposes across the European Union.¹
- 1.6** Figure 1.2 shows both the Exchequer balance over the period 2003 to 2017, and the general government balance for 2011 to 2017. The general government balance for 2017 was a deficit of €1 billion compared to the Exchequer surplus of €1.9 billion. The difference between the measures relates mainly to the treatment of transactions associated with financial sector stabilisation measures.

Figure 1.2 Exchequer balance, 2003 to 2017 and general government balance 2011 to 2017



¹ The general government balance is used for fiscal monitoring under the European Union Stability and Growth Pact. The Pact is the set of rules under which member states of the European Union must manage their public finances.

Source: Finance Accounts 2003 to 2017 and CSO Government Income and Expenditure.

Central Fund receipts and issues

1.7 An analysis of Central Fund receipts and issues for the years 2013 to 2017 is set out in Figure 1.3.

Figure 1.3 Composition of Central Fund receipts and issues, 2013 to 2017^a

Receipts	2013	2014	2015	2016	2017
	€m	€m	€m	€m	€m
Current receipts					
Tax revenue	37,806	41,282	45,601	47,864	50,737
Transfer from Local Government Fund	—	520	481	318	230
Central bank surplus income	1,152	1,225	1,719	1,800	1,836
Dividends from State bodies	264	475	551	269	324
Other current revenues	1,260	746	765	717	475
Capital receipts					
Loans/advances repaid ^b	1,098	4,987	5,348	2,143	1,021
Financial sector stabilisation measures receipts	2,311	—	3,682	1,871	3,723
Exceptional capital receipts ^c	60	405	335	—	—
Other capital receipts	113	131	106	75	30
Total receipts	44,064	49,771	58,588	55,057	58,376
Issues					
Issues for voted expenditure	43,072	42,224	42,863	43,986	46,291
Service of national debt	7,459	7,579	7,107	6,845	6,227
Contribution to EU budget	1,726	1,685	1,952	2,023	2,016
Oireachtas Commission	101	101	106	114	110
Loans/advances ^b	1,444	4,875	5,111	2,320	963
Financial sector stabilisation measures	1,060	100	30	4	—
Irish Water (shares, capital contributions and loans)	—	461	96	184	270
Transfer to Local Government Fund ^d	—	484	461	463	480
European Stability Mechanism capital contribution	510	255	—	—	—
Ireland Strategic Investment Fund contribution	—	—	335	—	—
Payments to local authorities to repay HFA loans	—	—	427	—	—
Other payments	195	196	164	136	113
Total issues	55,567	57,960	58,652	56,075	56,470
Surplus/ (deficit) for the year	(11,503)	(8,189)	(64)	(1,018)	1,906

Source: Finance Accounts 2013 to 2017

- Notes:
- a Transactions of the Central Fund account and the Capital Services Redemption Account are consolidated. The latter account is maintained by the National Treasury Management Agency for servicing national debt and transactions of a normal banking nature.
 - b See Annex 1A for further details.
 - c Non recurrent receipts relate to: sale of mobile licences (2013); National Lottery licence sale receipts (2014); and Aer Lingus share capital disposal receipts (2015).
 - d Related to application of Local Property Tax receipts, which are included in tax revenue.

Central Fund receipts

- 1.8** Receipts into the Central Fund in 2017 totalled €58.4 billion. This represented an increase of €3.3 billion (6%) relative to 2016 receipts. An increase in tax revenue accounted for €2.9 billion of this. Receipts increased for all taxes.
- 1.9** There was an increase in capital receipts primarily due to the sale of 29% of the State's shareholding in AIB for €3.4 billion in 2017. This is included in the financial sector stabilisation measures receipts.

Central Fund issues

- 1.10** Issues from the Central Fund in 2017 amounted to €56.5 billion, which represents an increase of less than 1% on 2016. Significant components were
- issues for voted services increased by 5% to €46.3 billion
 - payments of €6.2 billion related to servicing of borrowing undertaken by the NTMA were 9% lower than in 2016
 - the year-on-year reduction of €1.4 billion in loans and advances issued was mainly because there was no requirement for cash flow advances to the Social Insurance Fund in 2017.

Government funding of Irish Water

1.11 In 2017, a total of €1.2 billion was provided to Irish Water (see Figure 1.4).

Figure 1.4 Government funding of Irish Water, 2013 to 2017

	2013 €m	2014 €m	2015 €m	2016 €m	2017 €m	
Recurrent funding						
Local Government Fund subventions	—	439	399	652	639	
Vote for Housing, Planning and Local Government	1	—	—	—	292	
Total recurrent funding	1	439	399	652	931	
	2013 €m	2014 €m	2015 €m	2016 €m	2017 €m	Total €m
Capital contributions and loans						
Central Fund capital contributions	—	407	—	280 ^a	—	687
Share capital acquired	—	—	54 ^b	—	270	324
Central Fund convertible loan ^b	—	54	(54)	—	—	—
Central Fund working capital loan	—	—	96	(96)	—	—
Ireland Strategic Investment Fund ^c	250	50	—	—	—	300
Total capital contributions and loans	250	511	96	184	270	1,311

Source: Finance Accounts 2013 to 2017. Local Government Fund Accounts 2013 to 2017, Department of Housing, Planning and Local Government.

- Notes:
- a Comprises €184 million issued from the Central Fund in 2016 and conversion of a working capital loan of €96 million.
 - b Convertible debt instrument issued by Irish Water in 2014 and held by the Minister for Finance converted into an equity holding in Irish Water in September 2015.
 - c The aggregate €300 million facility provided in 2013 and 2014 was refinanced and replaced by a new €300 million Ireland Strategic Investment Fund (ISIF) facility in September 2015 (and extended in September 2016). ISIF has made a further €150 million facility available to Irish Water but no funds have been drawn down to date against that facility.

Exchequer assets

Cash and financial assets

- 1.12** The level of cash and other financial assets held by the Exchequer increased from €11.1 billion at end 2016 to €13.2 billion at end 2017 (see Figure 1.5). The increase of €2.1 billion or 19% reflects the impacts of the surplus of €1.9 billion and net cash borrowing of €0.2 billion in the year.

Figure 1.5 Movements in Exchequer cash and financial asset balances, 2013 to 2017

Movement in year	2013 €m	2014 €m	2015 €m	2016 €m	2017 €m
Balance at 1 January	23,850	23,601	14,759	13,554	11,119
Net Exchequer borrowing/ (repayment) in year	11,254 ^a	(653)	(1,141)	(1,417)	193
Exchequer surplus/(deficit)	(11,503)	(8,189)	(64)	(1,018)	1,906
Balance at 31 December	23,601	14,759	13,554	11,119	13,217
Composition of cash and financial assets at 31 December	2013 €m	2014 €m	2015 €m	2016 €m	2017 €m
Central Bank Exchequer account	4,432	4,089	7,964	8,385	10,533
Commercial bank deposits ^b	11,068	5,540	1,779	199	—
Non-Irish treasury bills	3,041	1,474	1,184	—	—
SBCI medium-term guaranteed notes ^c	—	—	—	85	85
Loans to Housing Finance Agency	3,704	3,145	2,424	2,032	1,742
Collateral funding	1,356	511	203	418	857
Balance at 31 December	23,601	14,759	13,554	11,119	13,217

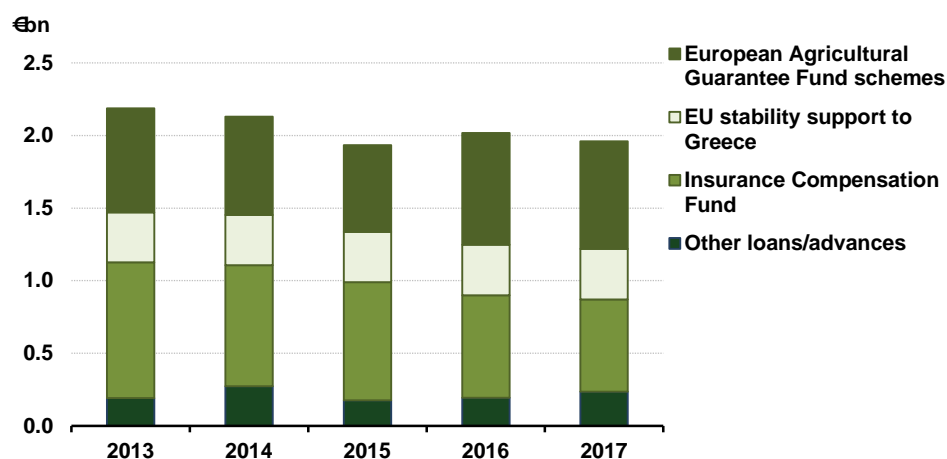
Source: Finance Accounts 2013 to 2017. Any apparent differences in totals are due to rounding.

- Notes:
- a Excludes floating rate bonds of just over €25 billion issued to replace Irish Bank Resolution Corporation promissory notes.
 - b Includes collateralised deposits and tri-party repurchase agreements.
 - c Strategic Banking Corporation of Ireland (SBCI) was established under the Strategic Banking Corporation of Ireland Act 2014. Its aim is to ensure access to flexible funding for Irish small and medium enterprises by facilitating the provision of lower-cost funding and flexible products. The issued share capital of the SBCI is owned solely by the Minister for Finance.

Exchequer loans and advances

- 1.13** Excluding lending of €1.7 billion to the Housing Finance Agency and €85 million to the Strategic Banking Corporation of Ireland, loans and advances provided from the Central Fund totalling €1.9 billion were outstanding at the end of 2017 — a decrease of €58 million compared with 2016. The outstanding balances for the major categories of loans and advances at the end of each year since 2013 are shown in Figure 1.6.

Figure 1.6 Year-end balances on Central Fund loans and advances, 2013 to 2017



Source: Finance Accounts 2013 to 2017. See Annex A.

- 1.14** In addition to these loans and advances, the Central Fund is entitled to reimbursement of Exchequer contributions provided to the Credit Institutions Resolution Fund in 2011 and to the Credit Union Fund in 2012. Each fund was provided with €250 million.

Apple Escrow Fund

- 1.15** Following an investigation launched in 2014, the European Commission (the Commission) published its final decision in August 2016 concerning two tax opinions by the Revenue Commissioners on the attribution of profits to branches of two Apple companies. The Commission's decision is that those opinions constituted State aid for the period 2003 to 2014 and that Ireland must recover from Apple approximately €13 billion, plus interest.¹
- 1.16** The Commission's decision has not been accepted by the State. In November 2016, an annulment application was lodged with the General Court of the European Union. Apple has lodged its own separate annulment application. Pending the final outcome of the appeal, the State is obliged to collect from the two Apple companies the amount (including interest) of the alleged State aid. The sum collected from Apple has been placed in escrow, until the legal proceedings have concluded.

¹ EU regulations require that State aid recovered shall include interest at a rate fixed by the European Commission.

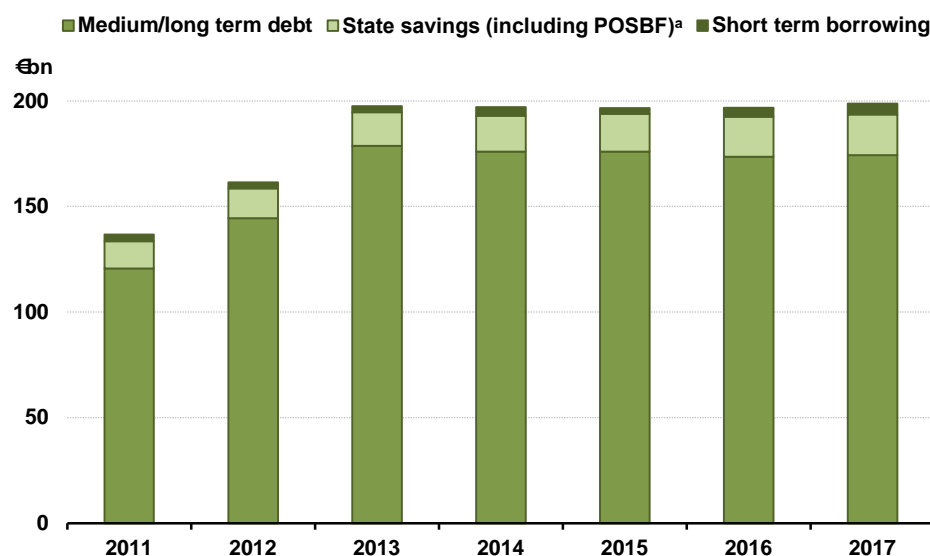
- 1.17** In April 2018, the Minister for Finance and Public Expenditure and Reform, on behalf of the Government, signed an 'escrow framework deed' with Apple. This agreement governs, amongst other things, the collection and management of funds. The sum for collection has been determined by the Revenue Commissioners to be €13.1 billion. In addition to this, interest is payable as the amount is recovered. The State recovered in full the alleged State Aid of €13.1 billion plus interest of €1.2 billion by September 2018.
- 1.18** The Minister for Finance has delegated certain functions in relation to the investment of the escrow fund to the NTMA, pursuant to Section 28 of the National Treasury Management Agency (Amendment) Act 2000. The annual financial statements of the escrow fund will be subject to audit by the Comptroller and Auditor General, and will (following audit) be presented to the Houses of the Oireachtas.

Exchequer liabilities

National debt

- 1.19** Gross national debt stood at €198.7 billion at the end of 2017, reflecting a marginal increase from 2016 (Figure 1.7).

Figure 1.7 Gross national debt at redeemable par values, end 2011 to end 2017



Source: National Treasury Management Agency

Note: a Post Office Savings Bank Fund

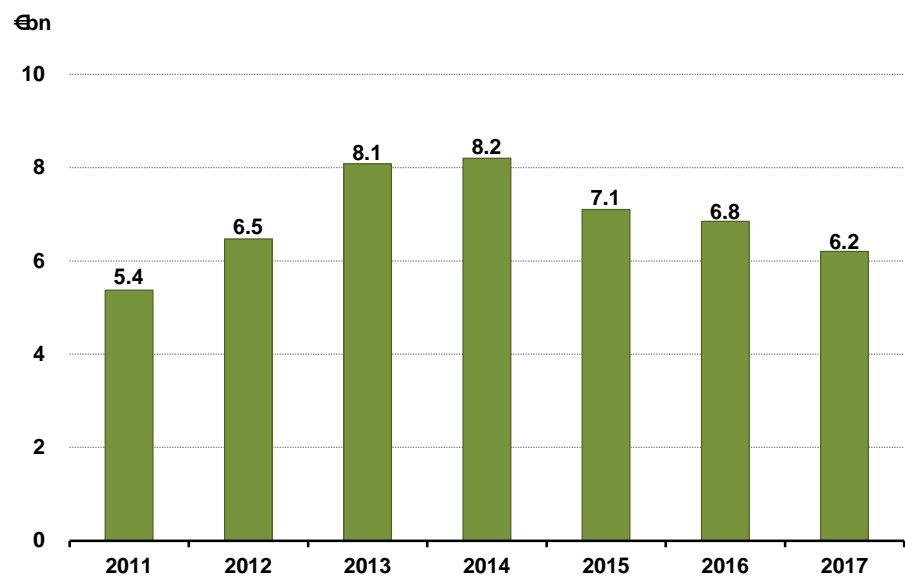
- 1.20** Medium and long-term debt at end-2017 accounted for 88% (€174 billion) of the gross national debt. It comprised mainly borrowings in the form of government bonds (€128 billion) and loans received under the EU-IMF Programme of Financial Support for Ireland (€45 billion).
- 1.21** Debt arising from State savings schemes amounted to €17.3 billion at end-2017. In addition, short term borrowings from the Post Office Savings Bank Fund (POSBF) amounted to €1.9 billion.

- 1.22** Short-term debt accounted for €5.2 billion of gross national debt at end-2017 compared with €4.2 billion at end-2016.¹ The end-2017 borrowing comprised short term paper debt of €4.8 billion and €387 million in surplus funds transferred from the Paymaster General's Supply Account at the year end.

Debt service costs

- 1.23** The debt service cost for 2017 was just over €6.2 billion, down 9% on 2016 (Figure 1.8). This includes interest paid on cash and other financial assets of €46 million, and fees and operating expenses of €135 million.

Figure 1.8 Debt service costs, 2011 to 2017 (cash basis)^a



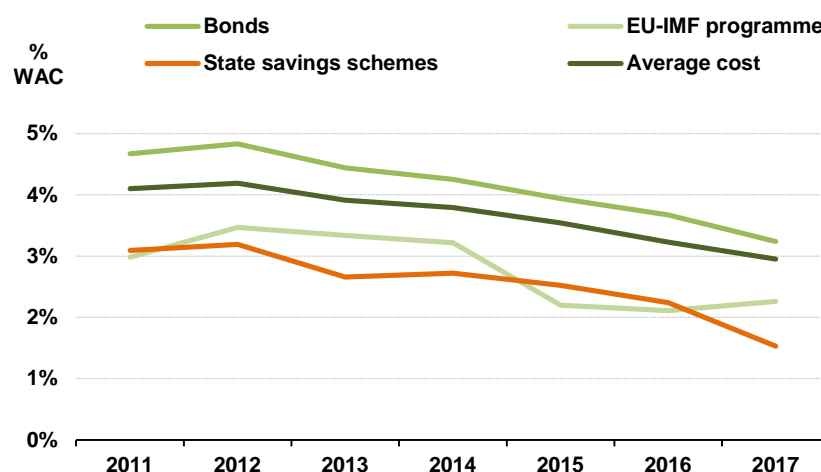
¹ Debt with an original maturity of less than one year.

Source: National Treasury Management Agency

Note: a For 2011 to 2014, the debt service costs include the sinking fund payment which ceased for 2015 and subsequent years in accordance with Finance Act 2014.

- 1.24** The average cost of State borrowing continued to decline in 2017. At the end of the year, the overall weighted average cost of servicing the gross national debt was estimated at 3% (end-2016: 3.2%), (see Figure 1.9).

Figure 1.9 Weighted average cost (WAC) of gross national debt, 2011 to 2017



Source: National Treasury Management Agency

Reporting of Government Debt

- 1.25** General government debt is a more comprehensive measure of State indebtedness than national debt and is a standardised measure which all EU countries are legally obliged to report under the Maastricht Treaty. In 2017, the Department of Finance published its first *Annual Report on Public Debt in Ireland*, which it intends to update annually. The report focuses on the general government debt, explains public debt developments in Ireland, presents debt sustainability indicators, and monitors progress towards debt targets.
- 1.26** European fiscal rules require a reduction in the debt to GDP ratio until a 60% threshold is reached. The Department of Finance has pointed out that this threshold may not be optimal in an Irish context, given the distortions associated with Irish GDP. Therefore, the Government has adopted a debt target of 55% of GDP for medium term fiscal policy purposes, and a target of 45% of GDP to be achieved by the middle of the next decade.

Annex 1A Loans and advances, 2013 to 2017

	2013	2014	2015	2016	2017
	€m	€m	€m	€m	€m
European Agricultural Guarantee Fund					
Opening balance	730	715	677	599	770
Repayments	(730)	(715)	(677)	(599)	(770)
Loans issued	715	677	599	770	740
Closing balance	715	677	599	770	740
Social Insurance Fund					
Opening balance	—	15	—	—	—
Repayments	(285)	(4,015)	(4,365)	(1,370)	—
Advances	300	4,000	4,365	1,370	—
Closing balance	15	—	—	—	—
Insurance Compensation Fund					
Opening balance	735	933	833	812	706
Repayments	—	(100)	(100)	(106)	(70)
Loans issued	198	—	79	—	—
Closing balance	933	833	812	706	636
EU Stability Support to Greece					
Opening balance ^a	346	346	346	347	347
Repayments	—	—	—	—	—
Loans issued	—	—	—	—	—
Closing balance	346	346	346	347	347
Other loans and advances					
Opening balance	30	178	273	177	194
Repayments/loans conversion ^b	(83)	(157)	(260)	(164)	(181)
Loans issued	231	252	164	180	223
Closing balance	178	273	177	194	236

Source: Finance Accounts 2013 to 2017. Any apparent differences in totals are due to rounding.

Notes: a The amount issued in 2010 was €346 million. The loan balance was restated in 2016 to the full amount outstanding.

b In 2016, a loan of €96 million to Irish Water was converted into a capital contribution. This was a 'non-cash' transaction but reduces the amount of loans outstanding at the end of 2016 by €96 million.

2 Collection of pension contributions due to the Exchequer

- 2.1** Defined benefit pension schemes operated in the private and commercial semi-state sector generally require both employees and employers to make payments into a pension fund, which is invested and held as an asset to meet future pension liabilities. The value of the pension fund asset must be sufficient to meet future pension liabilities as they fall due.
- 2.2** In contrast, most public service pension schemes are unfunded, and benefits are financed on a 'pay-as-you-go' basis with the annual cost of pensions in payment being met from current revenue.
- 2.3** In respect of public servants employed before 1 January 2013
- Contributions collected from employees are either retained by the State body and form part of its current revenue, or are remitted to the parent department.
 - The majority of State bodies do not make an employer contribution.
- 2.4** The new Single Public Service Pension Scheme (the 'Single Scheme') established under the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (the Act) commenced with effect from 1 January 2013. All new entrants to pensionable public service employment on or after 1 January 2013 are, in general, members of the Single Scheme.
- 2.5** The legislation establishing the Single Scheme provided for employer pension contributions in relation to entities not fully funded by the Exchequer.¹ The intention was that public service bodies financed wholly or mainly from sources other than the Central Fund could be required to make employer contributions to take account of the cost of pension benefits accrued by staff in the period. The employer contribution rate was specified as the actuarially-determined cost of providing for the benefits concerned after taking account of employee contributions, with the employer contribution capped at three times the employees' contributions.
- 2.6** The Department of Public Expenditure and Reform (the Department) gave effect to this provision of the Act in December 2016 and issued Circular 28/2016 (the Circular). This directed that employer contributions were payable at the rate of three times the employee contributions where
- a public service body is self-financing, or
 - an activity of a public body on which Single Scheme employees are engaged is mainly or wholly self-financing (e.g. a commercially-funded research project conducted through a higher education body).

¹ Section 16(4) of the Act.

- 2.7** Although the Circular issued in December 2016, the effective date in respect of the requirement to pay employer contributions was deemed to be 1 January 2013, the date on which the Single Scheme commenced. The Circular (paragraph 4) stated that relevant State bodies that were required to remit employer contributions would be contacted directly by the Department 'in due course' and in this context, the Department would liaise as appropriate with parent departments and oversight agencies.
- 2.8** A number of bodies whose financial statements are subject to audit by the Comptroller and Auditor General have sought clarification from the Department in relation to whether the requirements of the Circular apply to them but have not received a reply in that regard.
- 2.9** When the Department issued the Circular in December 2016, it did not have an estimate of the number of bodies that it applied to or the amount collectible on foot of its provisions.
- 2.10** The Accounting Officer of the Department noted that the Circular was issued to establish an appropriate employer contribution rate in accordance with the Act. He noted that, at the time the Circular was issued,
- it was not possible to estimate the number of bodies to which the Circular would apply or the income it would generate as the required detailed review and analysis had not been undertaken by the Department
 - the need to conduct discussions with relevant sectors and State bodies was recognised and reflected in the Circular.
- 2.11** He stated that work on the detailed review had been hampered by staff changes and retirements in the Department but noted that recent reassignment of staff would facilitate completion of the review in the final quarter of 2018.
- 2.12** As a result of the work completed to date, 14 bodies (see Figure 2.1) are making employer contributions and at 14 September 2018 had made contributions totalling €4.35 million.

Figure 2.1 State bodies remitting employer pension contributions in accordance with the Department Circular 28/2016

▪ Commission for Regulation of Utilities	▪ Nursing and Midwifery Board of Ireland
▪ Galway-Mayo Institute of Technology	▪ The Teaching Council
▪ Institute of Technology Tralee	▪ Medical Council
▪ National University of Ireland Galway	▪ The Pharmaceutical Society of Ireland
▪ Higher Education Authority	▪ Regulator of the National Lottery
▪ Housing Finance Agency	▪ Road Safety Authority
▪ National Oil Reserves Agency	▪ Financial Services and Pensions Ombudsman

Source: Office of the Comptroller and Auditor General

- 2.13** The employer contributions are submitted to the Department and are accounted for as appropriations-in-aid of Vote 12 — Superannuation and Retired Allowances. They are included under subhead B7 of the Vote along with employee contributions.
- 2.14** The Department has identified a number of other bodies that, in its view, are required to make employer contributions. This process of identification is ongoing and further clarification and agreement is required. The Accounting Officer stated that the next stage of the review will involve his Department engaging further with the relevant sectors and State bodies to reach a conclusion.

Conclusions and recommendation

- 2.15** The introduction of employer contributions under the Single Scheme in relation to staff employed by self-financing operations established the concept of payments to the Exchequer to recognise the full cost of pension benefits earned by the relevant staff. In the majority of cases, the employer contributions are a source of revenue since they derive (in whole or in part) from funds generated by the relevant State body.
- 2.16** Entities required to make employer contributions will have to factor this cost into their budgeting procedures, in particular in relation to setting fees charged for the services they provide.
- 2.17** As of September 2018, the Department has yet to finalise the list of all State bodies that will be required to make employer pension contributions in respect of Single Scheme employees. The Department has indicated that it plans to complete this exercise in the final quarter of 2018.
- 2.18** As the funding required to make employer pension contributions is derived from fees and other income generated by the relevant authorities, the non-collection of amounts due with effect from 1 January 2013 represents a shortfall in appropriations-in-aid. The Department is not in a position to estimate the value of amounts due.
- 2.19** The Circular provided for back-dating of employer contributions to 1 January 2013. The application of the requirements of this Circular in 2018, or later, to individual entities will have significant implications for the affected entities, as five years' contributions will become payable. This potentially has implications for the cash flow of each entity concerned.

Recommendation 2.1

The Department should complete the work required to identify the bodies that are required to make employer contributions without delay.

Accounting Officer's response

Agreed.

My Department is currently undertaking the necessary review to identify and engage with bodies affected, with the aim of finalising this matter in quarter four of 2018.

3 Control of funding for voted public services

- 3.1** The Constitution and legislation set out the framework underpinning the manner in which funds are appropriated for voted public services, and how they are accounted for. Voted expenditure covers the ordinary services of departments and offices (such as income support, public servants' pay and pensions, and grants) and is approved each year by Dáil Éireann.
- 3.2** Through the Appropriation Act 2017, Dáil Éireann approved the provision of a total of €49.7 billion for 42 voted services in 2017. This comprised issues from the Central Fund totalling €46.8 billion, and €2.9 billion of appropriations-in-aid from other receipts collected by the respective departments and offices.¹ The Act was passed by Dáil Éireann on 14 December 2017 — the second-last sitting day of 2017.
- 3.3** This chapter reviews the process employed to implement the annual appropriations. It also considers the risks to the continuity of funding of public services arising from an unexpected or short notice dissolution of Dáil Éireann.

Release of funds from the exchequer

- 3.4** Under article 33 of the Constitution, the Comptroller and Auditor General controls the release of moneys from the Central Fund of the Exchequer which is held at the Central Bank of Ireland. Section 2 of the Comptroller and Auditor General (Amendment) Act 1993 sets out the detailed requirements for the process.
- The Minister for Finance (or a delegated official) applies to the Comptroller and Auditor General for a 'credit' of an amount of money to be released from the Central Fund for a specified purpose and within a specified time period.²
 - When the Comptroller and Auditor General is satisfied that the amount and purpose of the disbursement has been authorised by law or voted by Dáil Éireann, he/she issues a formal notification of a grant of credit to the Central Bank, with a copy being sent to the Minister for Finance. This is, in effect, a credit limit available for drawdown.
 - The Minister instructs the Central Bank to release funds as required, up to the limit specified in the credit approval.

- 3.5** Unless approval of credit is granted by the Comptroller and Auditor General, the Department of Finance cannot instruct the Central Bank to release funds from the Central Fund.

Consideration and approval of expenditure proposals

- 3.6** The legal authority to incur expenditure on the ordinary services of government departments and offices — also referred to as 'voted services' or 'supply services' — involves a two stage process
- Dáil Éireann considers the estimate for each service and passes the relevant financial resolution (voting of expenditure)
 - legislation to give effect to the financial resolutions for each year must be enacted within that year — this is done through the annual Appropriation Act.

¹ Apart from the amount issued from the Central Fund for these voted services, non-voted expenditure of €10.2 billion in 2017 was paid directly from the Fund under specific legislation, for items such as the service of the national debt, EU budget contribution, salaries of the judiciary, etc. This non-voted expenditure also requires the grant of credit by the Comptroller and Auditor General.

² The form of approval in the Act is referred to as a credit — this is the maximum amount which can be issued from the exchequer account at the Central Bank within a specified period of time. The NTMA is also empowered to apply for credits in respect of transactions related to the management of the national debt.

3.7 The key elements of this process are set out in Figure 3.1.

Figure 3.1 Annual appropriations approval process

Month	Approval stage	Impact: amounts which can be released from the Exchequer
October	Budget statement and estimates for the public services for following financial year. ^a	
December	Estimates referred to relevant Dáil Select Committees.	From the following 1 January, the amount is limited to 80% of the lower of the prior year appropriated amounts or the amounts set out in the estimates.
March	Estimates considered by relevant Select Committees.	
April	Votes by Dáil Éireann to give legal effect to estimates.	Limit revised to the current year voted amounts.
During year	Supplementary estimates considered and voted.	Limit adjusted for any voted supplementary estimates when approved by Dáil Éireann.
December	Appropriation Act passed to give statutory effect to the estimates.	No revisions — confirms previous votes.
March	Appropriation accounts prepared by Accounting Officers and submitted to C&AG for audit.	

Source: Public Financial Procedures issued by the Department of Public Expenditure and Reform

Note: a The Estimates for Public Services set out the purpose of the service and the amount to be appropriated thereto.

3.8 In order to ensure that spending on the vote-funded public services can continue from the start of each financial year, the Central Fund (Permanent Provisions) Act 1965 gives the Minister the power to request credits for funds to be issued from the Exchequer once the Appropriation Act has been passed for the preceding financial year. The 1965 Act caps the amounts which can be spent on each service at 80% of the sums appropriated in the preceding year until the Dáil passes the estimates.

3.9 The 80% rule is normally sufficient to maintain the funding of services of a department until the Estimate is voted. Occasionally, an early vote is needed, for example, the Central Statistics Office had an early requirement for additional funds to facilitate the taking of the census in 2016.¹

¹ In April 2016, a motion was passed by Dáil Éireann before the full debate on Estimates in order to allow funding to be allocated to the Central Statistics Office to complete the 2016 census.

3.10 Because the annual appropriation legislation is one of the last pieces of legislation to be enacted each year, two potentially serious difficulties could arise should there be a failure, for whatever reason, to pass the legislation.

- The parliamentary process for approving expenditure for the current financial year would be incomplete, contrary to the provisions in the Constitution.
- The Minister would not be able to request credits for moneys to be released under the 1965 Act to fund public services in the early part of the following financial year.

3.11 The first issue may give rise to some difficulties in relation to the accounting and audit of the sums for a financial year.

3.12 A failure to enact the appropriations legislation by year end — for example, as the result of an unexpected dissolution of Dáil Éireann late in the year — would result in there being no legal mechanism to release funds from the exchequer from the first day of the new financial year. This could impact on the delivery of vote-funded public services. In the passing of the Appropriation Bill 2017, the Minister of State at the Department of Finance stated that

“If the Bill were not enacted before the end of December there would be no authority to spend any voted moneys in 2018 from the start of January until approval of the 2018 Estimates, since this authority for 2018, as contained in the Central Fund (Permanent Provisions) Act 1965, is based on the amounts provided for in the Appropriation Act 2017 itself.”

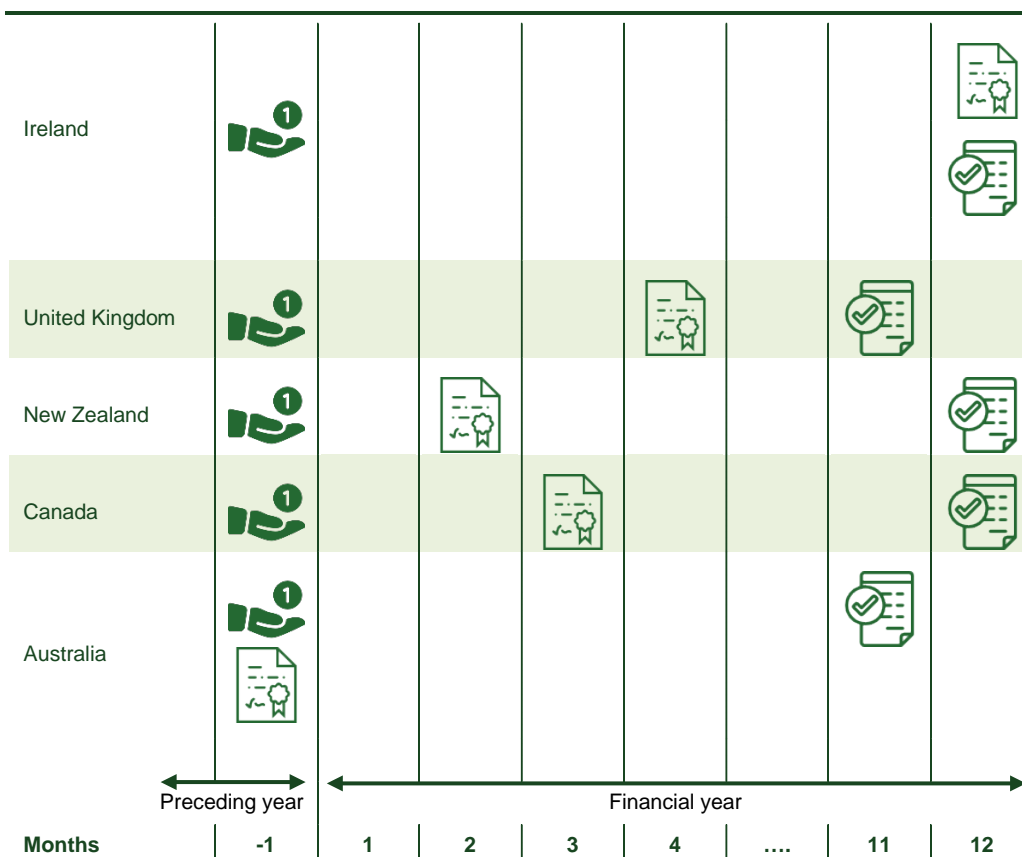
Approaches in other jurisdictions

3.13 Other ‘Westminster model’ jurisdictions apply many of the budgetary procedures which are used in Ireland. A common feature in many of the jurisdictions is the distinction between the legislature


- granting supply, whereby it controls the amount and time period when the government can draw down public funds and how unspent funds or excessive expenditures are dealt with, and
- formally appropriating through legislation the specific amounts of public resources assigned for specific purposes.¹

3.14 A comparison of key features of the appropriation process for jurisdictions with the Westminster model is set out in Figure 3.2.

¹ The separate elements of supply and appropriation are recognised in Article 22 of the Constitution dealing with Money Bills.

Figure 3.2 Comparison of the appropriation process in other jurisdictions

Source: United Kingdom (*HM Treasury Supply Estimates: a guidance manual 2011*); New Zealand (*A Guide to Appropriations — The Treasury 2013*); Canada (*Treasury Board — Estimates Publications and Appropriation Acts*); Australia (*Parliament of Australia — the budget and financial legislation*)

Notes:  Supply granted for the next financial year. In Ireland, up to 80% of the preceding financial year is granted. In the United Kingdom, up to 45% of the next financial year is granted. In New Zealand and Canada, supply is granted for the first three months of the financial year.



Appropriation legislation is passed for the financial year.



Legislation for supplementary estimates is passed. In several jurisdictions, legislation for supplementary appropriations can be enacted earlier in the financial year.

3.15 In each jurisdiction, there is a legal mechanism to fund public services for the financial year in advance, either through a specific supply statute or as part of the (prior year) annual appropriation statute. There are also mechanisms to provide for the continued funding of government services if there is an unexpected interruption to the appropriation process. For example, in the UK, a general election can sometimes interrupt the normal cycle for supply approval. Parliamentary authorisation of the estimates provision sought must be made through legislation. If the relevant legislation is not passed before the election, the amounts that had not been duly appropriated would have to be voted again in the next parliamentary session before a legal appropriation could be effected. In Ireland's case, the Constitution prescribes that the legislation to give effect to the financial resolutions of Dáil Éireann for each year must be enacted within that year.

- 3.16** Several jurisdictions also allow multi-annual limits for expenditure planning. These controls may be exercised by government or by legislation. For example, in Australia, about 25% of government expenditure is authorised through the annual appropriation process, with the remaining 75% authorised by specific statutes. These statutes appropriate funds for a specified purpose such as the financing of a particular project or programme. Such appropriations are often not specific in amount or duration.
- 3.17** The Department of Public Expenditure and Reform has stated that in the context of the constitutional requirement that legislation to give effect to the financial resolutions of Dáil Éireann must be enacted within that year, the Appropriation Bill is scheduled based on the timing of approval, by Dáil Éireann, of supplementary estimates for the year. This ensures that all Estimates voted by Dáil Éireann are reflected in the Appropriation Bill, thereby meeting the constitutional requirement. The Department stated that this constitutional requirement is the key parameter guiding arrangements in respect of Estimates and the Appropriation Bill. Within this parameter, recent reforms to the budgetary process have mitigated certain risks in relation to the 80% limit that applies under the 1965 Act.
- 3.18** The Department stated that it was important to note that the risks would only crystallise in the event of an unexpected dissolution of Dáil Éireann where no appropriate arrangements were made in respect of enacting the Appropriation Bill. The Department stated that given the potential impact of a failure to enact the legislation, it ensures that there is clear communication with the Whip's Office on the timeline for publication of the Appropriation Bill, with all relevant briefing material provided in a timely manner, including for the Business Committee of Dáil Éireann.

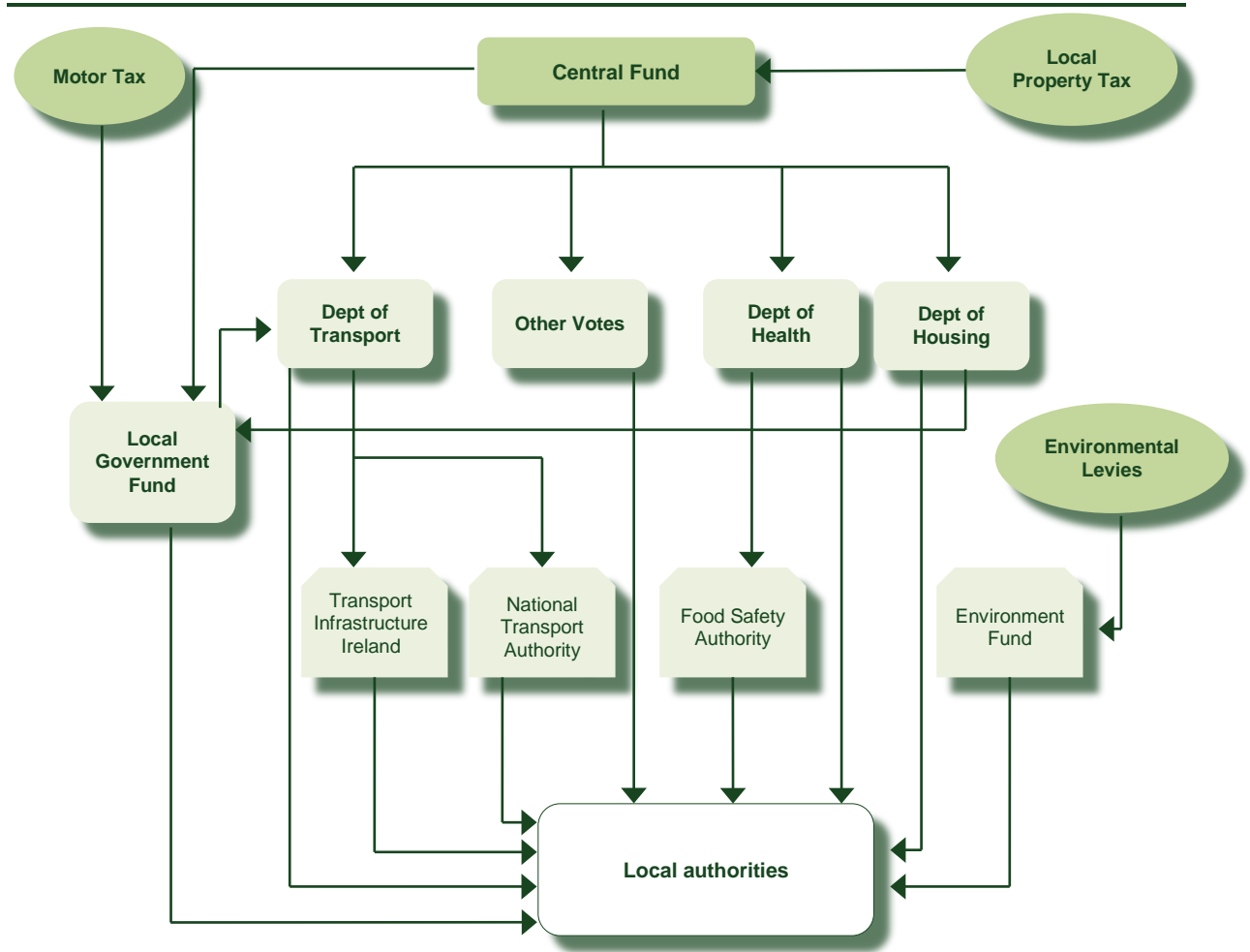
Conclusion

- 3.19** In other jurisdictions, the passing of appropriations legislation takes place early in the year after consideration of estimates, with further appropriations legislation at the year end to cover any required supplementary estimates. In Ireland's case, the formal appropriation of funds for supply services is generally taken very late in the year. This results in a risk that, in the event of an unexpected dissolution of Dáil Éireann when agreement cannot be reached on the passing of an Appropriation Bill
- appropriations in the financial year would not be in accordance with the Constitution
 - spending on supply services in the following year could not proceed as provided for in the Central Fund (Permanent Provisions) Act 1965.

4 Central government funding of local authorities

- 4.1 Local authorities receive a substantial part of their annual funding from a range of central government departments and agencies (see Figure 4.1). The primary objective of this report is to provide an overview of the funds flowing from and through central government sources to local authorities, and of the purposes for which funds have been provided.

Figure 4.1 Flow of central government funding to local authorities in 2017^a



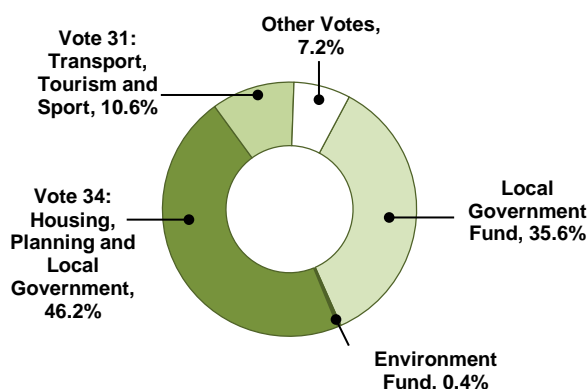
Source: Office of the Comptroller and Auditor General

Note: a From 1 January 2018, local property tax receipts are paid directly into the Local Government Fund and motor tax receipts are paid into the Central Fund (see Annex 4A).

Central government transfers

- 4.2** In 2017, funding to local authorities from central government sources totalled €2.66 billion — an increase of 19.8% on the €2.22 billion in 2016.¹ About 64% of this total originated as Exchequer funding. The balance was provided through the Local Government Fund and the Environment Fund (see Figure 4.2).

Figure 4.2 Sources of central government financing for local authorities, 2017



Source: Analysis by the Office of the Comptroller and Auditor General

- 4.3** The Local Government Fund is administered by the Department of Housing, Planning and Local Government (the Department). In 2017, the Fund was financed mainly by the proceeds of motor tax (€1 billion), local property tax (LPT) receipts (€476 million) and a contribution of €365 million from the Exchequer, via the Vote for Housing, Planning, and Local Government.²
- 4.4** The Environment Fund³ was established primarily to support environmental initiatives, campaigns and programmes, many of which are organised at local or regional level under the auspices of local authorities. The Environment Fund is comprised of the proceeds of the plastic bag levy, which is paid by consumers and collected from retailers by the Revenue Commissioners, and receipts from the landfill levy. Disbursements from the Fund are ring-fenced to assist projects that aim to protect or enhance the environment.

Local Property Tax allocations to local authorities

- 4.5** Up to 2014, the Local Government Fund provided funding to local authorities for their 'day to day' activities through 'general purpose grants'. From 2015, general purpose grants are no longer paid and have been replaced by LPT allocations.
- 4.6** In accordance with Government decisions, annual LPT allocations are calculated on the following basis
- 80% of LPT is retained in the area where the tax is raised.
 - The remaining 20% is used to help fund other local authorities that do not have a sufficient LPT base to meet their funding requirements. In doing so, every local authority receives a minimum amount of funding from the local retention of LPT, known as the baseline.

¹ Includes all identified transfers of greater than €1 million. There may be some additional smaller transfers that have not been included.

² Local Property Tax is administered by the Revenue Commissioners. LPT receipts are paid into the Central Fund initially and then paid over to the Local Government Fund.

³ The Environment Fund is administered by the Department of Communications, Climate Action and Environment.

- The 2017 baseline of €356 million is linked, for the most part, to funding previously allocated from the Local Government Fund as general purpose grants (€282 million in 2014) and to the level of pension related deductions retained by local authorities (€74 million in 2014). Effectively, the LPT allocation now replaces both of these previous sources of funding.
- The final LPT allocation takes into account decisions taken by elected members of local authorities to vary LPT rates in the local authority area in accordance with the Finance (Local Property Tax) Act 2012 (2012 Act).

4.7 In analysing the impact of the LPT funding allocation, local authorities were classified between the 10 authorities in a surplus funding position when compared to their 2017 baseline and the remaining 21 authorities who require additional funding to bring them up to this minimum baseline funding level i.e. authorities requiring funding 'equalisation' (see Figure 4.3).

Figure 4.3 Allocation of LPT to local authorities for 2017

	Local authorities		2017	2016
	in a surplus position	requiring equalisation		
	€m	€m	€m	€m
Local retention (80%) ^a	252	134	386	378
Equalisation funding				
- LPT redistribution (20%)	—	97	97	95
- Exchequer contribution ^b	—	44	44	16
Adjustment for local rate variations	(30)	4	(26)	(36)
LPT allocations for 2017	222	279	501	453
Of which				
- self-funding of housing/roads services	108	—	108	143
- for authority's own general use ^c	114	279	393	310

Source: Department of Housing, Planning and Local Government

- Notes:
- a Local retention before adjustments for 2017 local variation decisions are taken into account. The 2017 allocations were based on Revenue's declared net liabilities for 2016 with adjustment to take account of the variation process.
 - b The Exchequer contributed €16 million compensatory funding in 2016 and €44 million in 2017 to meet the shortfall between LPT allocations and the estimated yield.
 - c In 2017, an upward adjustment of €74 million was made to the LPT baseline, to include an amount equivalent to the amount of PRD which was retained by local authorities in 2014. From 2017, local authorities no longer retain PRD locally.

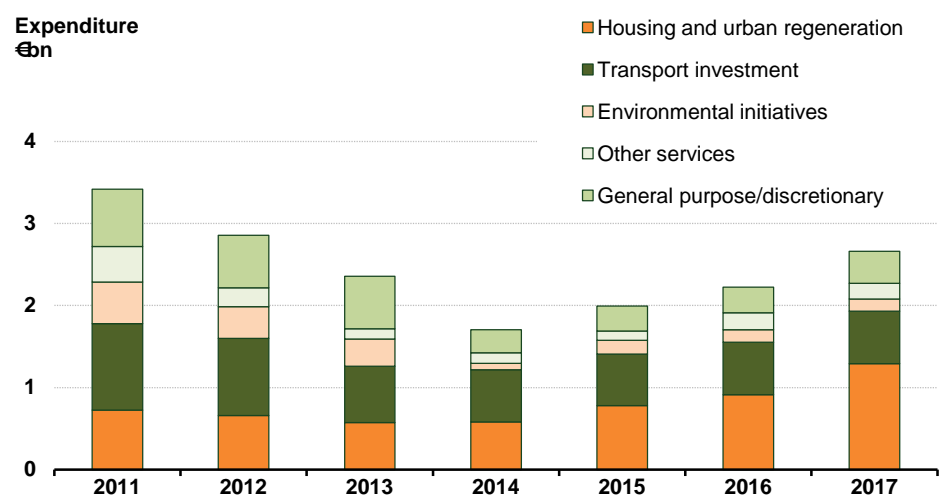
4.8 Local authorities have discretion to vary the LPT rates in their area of operation by up to 15% in accordance with the 2012 Act. For 2017, five local authorities decided to decrease the LPT rate, four by the maximum 15% and one by 3%, at a cost of €30.1 million. Three local authorities increased the LPT rate, two by 10% and one by 5%, raising an additional €3.6 million. The net effect of local variation of the rate in 2017 was a reduction in LPT receipts of €26.5 million.

4.9 For the 10 authorities in a surplus funding position, the Government decided that a portion of the surplus should be available for the authority's discretionary purposes, with the remainder (if any) to fund some local services in the housing and roads areas.

Application of central government funding

- 4.10** Most of the funding sourced from central government and provided to local authorities must be used for specified local authority services. These can be grouped into five broad programme categories. Figure 4.4 presents a breakdown of the transfers to local authorities for 2011 to 2017 showing the programmes being supported (a detailed breakdown is at Annex 4B).
- 4.11** In 2017, around 72% of the total provision from central government to local authorities was accounted for by two categories — housing and urban regeneration programmes (48%), and transport (24%).

Figure 4.4 Central government transfers to local authorities, by expenditure programme, 2011 to 2017

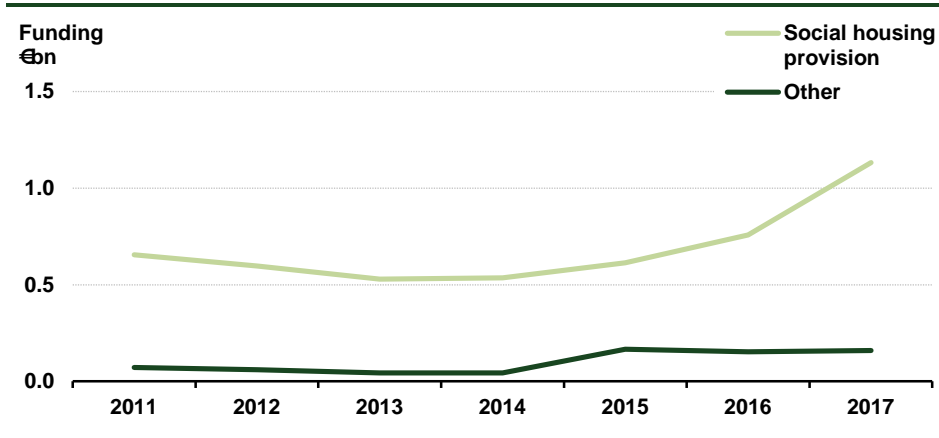


Source: Annex 4B

Housing and urban regeneration

- 4.12** The Department provides the bulk of the funding for housing and urban regeneration directly to local authorities with a number of local authorities (currently nine) required to fund housing services from their LPT receipts, to a value notified to the authority by the Department. The funding is used by the local authorities to support the provision of social housing including through the local authority build and acquisitions programme, regeneration and remedial work, returning empty units to productive use, provision of traveller accommodation, voluntary and cooperative housing, the Rental Accommodation Scheme, Social Housing Current Expenditure Programme, Housing Assistance Payment, housing adaptation grants, and accommodation for homeless people.¹ Figure 4.5 indicates the trend in the level of funding for housing provision.

Figure 4.5 Funding to local authorities for investment in housing and urban regeneration, 2011 to 2017



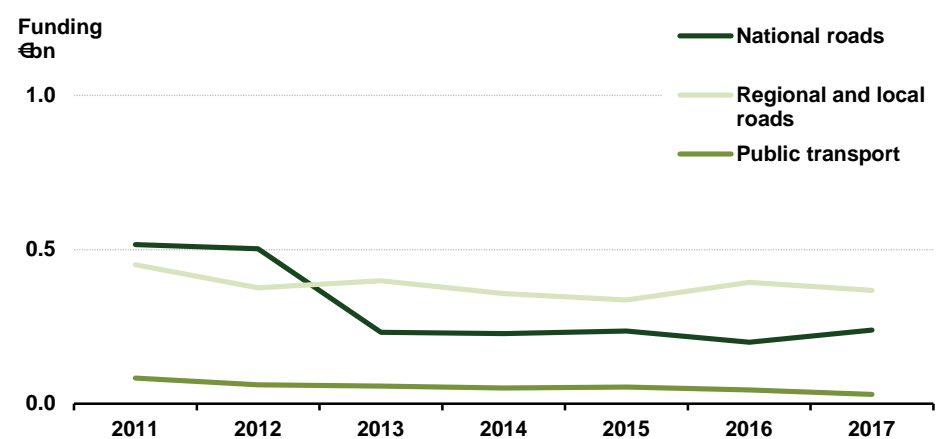
Source: Annex 4B

¹ Chapter 10 of this report provides an overview of the funds provided from central government for social housing supports and, information on the funding and oversight of approved housing bodies.

Transport investment

- 4.13** Improvement and maintenance of national roads is the responsibility of Transport Infrastructure Ireland, operating under the aegis of the Department of Transport, Tourism and Sport. Transport Infrastructure Ireland normally uses local authorities as its agents to deliver roads projects, and channels expenditure through them.
- 4.14** The Department of Transport, Tourism and Sport receives an allocation for the upkeep of regional and local roads from the Local Government Fund. It provides funding to local authorities using Transport Infrastructure Ireland's payment system.
- 4.15** The National Transport Authority, also operating under the aegis of the Department of Transport, Tourism and Sport, funds local authorities for certain improvements in the public transport system. Funding objectives include increased accessibility to public transport for older people, improved traffic flows, more routes for cyclists and pedestrians and better access for buses and taxis.
- 4.16** Figure 4.6 shows the trend in the level of funding from central government sources provided to local authorities in respect of the key transport areas.

Figure 4.6 Funding to local authorities for transport infrastructure, 2011 to 2017

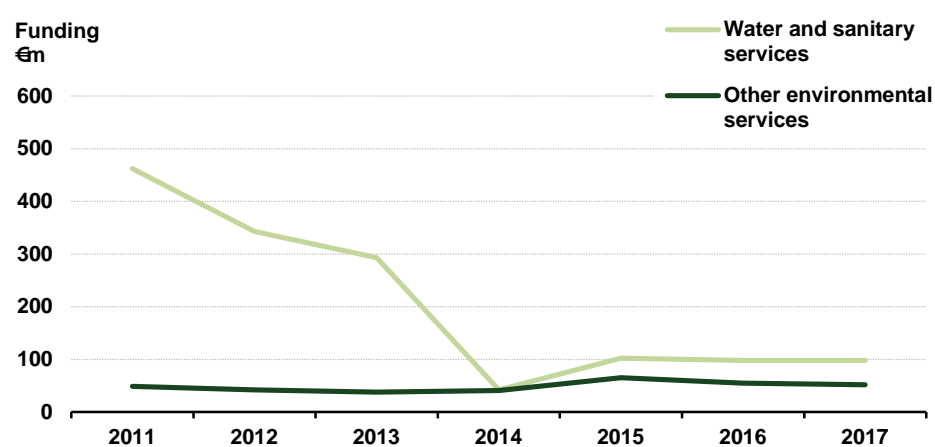


Source: Annex 4B

Environmental initiatives

- 4.17** Figure 4.7 shows the trend in the level of funding from central government sources provided to local authorities in respect of environmental initiatives. Central government funding of local authorities for water and sanitary services investment projects decreased significantly from 2013 due to the transfer of these functions from local authorities to Irish Water.
- 4.18** Funding for environmental initiatives in 2017 includes funds for flood relief works provided by the Office of Public Works. The Local Government Fund provided funding to local authorities for costs associated with the clean-up after a series of major storms which caused flooding during 2017.

Figure 4.7 Funding to local authorities for environmental initiatives, 2011 to 2017

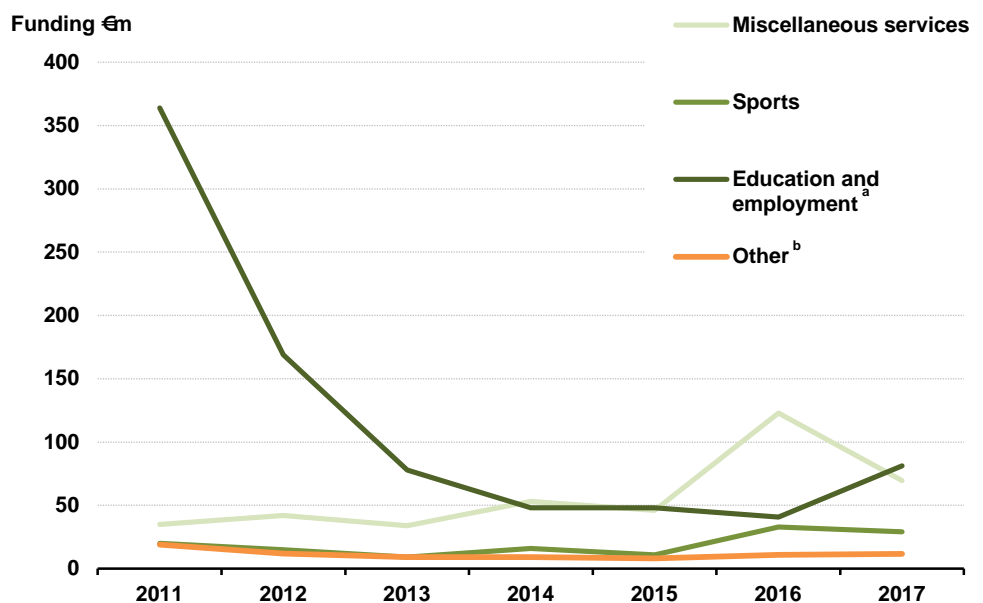


Source: Annex 4B

Other services

- 4.19** Central government bodies also fund local authorities to assist in providing services such as education, employment, sports and cultural projects, fire and emergency services, heritage services and library and archive services.
- 4.20** In 2015, the Department of Business, Enterprise and Innovation (DBEI) began to provide funding to local authorities through Enterprise Ireland (EI), to cover the costs associated with providing local enterprise development supports to the micro-enterprise sector via their Local Enterprise Offices (LEOs).
- 4.21** The Department of Communications, Climate Action and Environment also provides funding to the LEOs through EI in respect of the Department's Trading Online Voucher Scheme which supports small businesses to trade online.
- 4.22** The Department of Social Protection reimburses local authorities for expenditure incurred on certain community employment and jobs initiative projects.
- 4.23** Figure 4.8 shows the trend in the level of funding in respect of such services.

Figure 4.8 Funding to local authorities for other services, 2011 to 2017



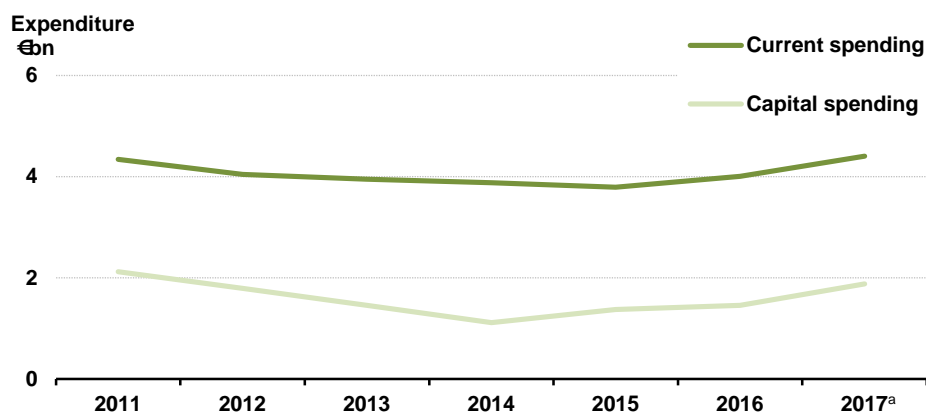
Source: Annex 4B

- Notes:
- a Education and employment category includes superannuation and gratuities, higher education grants and employment schemes.
 - b Other category includes fire and emergency services, library service and disability services.

Trends in local authority expenditure, 2011 to 2017

- 4.24** Aggregate expenditure by local authorities in 2016 (the last year for which full audited information is available) was €5.4 billion.¹ This comprised around €1.4 billion in capital expenditure, and around €4.0 billion in current expenditure (see Figure 4.9). Estimated expenditure for 2017 is expected to be €6.3 billion.²

Figure 4.9 Local authority expenditure by type, 2011 to 2017



Source: Department of Housing, Planning and Local Government

Note: a Figures for 2017 are estimates. For all earlier years, audited figures are used.

1 Includes expenditure by the 26 county councils, three city councils and two city and county councils.

2 Collation of local authority expenditure outturns for 2017 had not been finalised by the Department of Housing, Planning, and Local Government at the time of this report.

Central oversight of Local Authorities

- 4.25** There are two main mechanisms for general central government oversight of local authority expenditure — the Local Government Audit Service and the National Oversight and Audit Commission.

Local Government Audit Service

- 4.26** The financial statements of each local authority are audited by the Local Government Audit Service (LGAS). The audit opinion and any matters arising from the audit are reported to the relevant local authority. A copy of each audit report is sent to the Minister for Housing, Planning and Local Government and published on the Department's website. The Department identifies sector wide issues in audit reports for follow up, and engages with relevant local authorities in the event it requires information on a particular issue.
- 4.27** The LGAS also carries out value for money audits of local authority operations. The results of those audits are reported to the Minister.
- 4.28** An LGAS activity report is published annually. It summarises the audit findings in respect of the annual financial statements of each local authority. The latest annual activity report was published in March 2018 and includes the results of the audits of the 2016 financial statements.¹ The report highlights both sectoral and authority specific issues such as income and expenditure for the sector, the cumulative revenue position of each local authority, and revenue collection performance.

National Oversight and Audit Commission

- 4.29** The National Oversight and Audit Commission (the Commission) was established in July 2014.² The Commission has a wide range of functions focused on the scrutiny of local government performance, including their financial performance.
- 4.30** The Commission's annual report for 2017 sets out its strategy and reports on its activities.³ The Commission scrutinises local authority performance by means of thematic reports and, where warranted, oral hearings, on matters within its remit. It monitors the outcome of its work in terms of the implementation of its recommendations.
- 4.31** The Commission's current workload includes projects on
- local authority customer engagement
 - performance of local authority audit committees
 - local authority internal audit function.
- 4.32** The Commission's work is funded by the Local Government Fund. Expenditure in 2017 was €125,000 and mainly comprised member fees. The Commission secretariat comprised two staff provided by the Department. The cost of these staff, which is met from the Department's vote, was €143,000.

¹ Local Government Audit Service, *Overview of the Work of the Local Government Audit Service*, March 2018.

² The Local Government Reform Act 2014 provided for the Commission which was formally established by Statutory Instrument 297 of 2014.

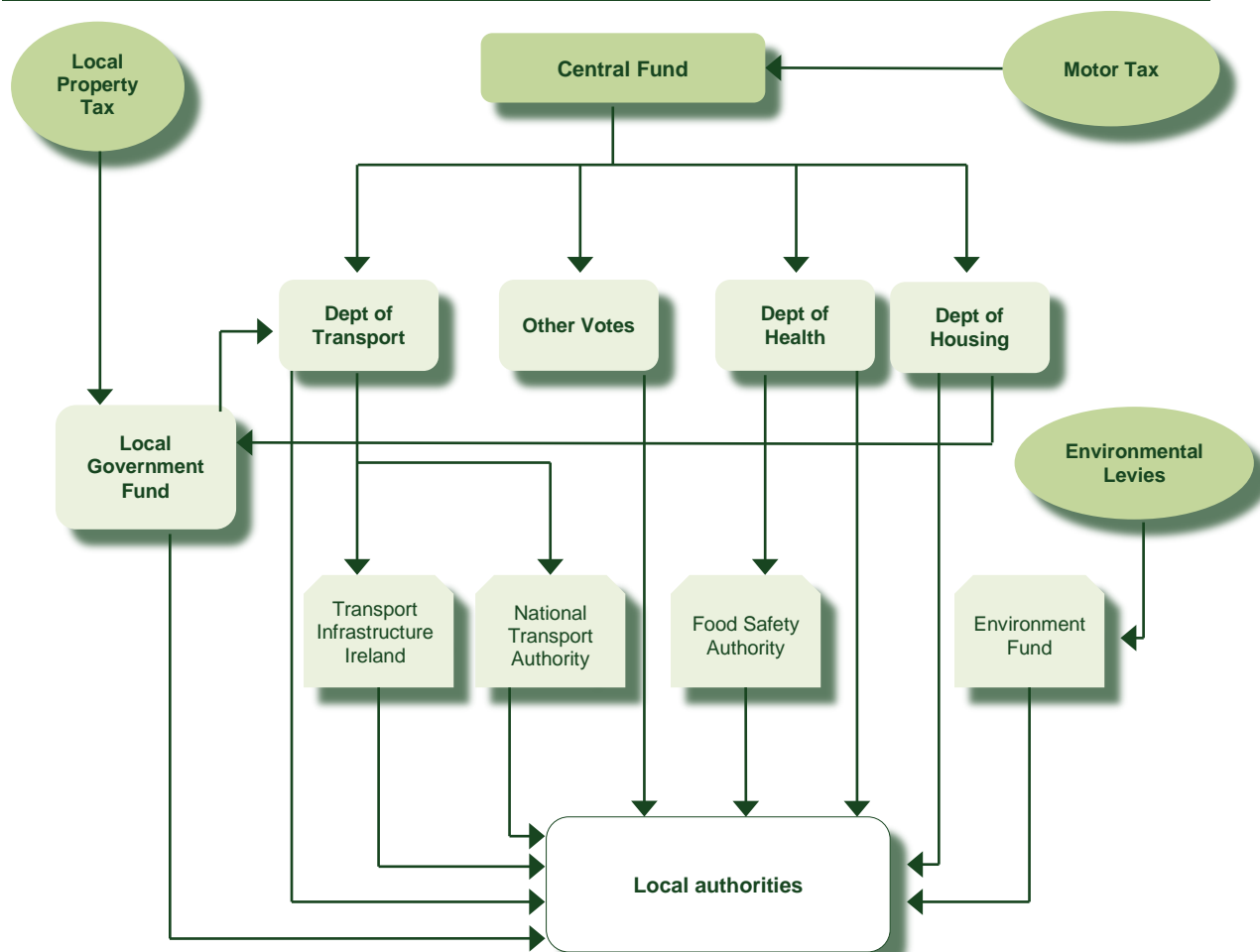
³ *National Oversight and Audit Commission Annual Report 2017* (March 2018).

Conclusions

- 4.33** Central government funding to local authorities presents a highly complex picture, with transfers from a number of departments for a wide variety of stated purposes. Some streams of funding are delivered directly from funding departments to local authorities, while others are routed through departmental agencies.
- 4.34** Transfers of funding from central government sources to local authorities in 2017 totalled just over €2.6 billion. This represents a cumulative increase of 56% from the lowest level of transfer in 2014, coinciding with the replacement of general purposes grants by LPT based funding transfers. In parallel with the increased funding, oversight of local authority spending has increased since 2014, through the operation of the National Oversight and Audit Commission.

Annex 4A

Figure 4A.1 Flow of central government funding to local authorities in 2018



Source: Office of the Comptroller and Auditor General

Annex 4B

Figure 4B.1 Central government transfers to local authorities, by expenditure programme, 2011 to 2017^a

Expenditure Category	2011	2012	2013	2014	2015	2016	2017
	€m	€m	€m	€m	€m	€m	€m
Housing and urban regeneration							
Social housing provision ^b	655	598	529	536	614	759	1,133
Affordable housing, etc.	68	58	43	39	3	2	3
Other housing supports	4	3	1	5	114	92	79
Urban regeneration	—	—	—	—	50	60	78
	727	659	573	580	781	913	1,293
Transport investment							
National roads improvement	516	503	232	228	236	200	239
Regional and local roads improvement ^b	451	376	399	357	337	394	368
Public transport (capital payments)	83	62	57	51	54	45	30
	1,050	941	688	636	627	639	637
Environmental services							
Water and sanitary services	462	343	293	42	102	98	98
Flood relief works	8	22	10	21	44	34	28
Waste management	11	5	9	5	3	18	17
Recycling	12	4	8	2	—	—	—
Other environmental measures	18	11	12	13	18	3	7
	511	385	332	83	167	153	150
Other services							
Higher education grants	184	146	70	39	11	2	—
Superannuation and gratuity costs	171	15	—	—	—	—	—
Employment schemes	9	8	8	8	37	38	81
Swimming pools	10	8	6	—	1	4	13
Fire and emergency services	12	6	5	7	6	9	12
Library service	7	6	4	2	2	2	—
Sports grants, playgrounds and cultural projects	10	9	2	10	9	28	13
Heritage services (architectural heritage)	1	1	1	5	1	1	2
Miscellaneous capital services	11	16	11	9	14	24	22
Miscellaneous services ^c	24	26	23	44	31	100	46
	439	241	130	124	112	208	189
General purpose grants	700	638	642	282	—	—	—
LPT allocations - general purpose/discretionary ^b	—	—	—	—	306	310	393
Total funding provided to local authorities	3,427	2,864	2,365	1,705	1,993	2,223	2,662

Source: The Office of Public Works; Department of Housing, Planning and Local Government; Department of Education and Skills; Department of Transport, Tourism and Sport; Department of Culture, Heritage, and the Gaeltacht; Department of Health; Department of Children and Youth Affairs; Department of Justice and Equality; Department of Agriculture, Food and the Marine; Department of Employment Affairs and Social Protection; Department of Communications, Climate Action and Environment; Department of Defence; Department of Business, Enterprise and Innovation; Department of Rural and Community Development; Local Government Fund and Environment Fund financial statements (2017 unaudited).

- Notes:
- a Adjustments have been made to some previously reported amounts to reflect amounts not previously included and reclassification.
 - b The total LPT allocation from the Local Government Fund in 2017 was €500.8 million, allocated as follows; housing €91.7 million; roads €16.4 million; general purpose/discretionary €392.7 million.
 - c The miscellaneous services figure for 2017 includes €20.3 million (2016: €25.3 million) from the Local Government Fund in respect of the Lansdowne Road Agreement.

Voted Expenditure

5 Vote accounting and budget management

- 5.1** Dáil Éireann provides money for the services of government departments and offices by
- approving estimates of receipts and expenditure for those services in the course of each year
 - giving statutory effect to the estimates in an annual Appropriation Act.¹

- 5.2** Expenditure is provided for under 'votes', with one or more covering the functions of each department or office. The first part of the estimate for each vote (referred to as the ambit) provides an outline of the services to be financed. The ambit is incorporated in the annual Appropriation Act and so represents the purposes for which funds have been authorised by Dáil Éireann.

- 5.3** At the end of each financial year, each department and office is required to prepare an account, known as the appropriation account, for each voted service administered by it. The statutory requirement is for the appropriation account to report the outturn for the year compared with the amount provided by Dáil Éireann.

- 5.4** In addition to voted services, some government departments administer statutory funds. Generally, these are funded from sources other than the Central Fund and therefore, that funding is not 'voted' by Dáil Éireann. Examples of such funds and their main income sources are

- Social Insurance Fund (PRSI contributions)
- Local Government Fund (motor tax and local property tax receipts)²
- National Training Fund (training fund levy receipts and EU grants)
- Environment Fund (plastic bag and landfill levies).

- 5.5** In presenting estimates and expenditure reports, the Department of Public Expenditure and Reform includes the Social Insurance Fund (€9 billion in 2017 estimates) and the National Training Fund (€366 million in 2017 estimates) in total gross expenditure. The Department advises that this is in recognition of the significant expenditure funded by PRSI contributions, the role of the respective departments in relation to the expenditure incurred by those funds and that, where there is a shortfall in these funds in any financial year, the shortfall may be met from moneys provided by Dáil Éireann.

¹ Chapter 3 of this report provides more detail on this process.

² With effect from 1 January 2018, all motor tax receipts will be paid directly into the Central Fund of the Exchequer, as opposed to the Local Government Fund. All local property tax receipts will be paid directly into the Local Government Fund by the Revenue Commissioners, as opposed to indirectly through the Central Fund of the Exchequer.

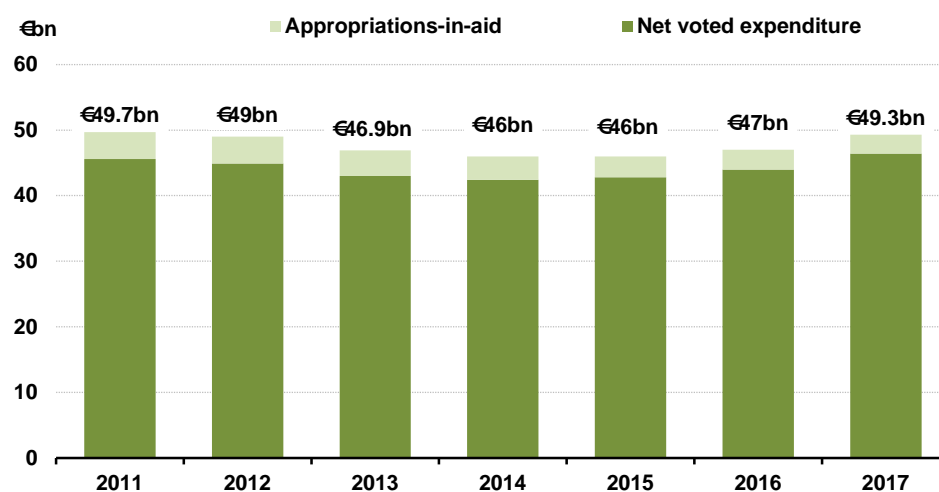
Results of 2017 audits of appropriation accounts

- 5.6** Audits of the 2017 appropriation accounts for all votes have been completed. Each account, together with the related audit report, is being presented to Dáil Éireann with this report.
- 5.7** A summary of the amounts appropriated in 2017 for voted public services is included in Annex 5A (Figure 5A.1). The outturn for the year is also shown, together with the surplus of appropriations over expenditure.
- 5.8** The final amount appropriated for public services in 2017 was €49.7 billion. This comprised supply grants totalling €46.8 billion, capital funding carried over from 2016 totalling €74.5 million and appropriations-in-aid of €2.9 billion.

Vote outturn

- 5.9** Aggregate expenditure and appropriations-in-aid of all votes for the years 2011 to 2017 are presented in Figure 5.1. The total amount spent by departments and offices in 2017 was €49.3 billion (gross). After deduction of realised appropriations-in-aid totalling €2.9 billion, the net expenditure in the year was €46.4 billion.

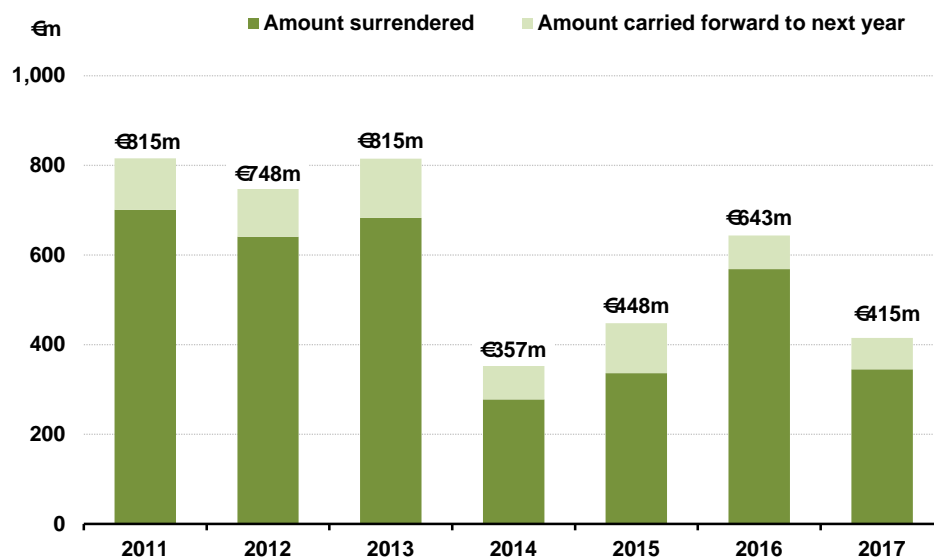
Figure 5.1 Voted expenditure outturn, 2011 to 2017



Source: Reports on the Accounts of the Public Services, 2011 to 2017, Annex 5A

Surpluses

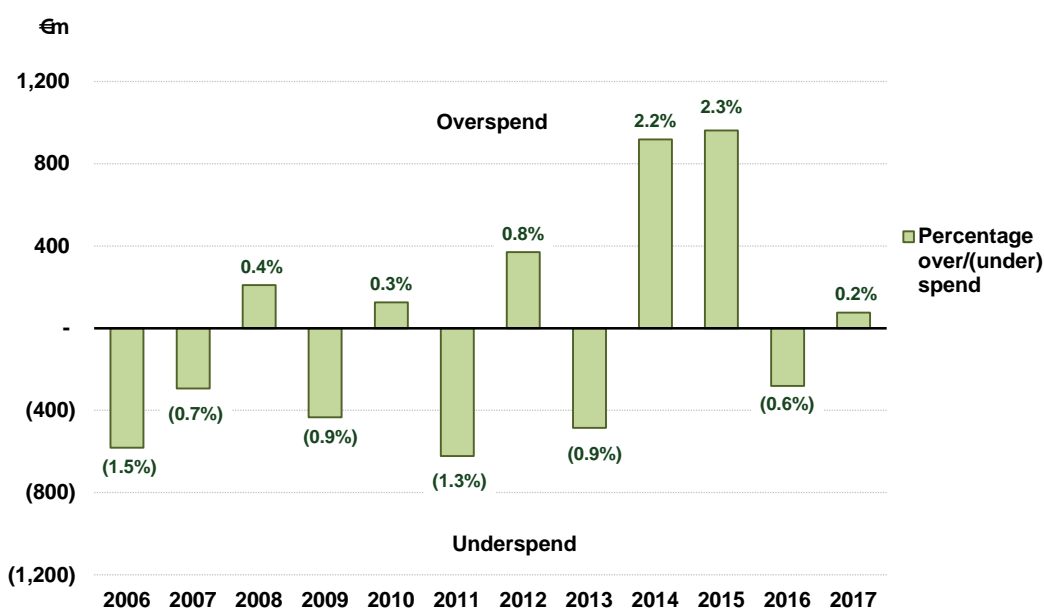
- 5.10** Departments and offices are not permitted to spend more than the amount appropriated for each vote. When the expenditure in the year is less than the amount provided, the surplus is liable to be surrendered to the Exchequer.
- 5.11** All departments and offices managed within their overall voted allocations in 2017 and surpluses were recorded by all votes.
- 5.12** The 2017 surpluses amounted to €415 million (see Figure 5.2). Of that amount, a total of €70 million was approved for carry over to 2018. The balance of €345 million was due for surrender. The sums liable for surrender or carried over to 2018 for each vote are shown in Annex 5A (Figure 5A.2).

Figure 5.2 Surplus appropriations, 2011 to 2017

Source: Reports on the Accounts of the Public Service, 2011 to 2017, Annex 5A

Budget variance

- 5.13** The original estimate amount approved represents the forecast of the amount required to meet the cost of the services to be provided from each vote. The 'budget variance' is the difference between the original estimate of net expenditure and the actual outturn in a year.¹ Figure 5.3 sets out the budget variance for all votes combined, for the years 2006 to 2017.

Figure 5.3 Net expenditure variance from original budget, all votes, 2006 to 2017

¹ There is a statutory provision to allow unspent capital allocations to be carried over to the following year for use for the same purpose, with Department of Public Expenditure and Reform agreement. In this report, such carryover amounts are treated as part of the (following year) annual departmental appropriations.

Source: Analysis by the Office of the Comptroller and Auditor General

Budget variance by vote

- 5.14** The three votes with the largest monetary net variance in 2017 were Health (€193 million more than the original estimate), Education and Skills (€99 million more than the original estimate) and Housing, Planning and Local Government (€96 million more than the original estimate).
- 5.15** Figure 5.4 sets out, for each vote, the proportionate variance between actual expenditure and the original estimate in 2017.
- There were just seven votes where the net expenditure outturn was greater than the original estimate. Housing, Planning and Local Government, at 5%, had the largest percentage overspend compared with its original estimate.
 - The remaining 35 votes incurred net expenditure less than originally anticipated in the revised estimates. The Office of Government Procurement, at 35%, had the largest percentage underspend compared with its original estimate.

Figure 5.4 Net expenditure variance by vote, as a proportion of the original budget, 2017

Source: Office of the Comptroller and Auditor General

Supplementary estimates

- 5.16** When the Dáil approves a vote estimate, it does so at the aggregate level. Departments are allowed some scope to manage budgets by moving allocations between programmes and subheads, but only if the Department of Public Expenditure and Reform agrees. This reallocation process is referred to as *virement*.
- 5.17** If large adjustments to the budgets for programmes or subheads are required as the year progresses, formal approval must be sought from the Dáil. This is done through the 'supplementary estimate' process. This process may also be used, if required, to increase the cash limit for a vote for the year or to adjust expected appropriation-in-aid. Details of supplementary estimates requested are discussed at the relevant Dáil committees (typically in the final quarter of the year) before approval is sought from the Dáil itself.
- 5.18** In 2017, nine votes required substantive supplementary estimates to increase the overall amount available (see Figure 5.5). These included three votes — Health, Garda Síochána and Army Pensions — which have required substantive supplementary estimates most years since 2012. Education and Skills required a supplementary in the past four years.

Exchequer extra receipts

- 5.19** Certain sums collected by departments and offices are directed by the Department of Public Expenditure and Reform to be credited to the Exchequer, and not treated as appropriations-in-aid. This includes court fine receipts, and Property Registration Authority fee receipts. Windfall receipts are also usually brought to account in this way, including proceeds of significant sales of property, receipts on foot of surplus income or profits of State companies, interest, dividends or capital repayments, compensation payments and voluntary surrender of salary.
- 5.20** Where Exchequer extra receipts arose in 2017, the amounts are shown in notes to the relevant appropriation accounts. The total Exchequer extra receipts recorded by departments and offices in 2017 was €170 million (2016: €133 million). The aggregate amount of those receipts reported in each account is set out in Annex 5A (Figure 5A.3).

Figure 5.5 Votes with supplementary estimates, 2012 to 2017^a

Vote	2012	2013	2014	2015	2016	2017
38 Health ^b	●	●	●	●		●
37 Employment Affairs and Social Protection	●			●	●	●
35 Army Pensions	●	●	●	●	●	●
34 Housing, Planning and Local Government	○		●			●
26 Education and Skills			●	●	●	●
20 Garda Síochána	●	●	●	●	●	●
17 Public Appointments Service			●	●		●
12 Superannuation and Retired Allowances	●		●	●		●
5 Office of the Director of Public Prosecutions						●
32 Business, Enterprise and Innovation	○		○	●	●	○
31 Transport, Tourism and Sport	●	●	●	●	●	○
30 Agriculture, Food and the Marine			●	●	○	○
22 Courts Service	●		○		●	
28 Foreign Affairs and Trade					○	
36 Defence			○		○	
21 Prisons			●	●		
6 Office of the Chief State Solicitor				●		
40 Children and Youth Affairs			○	●		
7 Office of the Minister for Finance				○		
18 National Shared Services Office		○		○		
29 Communications, Climate Action and Environment				○		
2 Department of the Taoiseach			●			
33 Culture, Heritage and the Gaeltacht			○			
24 Justice and Equality		○				

Source: Analysis by the Office of the Comptroller and Auditor General

Notes: ● Indicates an increase in the net expenditure estimate i.e. a substantive supplementary estimate.

○ Indicates that the increase in net expenditure was a token €1,000 i.e. a technical supplementary estimate.

a Vote titles and numbers are as per the 2017 Revised Estimates for Public Services. For some votes, different titles may have applied in earlier years in which a supplementary estimate was approved.

b From 2012 to 2014, the data relates to the HSE vote. From 2015, the HSE no longer holds a vote. Since then, Exchequer funding is provided to it through grants from the Health Vote.

Accounting for property assets

- 5.21** Capital assets are tangible and intangible assets acquired by departments and offices for use on a continuing basis with an expected useful life of more than one financial year. Major capital asset classes include land, buildings, information and technology equipment, ICT software, office equipment and furniture. Some departments and offices have specialised assets or heritage assets due to the nature of their operations.
- 5.22** The financial reporting framework adopted for appropriation accounts requires the accounts to be prepared on a cash basis, but with certain accrual information.^{1,2} The latter includes a statement of financial position (SOF), which may recognise property assets.
- 5.23** In the case of land and buildings, the accounting rules require that
- Land and buildings are recognised as assets in the SOFP where the State owns the assets and the department controls or manages them. Where the asset is controlled or managed by an outside body, the ownership is noted in the department's SOFP.
 - Where a valuation cannot be provided by a department or office and therefore cannot be recognised in the SOFP, the asset is listed at the end of the appropriation account.³
 - Land and buildings included in the SOFP are valued at either the historic cost, or using a revaluation model as determined by the Accounting Officer.
 - Land is not depreciated. Buildings are depreciated in accordance with the rate determined by the Accounting Officer.
- 5.24** In some appropriation accounts, departments use cost as the basis for determining the amounts to be recognised in the SOFP, with market valuations being carried out subsequently on a gradual or irregular basis. For some classes of buildings, replacement cost is used to value the assets. The financial reporting framework provides limited guidance on when it is appropriate to change the valuation basis from cost to a revaluation model, or on a standard approach to be adopted in the frequency of property asset revaluations. It also does not include an approach for recognising the impairment of assets.
- 5.25** In addition, audits have identified continuing difficulties with fixed asset registers maintained by departments in monitoring the up-to-date position with regard to assets recorded in the SOFP.
- 5.26** The Department of Public Expenditure and Reform has acknowledged limitations in the current financial reporting framework, including issues around the accounting for capital assets. In the context of ongoing work in developing the financial management shared services model, the Department has stated that it is timely to undertake a detailed review of the framework covering departments and offices. It stated that it is availing of funding under the EU Structural Reform Support Programme to undertake the review, including issues related to fixed assets, with a view to reforming central government financial reporting to ensure that it reflects current best practice and, where appropriate, international accounting standards.

1 The Minister for Public Expenditure and Reform sets the rules for the preparation of the annual appropriation accounts. The most recent rules are set out in circular 25/2017: *Requirements for Appropriation Accounts 2017*.

2 Cash basis is the method of recording accounting transactions only when the corresponding cash is received or payments are made.

3 Heritage assets which can be valued are included in the SOFP.

Annex 5A Vote financial outturn

Dáil Éireann provides money for the ordinary services of government departments and offices by approving estimates of the amounts required for those services in the course of each year, and giving statutory effect to those estimates in the annual Appropriation Act. The expenditure is provided for under a series of 'votes'. By law, an appropriation account must be produced for each vote. The account must provide details of the outturn for the year against the amount provided by Dáil Éireann.

Figure 5A.1 provides a summary of the outturn on expenditure and receipts relative to the amounts appropriated for public services in 2017.

Figure 5A.2 shows how surplus appropriations in 2017 were applied — either through deferral of expenditure to 2018, or by surrender to the Exchequer.

Explanations of some of the terms used in the tables are given below.

Supply grant	The money granted (or voted) by Dáil Éireann for each of the public services.
Deferred from 2016	Amount of capital funding not spent in 2016 and carried over for expenditure on capital services in 2017. The carry over of these sums was approved by Dáil Éireann.
Appropriations-in-aid	Departmental receipts which, with the agreement of Dáil Éireann, may be retained to defray the expenses of the vote to which they relate.
Total appropriations	Sum of the supply grant, deferred 2016 capital moneys (if any) and appropriations-in-aid.
Surplus for the year	The excess of total appropriations by Dáil Éireann over the gross expenditure together with any surplus on appropriations-in-aid. The surplus for the year is liable for surrender back to the Exchequer.
Deferred surrender	Amount of capital funding not spent in 2017 which was carried over for expenditure in 2018. These carry overs were approved by Dáil Éireann.
Surplus to be surrendered	Amount of money appropriated in 2017 but not spent in the year or deferred to 2018, and so required to be surrendered to the Exchequer.
Exchequer extra receipts	Departmental receipts that are not appropriated-in-aid of the vote, but are paid directly into the Exchequer.

Figure 5A.1 Summary of appropriations for public services in 2017, by vote

Vote	Service	Amount appropriated				Outturn			Surplus/deficit		
		Supply grants	Deferred from 2016	Appropriations -in-aid	Total	Gross expenditure	Appropriations -in-aid	Net expenditure	Gross surplus (deficit)	Excess/ (deficit) in receipts	Net surplus for the year ^a
		€000	€000	€000	€000	€000	€000	€000	€000	€000	€000
1	President's Establishment	3,903	—	95	3,998	3,692	83	3,609	306	(12)	294
2	Department of the Taoiseach	36,747	—	833	37,580	28,345	757	27,588	9,235	(76)	9,159
3	Office of the Attorney General	14,900	—	766	15,666	14,540	668	13,872	1,126	(98)	1,028
4	Central Statistics Office	48,584	—	1,388	49,972	46,269	1,542	44,727	3,703	154	3,856
5	Office of the Director of Public Prosecutions	41,094	—	754	41,848	41,682	778	40,904	166	24	190
6	Office of the Chief State Solicitor	32,340	—	1,328	33,668	33,132	1,141	31,991	536	(187)	349
7	Office of the Minister for Finance	39,470	227	1,335	41,032	33,974	1,440	32,534	7,058	105	7,163
8	Office of the Comptroller and Auditor General	6,915	—	5,727	12,642	11,923	5,986	5,937	719	259	978
9	Office of the Revenue Commissioners	341,141	2,000	68,239	411,380	410,874	71,153	339,721	506	2,914	3,420
10	Tax Appeals Commission	1,605	—	79	1,684	1,122	45	1,077	562	(34)	528
11	Office of the Minister for Public Expenditure and Reform	53,105	—	2,946	56,051	52,991	1,897	51,094	3,060	(1,049)	2,011
12	Superannuation and Retired Allowances	366,400	—	184,000	550,400	535,478	202,555	332,923	14,922	18,555	33,477
13	Office of Public Works	365,067	—	29,264	394,331	394,279	33,847	360,432	52	4,583	4,635
14	State Laboratory	8,749	—	922	9,671	9,318	1,023	8,295	353	101	454
15	Secret Service	1,000	—	—	1,000	741	—	741	259	—	259
16	Valuation Office	10,239	—	1,129	11,368	9,688	1,307	8,381	1,680	178	1,858
17	Public Appointments Service	11,820	—	224	12,044	11,757	303	11,454	287	79	366
18	National Shared Services Office	45,173	—	5,450	50,623	40,081	5,463	34,618	10,542	13	10,556
19	Office of the Ombudsman	10,535	—	325	10,860	8,920	414	8,506	1,940	89	2,029
20	Garda Síochána	1,550,146	9,344	119,902	1,679,392	1,668,540	123,251	1,545,289	10,852	3,349	14,201

Vote	Service	Amount appropriated				Outturn			Surplus/deficit		
		Supply grants	Deferred from 2016	Appropriations -in-aid	Total	Gross expenditure	Appropriations -in-aid	Net expenditure	Gross surplus (deficit)	Excess/ (deficit) in receipts	Net surplus for the year ^a
		€000	€000	€000	€000	€000	€000	€000	€000	€000	€000
21	Prisons	314,790	2,833	12,584	330,207	326,892	13,056	313,836	3,315	472	3,787
22	Courts Service	92,252	—	47,828	140,080	133,115	49,093	84,022	6,965	1,265	8,231
23	Property Registration Authority	27,785	—	506	28,291	27,112	688	26,424	1,179	182	1,361
24	Justice and Equality	378,964	—	60,598	439,562	422,788	66,118	356,670	16,774	5,520	22,294
25	Irish Human Rights and Equality Commission	6,522	—	109	6,631	5,319	83	5,236	1,312	(26)	1,286
26	Education and Skills	8,799,299	—	458,796	9,258,095	9,241,347	466,588	8,774,759	16,748	7,792	24,540
27	International Co-operation	485,494	—	1,120	486,614	484,280	1,340	482,940	2,334	220	2,554
28	Foreign Affairs and Trade	183,527	—	45,046	228,573	222,258	63,222	159,036	6,315	18,176	24,490
29	Communications, Climate Action and Environment	290,636	12,128	237,599	540,363	502,916	232,412	270,504	37,447	(5,187)	32,260
30	Agriculture, Food and the Marine	1,131,158	21,700	337,088	1,489,946	1,387,756	258,905	1,128,851	102,190	(78,183)	24,007
31	Transport, Tourism and Sport	1,442,108	10,969	380,446	1,833,523	1,819,108	379,243	1,439,865	14,415	(1,203)	13,212
32	Business, Enterprise and Innovation	806,542	—	50,333	856,875	850,832	52,542	798,290	6,043	2,209	8,252
33	Culture, Heritage and the Gaeltacht	284,435	13,548	3,973	301,956	299,606	5,468	294,138	2,350	1,495	3,845
34	Housing, Planning and Local Government	2,027,355	—	67,489	2,094,844	2,087,158	64,129	2,023,029	7,686	(3,360)	4,326
35	Army Pensions	235,332	—	5,300	240,632	240,022	5,265	234,757	610	(35)	575
36	Defence	671,093	—	20,704	691,797	680,549	30,824	649,725	11,248	10,120	21,368
37	Employment Affairs and Social Protection	10,790,739	—	264,064	11,054,803	11,034,507	264,787	10,769,720	20,296	723	21,019
38	Health	14,341,309	—	460,221	14,801,530	14,798,316	459,376	14,338,940	3,214	(845)	2,369
39	Office of Government Procurement	19,960	110	475	20,545	13,586	448	13,138	6,959	(27)	6,932
40	Children and Youth Affairs	1,286,024	1,640	25,012	1,312,676	1,249,984	21,024	1,228,960	62,692	(3,988)	58,704
41	Policing Authority	2,654	—	58	2,712	2,007	51	1,956	705	(7)	698
42	Rural and Community Development	146,742	—	15,886	162,628	136,004	21,662	114,342	26,624	5,776	32,400
Total		46,753,653	74,499	2,919,941	49,748,093	49,322,808	2,909,977	46,412,831	425,285	(9,964)	415,321

Source: 2017 Appropriation Accounts. Any apparent differences in totals are due to rounding.

Note: a The net surplus is comprised of the excess of total appropriations by Dáil Éireann over the gross expenditure together with the excess/deficit on appropriations-in-aid.

Figure 5A.2 Application of surplus 2017 appropriations, by vote

Vote	Service	Surplus for the year	Deferred surrender (to 2018)	Surplus for surrender
		€000	€000	€000
1	President's Establishment	294	—	294
2	Department of the Taoiseach	9,159	—	9,159
3	Office of the Attorney General	1,028	—	1,028
4	Central Statistics Office	3,856	—	3,856
5	Office of the Director of Public Prosecutions	190	—	190
6	Office of the Chief State Solicitor	349	—	349
7	Office of the Minister for Finance	7,163	—	7,163
8	Office of the Comptroller and Auditor General	978	—	978
9	Office of the Revenue Commissioners	3,420	—	3,420
10	Tax Appeals Commission	528	—	528
11	Office of the Minister for Public Expenditure and Reform	2,011	685	1,326
12	Superannuation and Retired Allowances	33,477	—	33,477
13	Office of Public Works	4,635	—	4,635
14	State Laboratory	454	—	454
15	Secret Service	259	—	259
16	Valuation Office	1,858	—	1,858
17	Public Appointments Service	366	60	306
18	National Shared Services Office	10,556	1,429	9,127
19	Office of the Ombudsman	2,029	—	2,029
20	Garda Síochána	14,201	8,907	5,294

Figure 5A.3 Exchequer extra receipts 2017, by vote

Vote	Service	Extra receipts realised
		€000
1	President's Establishment	—
2	Department of the Taoiseach	—
3	Office of the Attorney General	—
4	Central Statistics Office	—
5	Office of the Director of Public Prosecutions	4
6	Office of the Chief State Solicitor	19
7	Office of the Minister for Finance	1
8	Office of the Comptroller and Auditor General	—
9	Office of the Revenue Commissioners	1,612
10	Tax Appeals Commission	—
11	Office of the Minister for Public Expenditure and Reform	8
12	Superannuation and Retired Allowances	—
13	Office of Public Works	—
14	State Laboratory	—
15	Secret Service	—
16	Valuation Office	—
17	Public Appointments Service	—
18	National Shared Services Office	—
19	Office of the Ombudsman	40
20	Garda Síochána	3,073

Vote	Service	Surplus for the year	Deferred surrender (to 2018)	Surplus for surrender
		€000	€000	€000
21	Prisons	3,787	2,233	1,554
22	Courts Service	8,231	6,000	2,231
23	Property Registration Authority	1,361	—	1,361
24	Justice and Equality	22,294	741	21,553
25	Irish Human Rights and Equality Commission	1,286	—	1,286
26	Education and Skills	24,540	—	24,540
27	International Co-operation	2,554	—	2,554
28	Foreign Affairs and Trade	24,490	—	24,490
29	Communications, Climate Action and Environment	32,260	6,000	26,260
30	Agriculture, Food and the Marine	24,007	23,800	207
31	Transport, Tourism and Sport	13,212	10,950	2,262
32	Business, Enterprise and Innovation	8,252	—	8,252
33	Culture, Heritage and the Gaeltacht	3,845	700	3,145
34	Housing, Planning and Local Government	4,326	—	4,326
35	Army Pensions	575	—	575
36	Defence	21,368	—	21,368
37	Employment Affairs and Social Protection	21,019	1,000	20,019
38	Health	2,369	—	2,369
39	Office of Government Procurement	6,932	100	6,832
40	Children and Youth Affairs	58,704	—	58,704
41	Policing Authority	698	—	698
42	Rural and Community Development	32,400	7,700	24,700
Total		415,321	70,305	345,016

Source: 2017 Appropriation Accounts

Vote	Service	Extra receipts realised
		€000
21	Prisons	—
22	Courts Service	9,472
23	Property Registration Authority	62,270
24	Justice and Equality	7
25	Irish Human Rights and Equality Commission	—
26	Education and Skills	2,591
27	International Co-operation	—
28	Foreign Affairs and Trade	—
29	Communications, Climate Action and Environment	52,412
30	Agriculture, Food and the Marine	747
31	Transport, Tourism and Sport	32,340
32	Business, Enterprise and Innovation	743
33	Culture, Heritage and the Gaeltacht	2
34	Housing, Planning and Local Government	2,275
35	Army Pensions	—
36	Defence	3
37	Employment Affairs and Social Protection	13
38	Health	16
39	Office of Government Procurement	72
40	Children and Youth Affairs	2,625
41	Policing Authority	—
42	Rural and Community Development	—
Total		170,345

Source: 2017 Appropriation Accounts

6 Lease of offices at Miesian Plaza

- 6.1** The Office of Public Works (OPW) is responsible for procuring office accommodation and allocating space for civil service departments and offices. This can involve relocating clients, rationalisation of the accommodation portfolio, and acquiring additional space either by buying, constructing new accommodation or leasing space. OPW aims to provide accommodation which best fits the business needs of its clients at an economic rate.
- 6.2** OPW entered into a 25 year lease on Block 1 Miesian Plaza with effect from December 2016.¹ The lease covers seven floors of office space, a ground floor with meeting rooms and canteen, storage space on the lower ground floor, 76 car parking and 146 bicycles spaces, lockers and shower facilities.
- 6.3** The premises were acquired to accommodate the Department of Health (DoH), the Department of Children and Youth Affairs (DCYA), and to meet other demands such as additional accommodation needs of the Department of Finance (DoF) and the Department of Public Expenditure and Reform (DPER).
- 6.4** Miesian Plaza remained unoccupied at April 2018 even though the lease had been effective from December 2016, and rental costs and service charges of over €15.8 million had been paid. This report reviews the terms of the lease agreed and examines the circumstances that gave rise to the premises remaining unoccupied for an extended period.

Need for premises

- 6.5** DoH for many years occupied Hawkins House, a premises in Dublin city centre owned by the State. It was necessary to re-locate DoH staff to alternative premises as the condition of Hawkins House was deteriorating and the building was considered to be effectively 'end of life'. Planning permission has been granted for the redevelopment of the site including demolition of Hawkins House. OPW initially considered that four floors in the Miesian Plaza complex would be suitable for DoH.
- 6.6** DCYA occupied premises on Mespil Road. The premises were leased by OPW and the lease was due to expire in July 2017. OPW allocated two floors of Miesian Plaza to accommodate DCYA.
- 6.7** The remaining space in Miesian Plaza was intended to accommodate increased staff numbers in DoF and DPER, or possibly to accommodate a smaller Government department. The final allocation of floor area to each occupant is set out in Annex 6A.
- 6.8** Under the *Public Spending Code*,² a business case should be prepared for current expenditure commitments of greater than €20 million involving annual expenditure of more than €5 million. An economic appraisal should form a key part of the business case. In the case of provision of accommodation needs, a cost effectiveness analysis is a suitable economic appraisal technique to identify the least costly way of delivering those needs.

¹ The premises is located at Baggot St. Dublin 2. In this report, references to Miesian Plaza relate to Block 1.

² Issued by the Department of Public Expenditure and Reform, September 2013.

- 6.9** OPW stated that the business case underpinning the decision to lease Miesian Plaza was contained in the submission to the OPW Board and the request for sanction from DPER for approval to enter into the lease. Those documents and other key project documents supplied by OPW were reviewed and assessed against a standard business case model.
- 6.10** It was noted that
- There was no evidence of detailed consideration of other options — Miesian Plaza was identified as ‘virtually the only option’.
 - No cost effectiveness analysis or other economic appraisal was carried out — in particular, there was no consideration of lease, buy or build options.
 - There was no evidence that the full costs of leasing Miesian Plaza were identified and evaluated i.e. fit out costs, furniture, maintenance costs, operating costs, VAT, cost of OPW staff involved in the project.
 - The risks associated with the project were not set out — for example, issues with agreeing client departments’ accommodation needs and the effect on practical completion date.
- 6.11** OPW has stated that alternative accommodation options are always being monitored where a building is to be vacated. Two other premises were considered as alternative locations for DoH and DCYA but not found to be suitable. These were
- The former Central Bank premises on Dame Street — this was rejected as an option because of the complex structural challenges the building could present in the long term and the potential costs of a full refurbishment.
 - A premises on St Stephen’s Green — this was not pursued by OPW as it would not have suited a large policy department such as DoH and the sitting tenant was seeking a substantial contribution to recoup its fit out costs. OPW considered the building to be of good quality but that the fit out was of little value to it.
- 6.12** These options were noted in internal correspondence in August 2015 but were not formally documented in the submission to the Board in March 2016.

Lease terms

- 6.13** OPW engaged property consultants to negotiate lease terms with the Miesian Plaza landlord on its behalf.¹ The consultants provided OPW with a report in March 2016. The lease terms negotiated by the consultants are summarised in Figure 6.1. These formed the basis for the lease agreed.

Figure 6.1 Miesian Plaza lease terms negotiated on behalf of OPW

Date of lease:	From completion of works estimated to be quarter 1 2017 ^a		
Premises to be leased:	Entire of Block 1 Miesian Plaza		
Term:	25 years		
Rent reviews:	Compounded yearly in line with CPI and adjusted every five years		
Outgoings:	Tenant pays campus service charge, insurance, services, rates and utilities		
Repairs:	Full repairing		
Rental terms:	Indicative requirements	Quantity	Rate negotiated
	Office space ^b	13,293 m ²	€536.58 per m ²
	Storage space ^b	305 m ²	€268.34 per m ²
	Car spaces	65 spaces	€4,500 per space
	Bicycle spaces	102 spaces	€265 per space

Source: Report on Lease Terms Negotiated for OPW, March 2016

Notes: a OPW documentation and correspondence indicates an expected commencement of works in July 2016.
b The negotiation was based on these indicative measurements of net internal floor area.

- 6.14** The March 2016 consultant's report noted the following in relation to the terms negotiated

- *Timing* — as the premises was needed for the relocation of DoH which was required to align with the redevelopment of Hawkins House, it was important to obtain new accommodation as soon as possible. Miesian Plaza was the only suitable building that could be delivered in the required timescale with other buildings not available until later in 2017. Agreeing a rental rate (in March 2016) would 'lock in' a low rate and thus avoid another year of rental appreciation.
- *Lease term* — most lease terms for buildings with large floor areas are now for 20 years with break options at between 12 and 15 years. For new buildings of this size, it was felt unlikely that the landlord would agree a break option before year 15. As OPW indicated that the building was for a long occupation, the longer lease term was considered something that could be traded for a reduction in the rental rate.
- *Rent reviews* — to ensure that the low rental level negotiated was not negated by significant increases following rent reviews, it was considered important to link rental levels to the consumer price index (CPI).
- *Rent free period and incentives* — as OPW intended to agree a fit out package with the developer separately, it was considered that a rent free period could be traded for a lower rental rate.

¹ The consultants had been engaged to prepare a valuation and advisory report on Hawkins House. Their contract was extended to include the lease negotiation for Miesian Plaza at a cost of €9,225 (including VAT).

Rental terms

- 6.15** The rent negotiated was based on a net internal floor area of 13,293 square metres (m²) of office space and 305 m² of storage. Based on these indicative measurements and the terms negotiated, the annual rent would be €9,267,000 (including VAT).
- 6.16** In March 2016, the OPW Board approved the lease of Miesian Plaza for 25 years on the basis of the terms negotiated by the consultants. The Board approval was subject to DPER sanction. Approval to proceed was requested from DPER with the request noting the terms as presented to the Board. DPER approved the proposal on 16 March 2016 on the basis that OPW considered that the proposal represented value for money, was in line with the overall State property reform agenda, and was consistent with the lease rationalisation programme and the maintenance of annual rent expenditure at sustainable levels. The submission to DPER noted that the rent agreed for office space was €536.58 per m² of **net internal floor area** (€268.34 per m² for storage space). The expectation was that the premises would be ready for occupancy in the first quarter of 2017.
- 6.17** The consultant's report noted that it was mandatory from 2016 for offices to be measured in line with the international property measurement standards (see Figure 6.2). As these standards differ from those which determined the floor areas on which the negotiated rent was based (i.e. net internal floor area), the consultants recommended that OPW obtain measurements in line with the new standards.

Figure 6.2 Property measurement standards

There are a number of standards internationally for measuring property. Measurement using different standards results in different reported areas of the building — it does not mean that there has been any physical change to the building. Differences in measurement standards can arise from where the perimeter measurement is taken, as well as from how areas such as corridors, lifts, stairs and galleries are taken into account.

Research has shown that when comparing five different measurement standards from different property markets, there was a variance of up to 24% in the reported area when measuring the same building.

The International Property Measurement Standards (IPMS) were introduced to bring uniformity to the way property is measured and reported internationally. The first standard, which was for office buildings, was released in late 2014 and became mandatory for all members of the Royal Institution of Chartered Surveyors from January 2016.

There should be no effect on the value or total rent of the property arising from different measurement standards.

Source: International Property Measurement Standards Coalition

- 6.18** A building surveyors' report in December 2016 listed the measurements under both standards — the newly adopted international property measurement standards (IPMS) and the net internal floor area measured in accordance with previous measuring practice in Ireland.¹
- 6.19** The terms of the lease agreed applied the rate per m² which had been negotiated based on the net internal floor area measurement basis, to the larger area measured in accordance with IPMS. Had the rate per m² negotiated been applied to the final net internal area measurements, the annual rent would have been €344,000 less than that agreed in the lease. The measurements provided by the building surveyors and the effect on annual rent of the different measurements are summarised in Figure 6.3.

¹ The appointment of the surveyors was agreed between the landlord and OPW. In May 2018, the landlord sought reimbursement from OPW of half of the costs of the surveyors report (€4,244).

6.20 As there are no break options in the lease, additional rental costs could amount to between €9.5 million and €10.5 million (including VAT)¹ over the 25 year term of the lease arising from the difference between the terms negotiated and those incorporated into the signed lease (see Annex 6B).

6.21 In finalising the lease, the issue of the different measurement bases was considered. When reviewing the lease, the Chief State Solicitor's Office (CSSO) requested OPW to confirm with its in-house valuer whether IPMS was the appropriate standard for measurement in this case. OPW then sought advice from one of its internal chartered surveyors who advised that if measurement under the IPMS code results in a larger reported area, OPW should ensure that the rate per m² is recalibrated.

Figure 6.3 Annual rent — Miesian Plaza

	Rate	Lease terms negotiated		Lease terms agreed	
		Net internal area	Annual rent ^a	IPMS	Annual rent ^a
Office space	€536.58 per m ²	13,817m ²	€7,414,140	14,329 m ²	€7,688,714
Storage space	€268.34 per m ²	648 m ²	€173,831	667 m ²	€178,948
Car	€4,500 each	76 spaces	€342,000	76 spaces	€342,000
Bicycle	€265 each	146 spaces	€38,690	146 spaces	€38,690
Total			€7,968,661		€8,248,352
VAT at 23%			€1,832,792		€1,897,120
Total annual rent			€9,801,453^a		€10,145,472^a

Source: Analysis by OCAG of Report on Lease Terms Negotiated for OPW, March 2016; building surveyors' area referencing report in accordance with RICS professional statement; and signed lease

Note: a Any apparent differences in rent stated are due to rounding of floor areas.

6.22 The reason for not reducing the rent per m² proportionately as a result of including the IPMS measurements in the lease is not clear. OPW has stated that the issue around measurement arose due to the introduction of the new standard. This led to confusion as to the exact area of the building and which measurement system was to be used. OPW has pointed out that this is a highly unusual set of circumstances and that it has engaged with the landlord with a view to rectifying the matter.

6.23 The examination team reviewed a sample of 20 other office premises leases with various start dates. This review identified one further case of what appears to be a similar issue in relation to different measurements. In 2006, OPW entered into a 20 year lease for an office premises in Galway. The papers reviewed indicate that the negotiations were based on the 'net internal area' but that in the signed lease, the terms agreed were applied to the higher 'gross internal area'. Correspondence on file from the CSSO queried the measurement basis. There are internal memorandums from OPW's architects and valuers raising concerns about the change in the measurement basis. In March 2006, an internal memorandum from an OPW valuer noted that the final rent agreed was calculated on the gross internal area basis rather than the net internal area as originally proposed by the landlord resulting in an excess payment of €141,000 per annum over the term of the lease. The memorandum also noted that contrary to what had been originally proposed, there was no rent free period or lease break option in the lease. This issue was brought to OPW's attention as part of this examination. OPW has stated that the matter is being examined.

¹ Assumes the VAT rate remains at 23% and annual CPI increases by between 1% and 2%.

Rental rate

- 6.24** A number of factors make it difficult to compare rental rates between premises. These include different market conditions at the time leases are agreed, different locations and floor areas, and variations in lease terms such as rent free periods and break options. The consultants who negotiated the Miesian Plaza lease on behalf of OPW reported that the rent negotiated was below market rents and was the best that could be achieved.
- 6.25** OPW has stated that it saw Miesian Plaza as an exceptional property at an extremely competitive rent in a rising market.

Rent free period and lease break option

- 6.26** DPER set out the policy for the acquisition and disposal of property in June 2016.¹ The policy includes a requirement that where a lease term of more than 10 years is agreed, a tenant break right at the expiry of the 10th year must be included in the lease. The policy also states that every effort should be made to negotiate a rent free period in every major letting. DPER have noted that it is the responsibility of the relevant accounting officer to ensure compliance with this circular and public financial procedures, and to ensure value for money is achieved.
- 6.27** No rent free period or break option is included in the Miesian Plaza lease. There is no evidence of an appraisal of the reasonableness of the rent agreed considering the absence of a rent free period and lease break option.
- 6.28** OPW has stated that its starting position is always to seek a rent-free period and lease break clause to achieve value for money and to maintain flexibility in the leasehold property portfolio. However, in light of the value being achieved in the overall deal agreed and OPW's long-term commitment to Miesian Plaza, a rent free period and break clause were traded for a lower initial rent. OPW stated that a rent free period forms part of the negotiation but it is not a foregone conclusion and that it focused on achieving the best overall deal and rent given that the lease was for 25 years. While a direct value was not attributed to the rent-free period or lease break, the initial asking rent of €618.92 per m² was negotiated downwards to the final agreement of €536.58 per m². The external consultant was satisfied that this rental level was the best that could be achieved.
- 6.29** The DPER policy was published after OPW's negotiations with the Miesian Plaza landlord were concluded. OPW has pointed out that the policy is intended to provide high level guidance. A requirement to always include a break option is extremely restrictive and would hinder OPW's ability to negotiate the best overall terms. This requirement will be re-examined as part of a review of the overall policy by OPW which has commenced. The outcome of the review is expected to be communicated to DPER by the end of 2018.

¹ Department of Public Expenditure and Reform Circular 17/2016, *Policy for Property Acquisition and for Disposal of Surplus Property*, 28 June 2016.

- 6.30** OPW also stated that due to the level of investment in the fit out and the rental price achieved in a rising market, a break at year 10 was not beneficial. This is a significant relocation for both DoH and DCYA. The existence of a break clause would have only served to create further uncertainty within those Departments in relation to both the commitment of OPW to Miesian Plaza and the permanence of their occupation of the building. If the lease had contained a break clause at the end of year 10 (December 2026) decisions would have been necessary as early as December 2021 in relation to whether or not to avail of the break and planning/identification of an alternative location would have to commence. It is not reasonable or practical to expect two such critical Departments to contemplate such a substantial relocation twice in 10 years.

Repairs and maintenance

- 6.31** In reviewing the proposed lease, the CSSO noted that the lease was a 'full repairing and insuring lease' but that it was intended that some of the repairs and maintenance would be carried out by the landlord on behalf of OPW. The reason stated for this was that due to the nature of the façade of the building and the specialist expertise necessary to maintain it, OPW did not have the resources to carry out the level of repairs and maintenance required to meet the standards envisaged by the landlord. The CSSO advised OPW that such an arrangement was highly unusual and that OPW would still retain responsibility for all repairs and maintenance even though it would be dependant on the landlord to carry out some of the work. The CSSO pointed out that issues could arise if the landlord sold the premises, if the repairs and maintenance were not carried out satisfactorily, or if the landlord went into receivership or liquidation.
- 6.32** The arrangement in relation to the repairs and maintenance to be carried out by the landlord was to be set out in a 'side agreement' rather than in the lease agreement itself. OPW indicated it considered the issue of a side agreement but deemed it unnecessary. The repairs and maintenance to be carried out by the landlord are recorded in the service charges schedule of the lease. OPW has stated that at June 2018, €5,675 has been paid to the landlord for monitoring the maintenance of the 'facade management system'.

Costs to date

- 6.33** Although the lease was signed in May 2017, the rent commencement date was 21 December 2016.¹ Rent and service costs paid to April 2018 amounted to €15.8 million (see Figure 6.4). In accordance with the terms of the lease, the amounts paid in April 2018 include advance payments for May and June. There were service charge balancing payments in June 2018 in respect of the period to April 2018. OPW have stated that the rent and service costs attributable to the period from the commencement of the lease to end April 2018 were €14.1 million.

Figure 6.4 Miesian Plaza — rent and service charges to end April 2018

	2017	2018 (to end April)	Total
	€000	€000	€000
Rent	12,960 ^a	2,536	15,496
Service charges	181 ^b	113	294
Total	13,141	2,649	15,790

Source: Office of Public Works

Notes: a Payments in 2017 include part Q4 2016 and Q1 2018.

b Payments in 2017 include part Q4 2017 plus 1 January 2018.

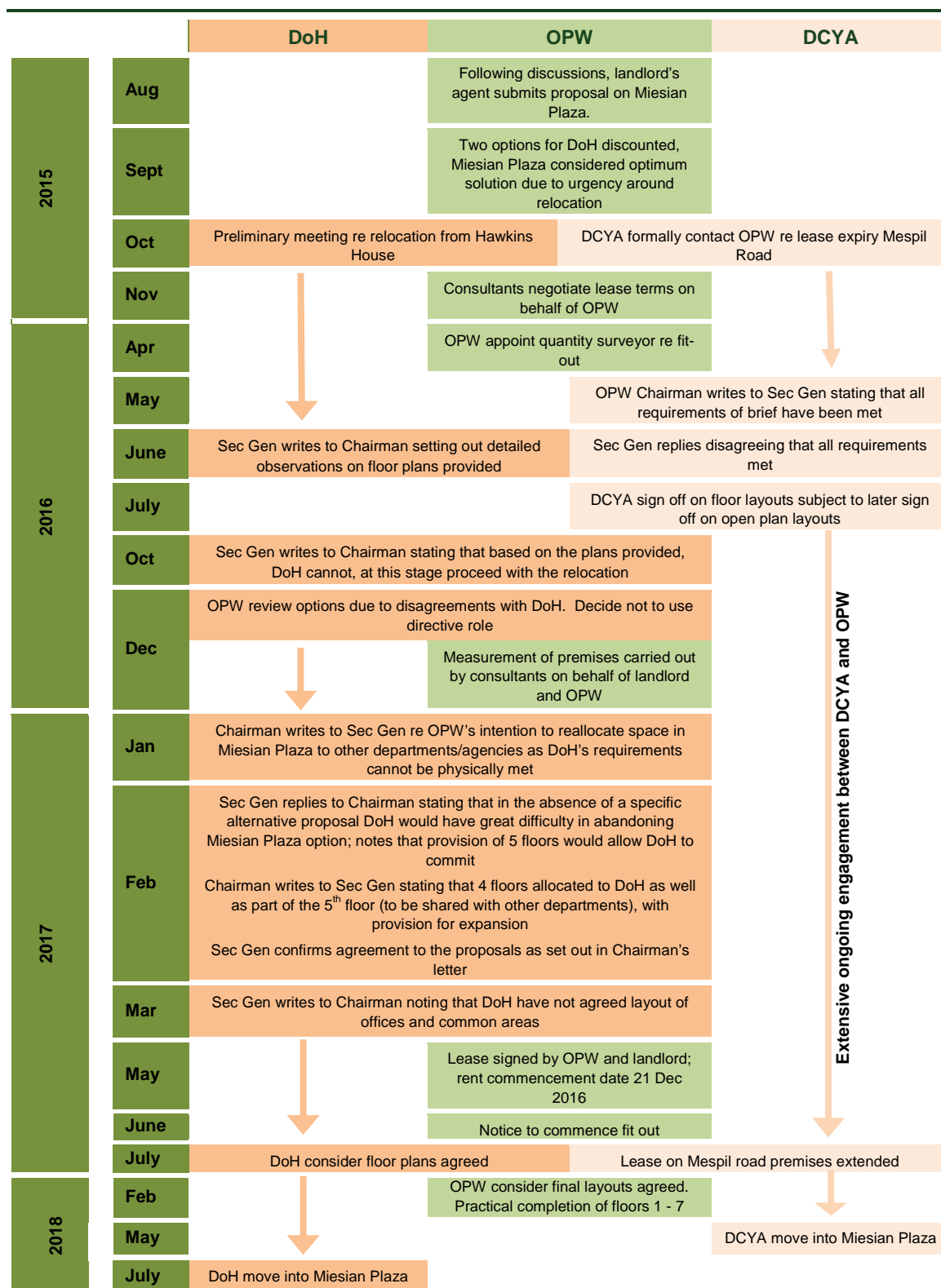
- 6.34** Other costs have arisen as a result of the delay in occupying the premises.
- 6.35** Ongoing maintenance costs arising from the continued occupation of Hawkins House of €331,400 were incurred from July 2017 to May 2018. In addition, DoH has stated that considerable work was necessary to maintain the antiquated telephone system in Hawkins House. The Department's ICT capacity was also severely limited and continuous patching has contributed to slow speeds. DoH has stated that it is difficult to accurately calculate the full additional costs incurred as a result of remaining in Hawkins House until July 2018.
- 6.36** OPW agreed a licence to enable DCYA to continue to occupy premises at Mespil Road beyond the expiry of the lease in July 2017. The building was surrendered in early June 2018. The additional rent and insurance costs incurred by OPW from the date of expiry of the lease were €1.5 million. In addition, maintenance costs of €52,700 have been incurred by OPW in relation to Mespil Road from July 2017 to May 2018.
- 6.37** DCYA also incurred costs arising from its continued occupancy of the Mespil Road premises
- €150,000 was incurred for short-term refurbishment and reconfiguration to meet increased staff numbers.
 - €33,000 was incurred to re-configure telephone lines.
 - €12,900 was incurred for the provision of mobile telephones for staff with no telephone extension due to the capacity constraints on the system.
 - The state of disrepair in the building also led to ongoing expenses (which are difficult to estimate) to maintain basic amenities.

¹ OPW has pointed out that due to the complex nature of lease negotiations, it is normal practice for a lease commencement date to pre-date the signing of the lease.

Agreeing accommodation needs

- 6.38** In December 2012, the Government enhanced the powers of OPW in respect of office accommodation for the civil service and empowered it to
- set and enforce norms for the allocation of space and standards for office fit out
 - direct departments/offices to vacate and/or occupy accommodation in a timely manner
 - in conjunction with DPER, develop and implement formal reporting and accounting arrangements on the utilisation of OPW property.
- 6.39** There was extensive engagement between OPW and the two departments (DoH and DCYA) in relation to agreeing the fit out and configuration of Miesian Plaza. This engagement has included considerable involvement of personnel from OPW and both departments up to and including the highest level in each organisation (the Chairman in the case of OPW, and the Secretary General of each department).
- 6.40** The main issues that led to protracted discussions with the two departments were
- the precise number of staff to be accommodated
 - the number of staff to be accommodated in each 'pod' in open plan areas
 - the layouts and furniture to be provided for assistant principal officers who had been accommodated in individual cellular offices prior to the relocation.
- 6.41** Although OPW has a directive power in relation to civil service office accommodation, it did not exercise that power in this case. OPW stated that in its experience, a consultative/collaborative approach is far more effective when engaging with client departments in relation to office relocations. OPW consider that directive powers are useful in certain situations but are a 'blunt instrument', and in this instance would not have dealt with the complete culture change associated with a move from 'cellular' to open plan layouts. OPW explored all avenues available including considering allocating Miesian Plaza to other clients when it seemed that agreement could not be reached with DoH. OPW consider that a more directive approach would not have assisted in bringing the relocation to a successful conclusion.
- 6.42** Figure 6.5 sets out a timeline summarising the key engagements between OPW and the two departments. It also sets out the key events relating to OPW's lease of the Miesian Plaza premises.
- 6.43** DoF and DPER occupy part of floor 1 in Miesian Plaza. Both departments signed off on their floor plans at the end of March 2017. For these departments, the same workstations were provided for all staff accommodated in open plan areas, regardless of grade. While there was ongoing contact between OPW and these two departments, there was no evidence of extensive engagement in relation to agreeing the fit out and configuration of the premises. DoF and DPER have stated that they were ready from early 2017 to complete the transfer to Miesian Plaza as soon as the accommodation was ready for occupation.

Figure 6.5 Timeline — lease of Miesian Plaza and engagements with DoH and DCYA



Source: Analysis of documentation by Office of the Comptroller and Auditor General

Note:  Indicates extensive ongoing engagement re design and layout, staff numbers, facilities, etc.

Department of Health

- 6.44** In September 2015, OPW indicated to DoH that it was aiming to identify alternative accommodation to replace Hawkins House. A preliminary meeting was held between DoH and OPW in October 2015 whereby DoH confirmed its staff numbers. From this initial meeting until October 2016 there were several changes to those numbers.
- 6.45** From late 2015, there were extensive discussions between DoH and OPW regarding space allocation. The main issues were in relation to the open plan working environment and the allocation of open plan workstations to assistant principal officers, who at that time were accommodated in individual cellular offices in Hawkins House. In addition, there was extensive engagement with DoH in relation to meeting rooms and similar facilities. As a result of the differences, DoH did not sign off on its floor plans in time to reach OPW's practical completion date of March 2017.
- 6.46** Senior officials from OPW and DoH held numerous meetings and exchanged much correspondence in relation to space requirements. In October 2016, one year after the preliminary meeting, the DoH Secretary General wrote to the OPW Chairperson stating that based on the plans and explanations provided, at that stage, the Department could not proceed with the relocation to Miesian Plaza.
- 6.47** The newly appointed OPW Chairman arranged a series of meetings with the Secretaries General of DoH and DCYA for December 2016 to seek to resolve the space requirement concerns. At the end of January 2017, the OPW Chairman wrote to the Secretary General of DoH noting that progress had been made but that an overall solution had not been found. The letter stated that taking account of DoH's requirements and the staffing of both departments, it would not be possible to accommodate both in Miesian Plaza.
- 6.48** In February 2017, the Secretary General of DoH stated that the Department had grave difficulty in abandoning the Miesian Plaza option. OPW confirmed that Miesian Plaza was seen as the long term single location for DoH (and DCYA) and there would be provision to expand the space available to DoH in 2018 and 2019.
- 6.49** OPW stated that indicative layouts were agreed in June 2017. OPW considers that given the scale of the revisions required after that date, final agreement on layouts was in February 2018.
- 6.50** DoH does not accept OPW's view that layouts were finally agreed in February 2018 and considers that it clearly signed off on layouts in July 2017. The views of the Secretary General of DoH on this and other related matters are summarised in Annex 6C.
- 6.51** OPW has pointed out that initial furniture mock ups were provided in late 2016. However, the furniture subsequently requested by DoH was bespoke and therefore had to be designed and made before final mock ups could be provided.

Department of Children and Youth Affairs

- 6.52** The Secretary General of DCYA wrote to the OPW Chairman in October 2015 in relation to the expiry of the Mespil Road lease (in July 2017) and the need to plan for relocation.
- 6.53** There was some agreement in relation to floor layouts for Miesian Plaza in July 2016 but DCYA was not prepared to sign off on the layouts for the open plan at that stage. OPW has stated that DCYA's agreement at that stage included the substantial caveat that whatever was agreed with DoH would also have to be provided to DCYA.
- 6.54** The views of the Secretary General of DCYA are summarised in Annex 6D.
- 6.55** OPW has stated that the requirements for workstations for assistant principal officers for both DoH and DCYA required significant protracted discussions. The issues related to the design of the desks, the stipulation that they could not abut other open plan workstations, the requirement for a meeting table and chair and the extensive storage required in the immediate vicinity of each workstation. Final agreement was reached in February 2018 when both departments accepted the option of eliminating the gap between these workstations and the other open plan workstations.

Design and fit out

- 6.56** OPW's accommodation design standards for government offices (July 2016) are mandatory for the provision of office accommodation in the public service. They set the criteria for refurbishment and alteration of existing buildings and the construction of new buildings. The standards apply to owned and leased buildings where fit out or refurbishment work is to be undertaken.

Use of space

- 6.57** OPW's policy is to allocate workspace in the most efficient way with space allocation based on functions performed in order to deliver an effective service. The accommodation design standards set a space efficiency target of 12 m² of net floor area per workstation. The amount of space per workstation is influenced by the mix of open-plan and cellular office space, and the level of provision of support services. The standards are based on OPW's previous measurement standard which indicates that net floor area is made up of the primary area, amenity area, circulation area, technical area and partition wall area.
- 6.58** The submissions (in March 2016) to the OPW Board and DPER in relation to the proposal to lease Miesian Plaza noted that the target space allocation was 12 m² per person.
- 6.59** OPW has stated that a total of 936 workstations have been provided in Miesian Plaza. This results in a space allocation of 15.3 m² per person — 27.5% more than target. OPW also stated that the achievement of the space allocation target can vary from building to building depending on the design of the building, window distribution, the usage of the building, and the mixture of open plan and cellular offices. OPW has indicated that there is scope to increase capacity further in certain areas as Departmental staff numbers increase into the future.

Available space

- 6.60** When DCYA relocated to Miesian Plaza in May 2018, it was necessary to continue to provide temporary accommodation elsewhere for 18 staff, as the Miesian Plaza layout does not have the capacity for these staff. OPW has stated that DCYA's original brief of requirements has been met in Miesian Plaza and that it is awaiting a request and brief of requirements for further accommodation to meet the needs of new functions allocated to DCYA. OPW stated that the initial brief provided by DCYA in March 2016 was for 285 staff. In June 2016, this was reduced to 268 and the design progressed on that basis. In March 2017, DCYA provided revised projected staff numbers of 276 to end of 2017. A total of 292 workstations have been provided for DCYA in Miesian Plaza.
- 6.61** DCYA have stated that as soon as it became apparent that additional accommodation was required, it brought this to the attention of OPW. DCYA's view is that the department is split across two locations because OPW took a decision not to accommodate its additional requirements in Miesian Plaza (by, for example, utilising the first floor). DCYA also noted that the original brief provided to OPW dates back to 2016, since when it has been allocated additional responsibilities. DCYA is engaging with OPW regarding additional accommodation outside of Miesian Plaza.
- 6.62** DoH has indicated that there is no spare capacity in Miesian Plaza available to the Department at this stage to address future significant priorities including the imminent establishment of the Sláintecare Programme Office and the associated staffing, as agreed by Government. It will be necessary to continue to work with OPW to address such accommodation needs.
- 6.63** OPW has stated that it can only provide accommodation for known staff numbers. While space allocation to each department allows for a degree of normal expansion (10% to 15%), it does not cater for a substantive increase such as might arise from major new departmental work functions.

Fit out of premises

- 6.64** The landlord carried out the fit out of the premises on behalf of OPW. OPW stated that to ensure best value in such cases, a qualified quantity surveyor is used. In the case of Miesian Plaza, an external quantity surveyor was appointed to advise OPW. The landlord's quantity surveyor produced an itemised schedule of all costs which was analysed by OPW's quantity surveyor. Final costs are negotiated and agreed based on this analysis.
- 6.65** OPW indicated that the budget for fit out costs was €20 million and the furniture cost was estimated at €4.5 million. Fit out costs of €16.63 million and furniture costs of €2.86 million (both excluding VAT) have been incurred to July 2018. OPW has allowed some contract variations to the proposed fit out as the works have been progressing, and these are included in the costs to date. However, the full effect of these variations on the estimated cost will not be known until the final account is agreed and some may be offset against savings in other areas. At September 2018, the final account had not been finalised.

- 6.66** OPW bears the cost of the standard fit out for all departments who will be located in Miesian Plaza. The client departments are funding client-specific works and furniture over and above the standard fit out. The full cost of the furniture for DoF and DPER is being met by DoF.¹ OPW have stated that the final costs for client specific works, excluding furniture, are €1.26m — €663,000 allocated to DoH, €396,000 to DCYA and €196,000 to DoF/DPER. While furniture costs have not been finalised, OPW has indicated that costs to date are €3.2 million, some of which is to be recouped by OPW from the departments.

Project review

- 6.67** OPW has stated that it initiated an internal review of the Miesian Plaza lease process in November 2017. The main purpose of the review is to examine the critical aspects of the process to determine if there are learning points that can be applied to similar projects in the future. An external consultant was appointed to work with OPW's governance and evaluation unit on the review. The draft report of the review is under consideration and is expected to be finalised in September 2018.

Conclusions and recommendations

- 6.68** The lease of Miesian Plaza was effective from December 2016. By April 2018, OPW had paid €15.8 million in rent and service costs. Taking account of advance payments as provided for in the lease and service charge balancing payments, the rent and service costs attributable to the period to end April 2018 were €14.1 million.
- 6.69** While it is inevitable that there will be some period during which a newly acquired premises is unoccupied, the absence of a rent free period in the case of the Miesian Plaza lease meant that it was crucial to ensure that the premises were occupied as soon as possible after the commencement of the lease. It was intended that Miesian Plaza would be ready for occupancy from March 2017. This target date was not achieved — DCYA moved to Miesian Plaza in May 2018 with DoH moving in July 2018. The delayed move to Miesian Plaza has resulted in ineffective expenditure on rental and service costs of the order of €11 million relating to the 13 months to end April 2018. Costs were also incurred as a result of the continued occupation of Hawkins House and Mespil Road but it is difficult to estimate the exact costs that are attributable to the delayed move.
- 6.70** The key issues that caused delay in occupying Miesian Plaza were the settling of the number of staff to be accommodated, and delays on reaching agreement on the layout of the accommodation in the open plan areas and on the provision of meeting rooms and other shared facilities. Early agreement on such matters is key to ensuring that significant costs do not arise both in relation to rental of a premises that remains unoccupied and in maintaining premises that are to be vacated.

¹ DoF manages DPER's accommodation requirements and furniture assets for both departments are recorded on DoF's asset register.

Recommendation 6.1

OPW should review its approach to engagement with client departments on the provision of new accommodation to ensure that protracted discussions do not delay the occupation of premises for which the State is incurring costs.

Accounting Officer's response

Agreed.

Full engagement with clients has always been a core part of OPW's work when undertaking projects for departments. OPW is constantly seeking ways of improving its channels of communications with clients to ensure that appropriate accommodation solutions can be identified in the most efficient manner.

In the past 12/24 months, OPW has further enhanced its approach to managing projects through

- the appointment of a senior manager to oversee the property management function
- the appointment of a team of portfolio planners
- the establishment of a new Project Oversight Group
- provision of accredited project management training to key personnel
- provision of accredited property management training to front line property personnel
- the establishment of a project pipeline planning process
- the agreement to appoint change management experts to liaise with clients on major projects
- the hosting of accommodation officer conferences to update clients on property issues
- the establishment of a Governance and Evaluation Unit which supports senior managers in implementing the *Public Spending Code*.

The internal review of the Miesian Plaza project, and the ongoing review of processes and procedures will further update and systemise the improvements that are now emerging.

It is acknowledged that the move towards more modern forms of workspaces — open plan etc. — is a complete culture change for many client departments and can be challenging to implement.

- 6.71** Any significant commitment of public funds should be supported by a business case underpinned by some form of economic appraisal. In the case of office accommodation, a robust business case should not only identify the most cost effective way of meeting the need but also ensure that the option selected is capable of meeting the long-term business needs of the intended occupants. In the case of Miesian Plaza, there was no evidence of detailed consideration of other options, no economic appraisal was carried out and there was no evidence that the full costs and the risks associated with the project were set out and considered in advance.

- 6.72** Miesian Plaza cannot currently accommodate all existing DCYA staff and the expected future additional staff of both DCYA and DoH.

Recommendation 6.2

OPW should ensure that a complete business case in line with the requirements set out in the *Public Spending Code* is prepared in advance for all significant projects.

Accounting Officer's response

Agreed.

The requirements of the *Public Spending Code* with regard to the completion of appropriate business cases for major projects will be followed and will be reflected in OPW procedures currently being revised.

- 6.73** Due to confusion over measurement standards an annual overpayment of €344,000 is being incurred over the term of the lease. Depending on the rate of inflation, this could result in an additional cost of between €9.5 million and €10.5 million over the 25 year term of the lease. OPW has stated that it is undertaking an internal review of the lease process and is examining the options available to it.

Recommendation 6.3

OPW should review its procedures for agreeing lease terms and ensure that robust controls are in place to ensure that the lease terms as agreed are accurately reflected in the formal lease entered into.

Accounting Officer's response

Agreed.

With immediate effect, a process has been established to ensure that the terms agreed during negotiations are accurately reflected in the lease. This process will entail an independent review of the draft lease by a relevantly skilled professional (professional valuer, solicitor, etc.). This procedure will be strengthened as part of the review of OPW Property Management's overall procedures which is currently under way.

- 6.74** External consultants were used by OPW to negotiate the terms of the lease. The consultants advised that a rent free period and a lease break option were terms that could be traded for a lower rent. There was no evidence that the relative economic merits of doing so were formally appraised.

Recommendation 6.4

OPW should ensure that full and formal appraisal of key decisions in relation to lease terms is carried out for all leases whether the negotiations are conducted in-house or by consultants. Formal internal review of all such decisions and appraisals should always be carried out by OPW.

Accounting Officer's response

Agreed.

This is being implemented with immediate effect and will be reflected in OPW revised procedures.

- 6.75** OPW's policy is to allocate workspace in the most efficient way possible. The accommodation design standards for government offices set an overall space allocation target of 12 m² per person. In the case of Miesian Plaza, the average space allocation was more than one and a quarter times the target allocation.
- 6.76** The OPW standards do not contain norms of space or layouts that take account of the nature of the work and business needs of different categories of occupant. The establishment of norms for the allocation of space and the standards of fit out of premises could reduce the need for protracted discussions with intended occupants.

Recommendation 6.5

OPW should establish a set of norms for the allocation of space and the standards for fit out of office premises that take account of the business needs of potential occupants and categories of occupant.

Accounting Officer's response

Not agreed.

OPW has set a general target of 12m² per workstation for office fit outs. Standards of fit outs are in place and all new fit outs must comply with current applicable legislation. The establishment of norms for the allocation of space would not be practicable bearing in mind the variety and complexity in each client's requirements and the varying nature of premises, and would restrict flexibility in dealing with occupants. Each request must be addressed on a case by case basis and, in designing solutions, OPW fully takes on board the specific requirements of each client department. In this context, the overall target of 12 m² per workstation has been set as the goal across the portfolio. The issue with pods and cellular offices is a cultural matter and not one of space allocation.

Annex 6A

Figure 6A.1 Miesian Plaza floor area (m²) by occupant

Floor	DoH	DCYA	DoF/DPER	Shared facilities	Total
	m ²	m ²	m ²	m ²	m ²
Ground floor	—	—	—	1,297	1,297
Lower ground floor	—	—	—	667	667
1 st floor	225	—	1,637	—	1,862
2 nd floor	—	1,862	—	—	1,862
3 rd floor	—	1,862	—	—	1,862
4 th floor	1,862	—	—	—	1,862
5 th floor	1,863	—	—	—	1,863
6 th floor	1,862	—	—	—	1,862
7 th floor	1,864	—	—	—	1,864
Total	7,676	3,724	1,637	1,964	15,001

Source: Office of Public Works

Annex 6B Projected annual rent over term of lease

Figure 6B.1 Projection of annual rent over term of Miesian Plaza lease^a

Lease year	Assuming average 2% increase in CPI			Assuming average 1% increase in CPI		
	Rent negotiated ^b	Rent per lease ^b	Additional cost ^b	Rent negotiated ^b	Rent per lease ^b	Additional cost ^b
	€000	€000	€000	€000	€000	€000
Year 1	€9,801	€10,145	€344	€9,801	€10,145	€344
Year 2	€9,801	€10,145	€344	€9,801	€10,145	€344
Year 3	€9,801	€10,145	€344	€9,801	€10,145	€344
Year 4	€9,801	€10,145	€344	€9,801	€10,145	€344
Year 5	€9,801	€10,145	€344	€9,801	€10,145	€344
Year 6	€10,822	€11,201	€380	€10,301	€10,663	€362
Year 7	€10,822	€11,201	€380	€10,301	€10,663	€362
Year 8	€10,822	€11,201	€380	€10,301	€10,663	€362
Year 9	€10,822	€11,201	€380	€10,301	€10,663	€362
Year 10	€10,822	€11,201	€380	€10,301	€10,663	€362
Year 11	€11,948	€12,367	€419	€10,827	€11,207	€380
Year 12	€11,948	€12,367	€419	€10,827	€11,207	€380
Year 13	€11,948	€12,367	€419	€10,827	€11,207	€380
Year 14	€11,948	€12,367	€419	€10,827	€11,207	€380
Year 15	€11,948	€12,367	€419	€10,827	€11,207	€380
Year 16	€13,191	€13,654	€463	€11,379	€11,779	€399
Year 17	€13,191	€13,654	€463	€11,379	€11,779	€399
Year 18	€13,191	€13,654	€463	€11,379	€11,779	€399
Year 19	€13,191	€13,654	€463	€11,379	€11,779	€399
Year 20	€13,191	€13,654	€463	€11,379	€11,779	€399
Year 21	€14,564	€15,076	€511	€11,960	€12,379	€420
Year 22	€14,564	€15,076	€511	€11,960	€12,379	€420
Year 23	€14,564	€15,076	€511	€11,960	€12,379	€420
Year 24	€14,564	€15,076	€511	€11,960	€12,379	€420
Year 25	€14,564	€15,076	€511	€11,960	€12,379	€420
Total	€301,634	€312,221	€10,587	€271,343	€280,867	€9,524

Source: Analysis carried out by the Office of the Comptroller and Auditor General. Any apparent differences are due to rounding.

Notes: a Rent review every 5 years per terms of lease.

b All amounts include VAT and assume VAT remains at 23% for term of lease.

Annex 6C

Views of Secretary General, Department of Health

- 6C.1** As far back as 2005, the limitations of the infrastructure of Hawkins House were apparent and several attempts were made by OPW and the Department to find alternative suitable city centre accommodation but to no avail. The Secretary General was involved in discussions with OPW from the latter part of 2014 in which he stressed the need to have a planned and managed approach to addressing the accommodation needs of the Department. There were a number of incidents in 2015 where masonry and glass fell from the building following high winds and storms. A full inspection of the building confirmed that the building's fabric had suffered extensive degradation over the years. In light of this inspection, OPW advised the Department that Hawkins House could only remain operational for two further winters (2015 and 2016) and the intention was to relocate the Department in early 2017.
- 6C.2** The staff of the Department were informed of the necessity to relocate. While Hawkins House was an ideal location in terms of transportation and commuting, it was made clear to staff that the operation of the Department, and the health and safety of staff and the public took precedence. From that point onwards, the Department's position was that the relocation should be well planned and meet the business needs of the Department but that it should proceed as quickly as possible. The Department set down two important criteria for any new premises — it should be within walking distance of Leinster House and it should be capable of accommodating the entire Department.
- 6C.3** There were different views amongst staff as to Miesian Plaza having regard to the implications for their commuting, childcare arrangements and other factors. However, the Department was clear that Miesian Plaza met its requirement regarding proximity to Leinster House and subject to its configuration, it was eminently suitable.
- 6C.4** OPW explained early in the project that whereas in Hawkins House assistant principals were accommodated in cellular offices, this would not be an effective use of space in Miesian Plaza. OPW advised that assistant principals would be provided with open plan accommodation consistent with their functional requirements. This was fully acceptable to the Department and at no time did it see cellular accommodation for assistant principals as feasible and therefore, did not form part of its requirements. Early in the process, OPW committed to providing 'mock ups' of the layouts and furniture options for staff to be accommodated in open plan but this took some time. Detailed plans for on-floor storage, provided by OPW in late 2016, confirmed the Department's position that additional space was needed. A further issue that took time to resolve was the number of meeting rooms. The Department has over 11,000 visitors each year in addition to internal meetings that take place on a daily basis. The move to a predominantly open plan environment increased the importance of both formal and informal meeting areas.
- 6C.5** The Department put in place a dedicated relocation project and adopted a project management approach. This allowed it to respond rapidly and on an informed basis to layout proposals from OPW and the architects for the landlord. The move has resulted in a 50% reduction in space used. Because of this, the Department has engaged in reducing storage requirements, using managed print services and mobile technologies to reduce space requirements, efficiently managing meeting rooms, reducing office sizes and working with other tenants to share facilities. A key issue was to work through layouts in a level of detail to demonstrate that the Department's business needs would be met. Significant revisions and adjustments were made early in 2017 which better accommodated the Department's needs.

- 6C.6** The summary of the Department's engagement with OPW in Figure 6.5 does not take account of the very significant contact that occurred between March and October 2016. In June and August of 2016, the Department provided detailed observations on the floor plans provided by OPW setting out the requirements to support our business operations. These were important milestones when the Department clearly set out its requirements and sought further engagement with both OPW and the architects. The issues addressed by the Department were also to a greater or lesser extent the same issued encountered by DCYA in that period.
- 6C.7** The Department requested that OPW provide a detailed floor plan (including on-floor storage) for a sample area and it was this that finally led OPW to the conclusion that four floors in Miesian Plaza would not be sufficient for the Department. In January 2017, the external architects confirmed what the Department had been saying for some time i.e. the Department required more space than had been allocated. Further engagement over spring of 2017 culminated in an assurance from OPW that the Department would be accommodated over five floors (four entire floors and one partial), that the space on the fifth floor could be expanded as the Department's needs increased and that Miesian Plaza would be the single location for the Department.
- 6C.8** The chapter notes that OPW considers that the date of final agreement of layouts was February 2018. The Department is clear in its position that floor plans were signed off and agreed in July 2017. No changes whatsoever were requested by the Department to those plans which would have delayed the project and it would have been satisfied to have them delivered as agreed. The changes made in February 2018 were not because of any matter raised by this Department. Any subsequent revisions were made by OPW due to technical reasons and were accommodated by the Department. It is the Department's understanding that the technical issue arose from a miscalculation regarding the positioning of furniture. It is at least possible that had the Department's request for a more detailed spatial design, drawing and mock-ups been accommodated earlier in the project, this issue might not have arisen so late in the process.
- 6C.9** In relation to staff numbers, OPW relied on payroll figures, even though this significantly understates the number to be accommodated as actual numbers always exceed those on the payroll, which excludes support staff provided by external providers, project groups staffed by external experts, staff on secondment from health agencies, and staff on placement as part of training programmes. Plans also needed to be aligned with workforce planning so that projected increases in staff numbers could be accommodated.
- 6C.10** The Department relied solely on OPW to procure accommodation, worked with OPW to utilise the accommodation option put forward and worked within OPW's established norms for civil service office accommodation having regard to the business needs and profile of the Department.
- 6C.11** The Department's move was scheduled by OPW to follow those of DCYA, and DoF and DPER. The Department's July 2018 move dates were first given to the Department at the end of March 2018. The Department has successfully completed its move in line with this timescale. As provider of shared ICT services to DCYA, the Department was also centrally involved in achieving that Department's relocation. Fit-out of the ground floor is continuing.

6C.12 The Miesian Plaza project was both complex and large scale. It is a sophisticated building and involved numerous design iterations and extensive engagement with OPW, other Departments, staff, facility experts, technology providers and others. The objective was to achieve modern accommodation that would continue to meet the needs of the Department for many years to come and this required very detailed and technical engagement between OPW and tenant departments. From the perspective of this Department, it is important to acknowledge that the outcome of this detailed engagement is very positive in terms of the standard of accommodation achieved and the associated benefits that it is clear will be conferred on the important work of the Department for many years to come. The positive response from staff and visitors following the relocation highlights the value of the detailed work undertaken. Whereas the deterioration of Hawkins House posed significant challenges for the ongoing operation of the Department, we are now assured of a modern environment in which to deliver our responsibilities for very many years to come.

Annex 6D

Views of Secretary General, Department of Children and Youth Affairs

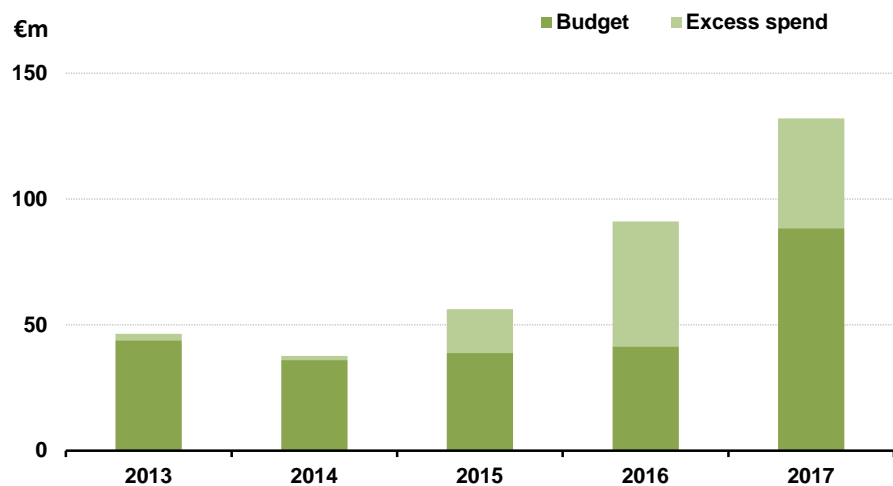
- 6D.1** The Department had planned to be in Miesian Plaza significantly earlier due to the severe accommodation challenges in Mespil Road, not least of which was the uncertainty of the lease extension negotiations between the landlord and OPW. In July 2016, the project plan indicated a target move date of March 2017 and accordingly, the Department planned for this. The planned move date did not materialise because the building was not ready for occupancy.
- 6D.2** The key issues for the Department were the layout and furniture solution for assistant principal officers. The Department was anxious to minimise the number of large 'pods' in order to ensure the most positive working environment. It specifically did not want any eight person 'pods' and sought to minimise the number of six person 'pods'. From the very outset both departments and OPW agreed that whatever solution was agreed for the assistant principal accommodation would be applied across both departments. The move of assistant principals to an open plan environment was a significant cultural change. The layout for assistant principals took some time to materialise but the principle was agreed by the Department very early in the engagement with OPW.
- 6D.3** The Department's preference was always to be located on two dedicated floors, and it made clear from the outset the need for a consolidated integrated office solution to our accommodation requirements. In particular, the Department fundamentally opposed being spread out over three floors in Miesian Plaza with resulting sharing of open plan floor space with two other Departments. Given the fact that the move was being planned around a fully unoccupied building over seven floors, I did not consider this request as unreasonable. When initial floor plans were received in mid 2016, they showed the Department split over three floors on a shared basis with two other departments rather than two floors as initially discussed. Discussions continued on this and requests were made for sight of 'mock ups' of the proposed layout of accommodation for assistant principals. Plans showing the Department accommodated on two floors were agreed in February 2017. The absence of the 'mock ups' requested presented further challenges and these were finally presented in September 2017.
- 6D.4** It was entirely reasonable for this Department to insist on seeing open plan layouts in advance of final agreement. The main issue from this process was the failure of OPW to provide a demonstration of the furniture solution for assistant principal officers. The Department was striving to maintain industrial relations harmony in the context of more than 50 assistant principals moving from individual cellular office accommodation. In early 2016, the Department's Management Board conveyed acceptance of new accommodation norms expressed by OPW but stressed the need to demonstrate to an important managerial cohort that their justifiable concerns and views were being taken on board and addressed. This was essential to ensure the continued delivery of a high quality service to the Department's client group.

- 6D.5** In the circumstances, it can be clearly seen that this Department was dependant on finalising the proposed furniture solution and its impact on floor layouts. The final agreement on layouts in February 2018 could only be arrived at following realisation in December 2017 that the furniture layouts proposed deviated from the indicative floor plans provided by OPW i.e. agreed furniture for assistant principals would not “fit” in many instances due to support columns not being factored into the OPW layout.
- 6D.6** OPW challenged the Department’s staff numbers on a number of occasions. Each time, the Department provided both actual and planned numbers. As time progressed and the responsibilities of the Department grew, the numbers to be accommodated increased (an extra 66 in 2017 and 38 in 2018). These increases resulted in the layouts being adjusted. Due to this, OPW informed the Department in December 2017 that the agreed arrangement could not be provided to all assistant principals. The Department asked that the plans be re-examined and re-configured plans for accommodating assistant principals were agreed in February 2018.
- 6D.7** The Department has been accommodated in Miesian Plaza since 21 May 2018. There are some 18 staff temporarily accommodated elsewhere as Miesian Plaza does not have the capacity for these staff.
- 6D.8** The Department worked hard with OPW to address the many complexities involved in bringing this large scale project to successful completion. Detailed engagement and careful planning have resulted in a very successful outcome in terms of a building that is functioning well, and is a good working environment that is conducive to quality work in the years ahead.

7 Management of overtime expenditure in An Garda Síochána

- 7.1** At the close of 2017, An Garda Síochána employed 13,551 Garda members, 420 Garda students, 2,192 civilians and 589 Garda reservists. Under a five-year reform and workforce plan, the Government has committed to provide increased staffing levels by 2021 to include 15,000 sworn Garda members, 4,000 civilian personnel and 2,000 Garda reservists.
- 7.2** Overtime is paid to the ranks of Garda, Sergeant and Inspector and is determined at 1.5 times the basic hourly rate of pay. Overtime worked on Sundays and on public holidays is paid at twice the basic hourly rate of pay.
- 7.3** In 2017, the overtime bill was €132 million — 12% of the overall pay bill, and three and a half times the overtime cost of €38 million in 2014. In addition, overtime expenditure exceeded the estimate provisions in each of the five years to 2017 (see Figure 7.1).
- 7.4** A net supplementary estimate of €44.2 million was obtained in 2017, mainly for salaries, wages and allowances, including overtime (€10 million in 2016).
- 7.5** The focus of this examination is on budgetary control of overtime expenditure.

Figure 7.1 Overtime — Budget and outturn

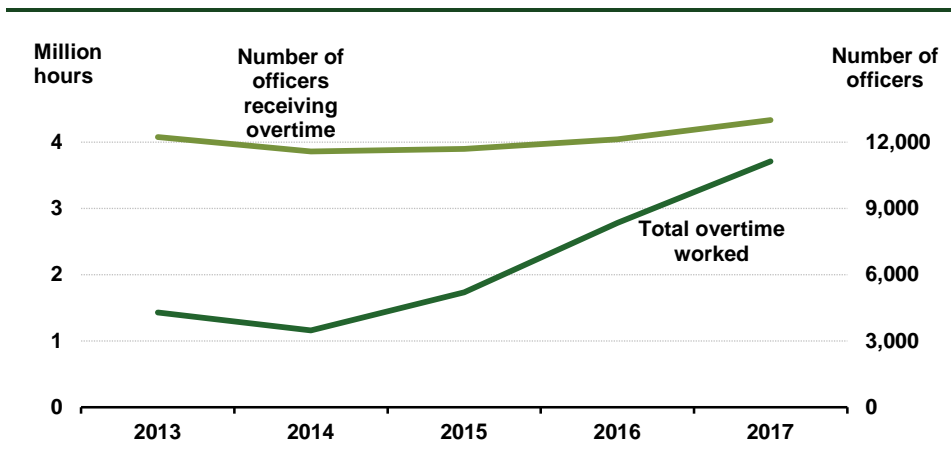


Source: Office of the Comptroller and Auditor General

Recent trends in overtime by Garda members

- 7.6** Figure 7.2 shows the trend in overtime over recent years. It illustrates the growth of around 12% in the number of officers receiving overtime between 2014 and 2017. In comparison, the total number of overtime hours paid for increased by 219% between 2014 and 2017. The average number of paid overtime hours increased by 185% per officer over the same period.

Figure 7.2 Garda overtime, 2013 to 2017



Source: An Garda Síochána

- 7.7** Part of the increase in overtime costs in 2017 is also explained by the impact of the implementation of a Labour Court recommendation on Garda pay which came into effect from the beginning of 2017. The main provisions which have a bearing on overtime rates are
- integration of the rent allowance of €4,655 payable to Garda members into salary, with consequential increases in unsocial hours and overtime payments¹
 - the introduction of paid 15 minute pre-tour (or parade) briefing sessions, paid at the overtime rate.
- 7.8** The overall impact of the pay deal on overtime in 2017 has been estimated by An Garda Síochána at €28.3 million.

Extra duty analysis

- 7.9** Garda shifts or tours are organised in blocks of 28 days. At the conclusion of the duty roster period, each member completes a hand-written record of the daily duty hours worked, separately identifying periods of pre-tour briefing, ordinary tour hours and periods of extra duty.
- 7.10** The duty records are declared as correct by the officer concerned. The officer's immediate supervisor certifies that he or she has checked the form, that the entries are correct and in accordance with the relevant entries in official records, and that all absences from duty are properly recorded. Lastly, a district officer/superintendent certifies that the entries on the form are correct and are approved for processing.

¹ Includes a €500 a year increase in 2017.

- 7.11** Individual summaries of the number of hours worked as extra duty, at weekends and public holidays as well as overnight, are input into the payroll system where they are processed for payment. The details captured are those that are necessary to support the payment rate.
- 7.12** Little detail is available about the operational reasons the overtime claimed was required. The manual duty records include a section seeking information on the nature of the duties performed during periods of extra duty. This section of the form is not always completed in sufficient detail to support analysis. Much of the extra duty hours worked are assumed to represent 'regular overtime'. Around €98 million or 75% of the overtime expenditure in 2017 has been analysed as regular overtime with a further 21% attributed to organised crime operations and Operation Thor.¹
- 7.13** Garda regular overtime includes a wide range of activities such as court attendance, crime investigation, crime prevention, prisoner escorts, immigration, events and traffic operations. It can also include certain organised operations, particularly outside the Dublin Metropolitan Region and certain expenditure on border security operations and support for measures against terrorism.
- 7.14** From an exercise undertaken to establish the reasons for regular overtime in a number of operational regions, An Garda Síochána estimate that about 55% of regular overtime concerns routine crime investigation or attendance at Courts.

Annual budgeting process

- 7.15** An Garda Síochána receives its annual budget allocation through the Estimates process with a specific amount provided to cover overtime costs. The overtime provision is divided and allocated in terms of budgets to regions/branches, divisions and districts. In addition to this general roll-down allocation process, provision is made for non-recurring events and certain targeted anti-crime initiatives.
- 7.16** At monthly meetings, the Commissioner and the senior management team consider management accounts which provide detail on the expenditure incurred in the year to date.
- 7.17** From data processed through the payroll system, a set of reports on overtime is available for generation locally at District, Divisional and Regional offices for information purposes. The possibilities include year-to-date expenditure reports, top earners reports and overtime by category/project.
- 7.18** As early as February 2017, the Director of Finance and Services informed the Commissioner and senior management that the overtime spend in the first month of the year was already exhibiting signs of being in excess of budget and that corrective action was required.
- 7.19** Any corrective actions taken to limit overtime costs were unsuccessful and the full year's estimate provision for overtime of €88.5 million was exhausted by August 2017. In the period to the end of the year, overtime continued to be approved and paid without any curtailment in the overall quantum of hours worked.

¹ Operation Thor was launched in 2015 to tackle crime, particularly burglaries in both urban and rural communities nationwide.

- 7.20** In October 2017, the Department of Justice and Equality concluded that a significant overrun in the overtime estimate provision for the year was unavoidable. The Department repeated an earlier request to An Garda Síochána for a strengthening of internal governance and controls in relation to the sanctioning and monitoring of overtime expenditure to ensure it was incurred in a planned and sustainable manner. The Department expressed concern that there was no indication of the governance and control arrangements being in place within An Garda Síochána to ensure that an extensive overrun on the overtime budget would not recur in 2018.
- 7.21** The final overtime spend in 2017 was €132 million, almost 50% higher than the estimate provision.

Spending Review 2018

- 7.22** In July 2018, the Department of Public Expenditure and Reform published a review of overtime spending in An Garda Síochána.¹ Some of the key findings of the review are
- The paper-based claim system makes it difficult to monitor and analyse overtime and there is no proper system for bottom up estimation of the budget requirement.
 - Overtime levels in An Garda Síochána are higher than in police forces elsewhere — in other countries, overtime accounts for around 4% - 5% of the pay bill, whereas for An Garda Síochána, the percentage rate was 12%.
 - There are some governance approaches and models which have worked elsewhere including better local civilian financial expertise and high level governance structures to focus on overtime.

Views of the Accounting Officer

- 7.23** An Garda Síochána stated a fundamental component of workforce planning is to rebalance professional capabilities. The lack of resources during the economic downturn and an extended period of underinvestment in professionalisation are being addressed by an increased number of civilian resources. It is planned to increase civilian resources by approximately 2,000 with 1,500 allocated to roles that do not require policing powers but which are currently being completed by sworn members. A further 500 civilians will be recruited to undertake roles that have been identified as prioritised new posts. As of 31 May 2018, 106 Garda members have been reassigned to frontline policing duties.
- 7.24** A second iteration of the An Garda Síochána Workforce Plan was submitted to the Policing Authority in June 2018 and contained an initial view of demand and supply together with a preliminary look at potential efficiencies arising from increased investment, such as reductions in overtime and increased productivity as a result of ICT initiatives.
- 7.25** A significant challenge in terms of data analytics in human resources is the lack of a single source integrated human resources information system. This management information deficiency is now being addressed by the design and proposed implementation of a human resources operating model, the proposed introduction of the roster and duty management system and the delivery of the initiatives outlined in the An Garda Síochána People Strategy.

¹ Irish Government Economic and Evaluation Service: *Spending Review 2018, Overtime Spending in An Garda Síochána Efficiency and Control*, July 2018.

- 7.26** It is envisaged that the proposed introduction of the roster and duty management system will improve organisational capabilities of planning, controlling and managing the deployment of staff resources which should lead to savings in reduced overtime spends through more effective and efficient resource allocation. This project is currently being piloted in the Dublin Metropolitan Region Eastern Division and will be rolled out to the other regions when evaluated.
- 7.27** The issue of overtime expenditure is raised at senior leadership team meetings and at Commissioner meetings on a monthly basis. Within the risk management framework, overtime expenditure has been highlighted as being critical and is disclosed on the corporate financial risk register which is discussed at risk and policy board level meetings.
- 7.28** At the June 2018 senior leadership team meeting, the following additional controls concerning the authorisation of overtime expenditure was approved
- up to 50 overtime hours claimed per duty roster can be approved by the District Officer/Superintendent
 - overtime claims of between 50 and 70 hours per duty roster must be approved by a Chief Superintendent
 - overtime hours in excess of 70 hours per duty roster must be approved by an Assistant Commissioner.
- 7.29** The first of the above controls was implemented for the roster ending 15 July 2018 through the payroll system. Approval at the next two levels of authorisation will require some amendments to the current overtime processing system. While a solution is being explored, local arrangements are to be implemented to give effect to these additional controls.

Views of the Department of Justice and Equality

- 7.30** Garda expenditure on overtime is largely demand driven and can be difficult to predict with absolute accuracy. Since 2016, the response to gangland and serious organised crime has necessitated increased recourse to overtime. An Garda Síochána have made important progress in tackling the insidious threat of gangland and other serious organised crime. In this context and in the last two years, An Garda Síochána report that they have directly intervened in over 50 incidents where there was an imminent threat to a person's life.
- 7.31** In addition to the controls within An Garda Síochána, it may be noted that expenditure is kept under regular review in the context of the governance and oversight arrangements in place between An Garda Síochána and the Department of Justice and Equality. Further, the regular structured engagement between An Garda Síochána and the Department in relation to resources has recently been expanded, with the establishment of a Joint Working Group on Resources for An Garda Síochána involving An Garda Síochána, the Department of Justice and Equality, the Department of Public Expenditure and Reform, the Department of the Taoiseach and the Policing Authority. The Group, which meets monthly, provides a forum for all relevant stakeholders to maintain a strategic overview of the resource requirements and financial position of An Garda Síochána, including in relation to overtime.

Conclusions

- 7.32** Management practices to control the overtime budget in 2017 were ineffective. Overtime expenditure significantly exceeded the estimate provision and contributed to the need for a supplementary estimate.

Accounting Officer response

An Garda Síochána recognise the requirement for robust controls for the management of the Garda budget, but a number of extenuating factors must be considered in the management of Garda overtime.

The Garda pay deal implemented at the start of 2017 is estimated to have increased overtime costs by €28 million. In addition, An Garda Síochána is obliged to undertake certain duties over which it has no control such as attendance in courts, escorting prisoners to/from courts and assistance in the deportation of people from the country. The cost of the pay agreement reflected in the overtime expenditure and the cost of these types of non-discretionary duties was €53 million in 2017, leaving the balance of €79 million which can be considered as discretionary and within direct control. The discretionary element of the overtime cost is 8.4% of the payroll cost of €944 million in 2017, which is closer to the percentage of 4 – 5% recommended by the Government Economic and Evaluation Service.

Other causes which are driving the overtime requirement are the establishment of new policing units such as the Cyber Crime and Divisional Protection Units. These new units have to be staffed by experienced Garda members which can put a drain on resources elsewhere which is back filled with overtime.

In the circumstances of ongoing serious and life threatening activity by a number of organised crime gangs, An Garda Síochána, has determined that the most effective mitigation measure is to engage in operational activity, including surveillance, which would have the capacity to lead to particular suspects being apprehended at a time and location which would render it highly probable that a conviction for attempted murder and associated crime could be achieved. Apprehending suspects in such circumstances is very likely to lead to the said suspects pleading guilty to the criminal charges laid against them. It is assessed that such investment leads to considerable savings in the longer term, arising from avoiding the significant expense of a murder investigation.

Undertaking operational activity of the nature described above is highly labour intensive involving considerable expense in the nature of overtime 'up front' with a view to apprehending suspects in the desired circumstances and protecting their intended victims from murder.

In September 2018, comprehensive reviews of overtime commenced as an immediate measure to halt this overspend. The review will be completed by the end of September and will include a range of measures that will prioritise, target and control overtime to ensure that resources are used in the most efficient and effective way possible while minimising impact on frontline policing.

- 7.33** Information systems in An Garda Síochána are deficient and fail to provide the depth of analysis required to effectively deploy staff resources, monitor use and identify potential economies and efficiencies.

Accounting Officer response

An Garda Síochána accept that there are deficiencies in the information systems within the organisation, to record, monitor and plan overtime which is due primarily to the lack of adequate funding in systems and skilled resources over the last number of years.

To address this matter in the long term, a review of the Finance and Services Directorate will be undertaken to determine the appropriate structures, functions and financial management systems required to support the growth of the Garda organisation to 21,000 by 2021.

- 7.34** While some measures have been introduced in 2018 to curb overtime costs, there is no detailed plan of how the overtime bill can be substantially reduced and sustained.

Accounting Officer response

The new roster and duty management system which is currently on trial in the Dublin Metropolitan Region Eastern Division will be an effective tool to manage and monitor staff resources, and make more efficient use of overtime within the organisation. The hybrid divisional policing model is another project which is envisioned will lead to greater efficiencies within administration and data analytics leading to stronger reporting and analysis on such discretionary spend as overtime and travel and subsistence.

8 Measures relating to national cyber security

- 8.1** The term 'cyber security' refers to the full range of measures designed to protect information and communications technology (ICT) systems and ensure the confidentiality, integrity and availability of data services. It encompasses the body of technologies, processes and practices designed to protect networks, devices, programmes and data from attack, damage or unauthorised access.
- 8.2** Disruption to critical information infrastructure and networks has been noted as a discrete strategic risk in the annual National Risk Assessment since 2014. In 2017, the assessment noted that *"the fact that Ireland is home to a large number of international data centres means that a serious attack or cyber-security failure could have a damaging impact not just on our reputation, but also on our economy"*.¹
- 8.3** Cyber attacks on critical systems are an ongoing threat globally. Such attacks include the December 2015 Ukrainian power grid attack and the May 2017 global cyber incident caused by the 'WannaCry2' worm. The former impacted 230,000 people who were left without power for up to six hours. The latter affected ICT systems globally; in the UK, the National Health Service was reduced to running emergency-only services in some locations as a result. In Ireland, a HSE-funded facility in Wexford was affected by 'WannaCry2'.
- 8.4** The Department of Communications, Climate Action and Environment (the Department) is responsible for cyber security policy in Ireland. It is also responsible for coordinating the governmental emergency response to any national-level cyber security incidents. The Department discharges these responsibilities through the National Cyber Security Centre.
- 8.5** The Department published the *National Cyber Security Strategy 2015-2017* in 2015. The strategy presents a framework for ensuring "safe, secure and reliable" interactions within cyberspace.
- 8.6** In July 2016, the European Union adopted a directive — the Directive on Security of Network and Information Systems (the Directive) — with a view to achieving a high common level of security within the EU. The Directive requires that the laws, regulations and administrative provisions necessary to comply with the Directive be adopted and published by 9 May 2018. The Minister for Communications, Climate Action and Environment (the Minister) gave effect to the Directive on 18 September 2018.²
- 8.7** This examination reviews the progress which has been made since the establishment of the National Cyber Security Centre.

1 Chapter 5: Technological Risks; *National Risk Assessment 2017, Overview of Strategic Risks*, Department of the Taoiseach, 29 August 2017.

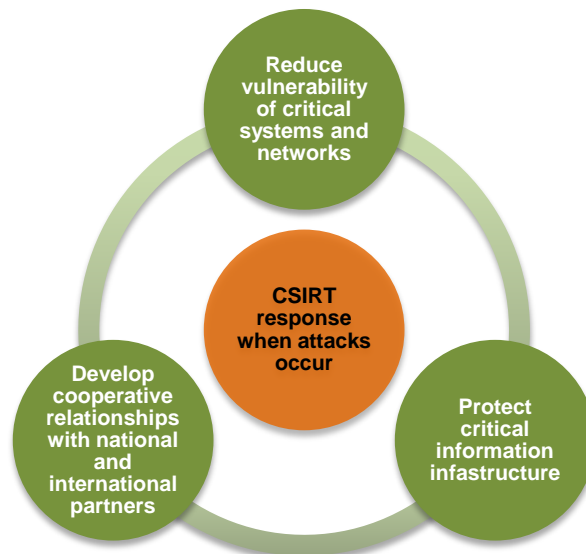
2 Statutory Instrument number 360 of 2018, *European Union (Measures for a high common level of security of network and information systems) regulations 2018*.

National Cyber Security Centre

Mandate

- 8.8** The National Cyber Security Centre was established in 2011 following a Government decision.¹ The Centre is largely located in rental accommodation on the UCD campus. The Centre's primary focus is on securing government networks, on assisting industry and individuals in protecting their own systems and on securing critical national infrastructure.²
- 8.9** The National Cyber Security Centre contains the State's national/governmental Computer Security Incident Response Team (CSIRT-IE). Its functions include the enhancement of 'situational awareness' and the provision of incident response for national cyber security incidents.³ The Computer Security Incident Response Team received 'Trusted Introducer' accreditation on 28 November 2017.⁴
- 8.10** The National Strategy sets out the mandate for the National Cyber Security Centre (see Figure 8.1).

Figure 8.1 National Cyber Security Centre mandate



Source: National Cyber Security Strategy 2015 — 2017

Resourcing

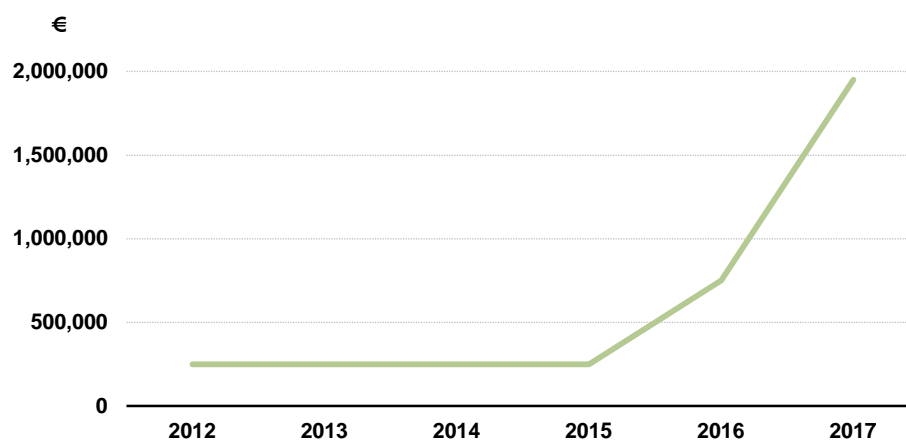
- 8.11** In the 2011 Government decision approving the National Cyber Security Centre, an initial resource allocation of €800,000 a year was approved. The allocation was to be used to set up the National Cyber Security Centre and the Computer Security Incident Response Team.

¹ Government decision S180/20/10/481.

² Critical national infrastructure comprises critical elements necessary for the delivery of essential services such as electricity, water, transportation, telecommunication, commerce and health.

³ Situational awareness is the perception of environmental factors and events in order to understand how information, events, and one's own actions will impact the environment immediately and in the future.

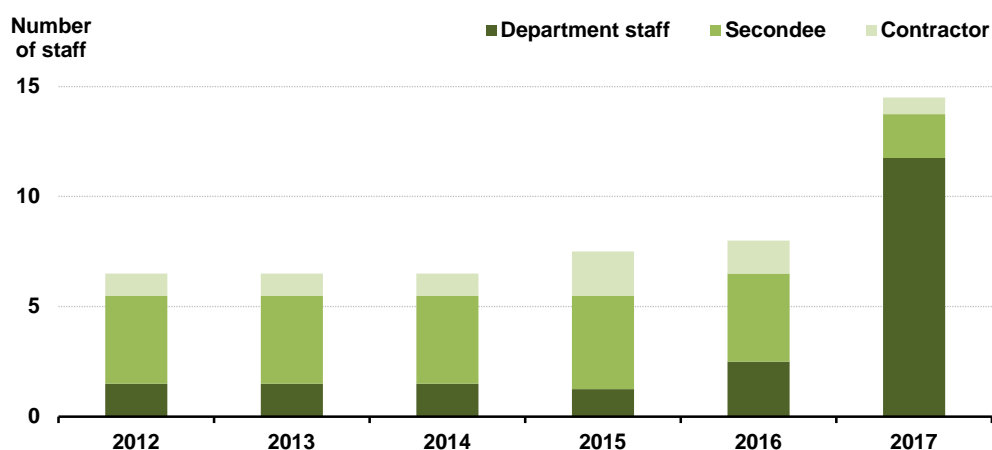
⁴ Trusted Introducer is a body established by the European Computer Emergency Response Team (CERT) community. It signifies to the bodies that the National Cyber Security Centre works with that the CSIRT has reached a required level of maturity and operational capacity.

Figure 8.2 National Cyber Security Centre budget allocation 2012 to 2017

Source: Department of Communications, Climate Action and Environment

8.12 The Department's funding allocation for cyber security in the period 2012 to 2015 was less than a third of the amount approved in the 2011 Government decision (see Figure 8.2). In 2017, the allocation increased to €1.95 million. However, the Department does not routinely compile or publish expenditure relating to the National Cyber Security Centre.

8.13 Figure 8.3 indicates staffing levels for the National Cyber Security Centre since its establishment. The centre had a staff of 14.5 whole time equivalents (WTE) during 2017. In 2016, a permanent Head of Incident Response was appointed and a programme of recruitment for 2017 was agreed by the Department. The Department stated that approval was given in 2018 for the appointment of 16 further staff including a permanent Director and Chief Technical Officer.

Figure 8.3 Staffing (WTE) of the National Cyber Security Centre 2012 to 2017^{a,b}

Source: Department of Communications, Climate Action and Environment

Notes: a WTE (whole time equivalent).

b Department staff includes time spent by principal officers in the Internet Policy Division (part of a WTE up to 2017 and 1 WTE since then).

- 8.14** The Department states that ensuring the National Cyber Security Centre had the correct mix of skills to deal with a dynamic and challenging area was difficult, as was the challenge of plotting a growth model for the organisation. As such, it states that the increase in staff numbers in 2017 was with reference to the developing understanding of the skills required.

National Cyber Security Strategy 2015-2017

- 8.15** The National Cyber Security Strategy (published July 2015) sets out 12 measures to be achieved over the lifetime of the strategy. A National Cyber Security Strategy Implementation Plan was also developed in 2015, setting out key targets and notes that reaching these targets will ensure all measures will be addressed.
- 8.16** An assessment of progress in achieving the measures set out in the strategy, based on the targets set out in the implementation plan, is summarised in Figure 8.4. As at May 2018, four measures had been completed, four measures had been partially implemented, and four measures had not been implemented.
- 8.17** The existing strategy covers the period 2015 to 2017. The Department has indicated that it expects to publish a new National Cyber Security Strategy by the end of 2018.

Figure 8.4 Progress assessment of strategy measures, as at May 2018

Establish the National Cyber Security Centre (NCSC) within the Department	●
<ul style="list-style-type: none"> Accreditation of the Computer Security Incident Response Team — completed 	
Network and information security for public bodies	
<ul style="list-style-type: none"> Three specific training programmes were envisaged for key personnel in government departments. These programmes had not been rolled out. A security incident and event management system was not in place Provision of threat information through an 'alerts and advisory' mechanism to public sector participants was in place 	◐
Coherent international engagement	
<ul style="list-style-type: none"> Contribution to the board of management of European Agency for the Security of Network and Information Systems was in place Bilateral engagement ongoing. NCSC participates in a number of working groups and workstreams 	●
Fully implement the EU Directive by primary legislation	○
<ul style="list-style-type: none"> The deadline for transposition was 9 May 2018. Transposition was achieved on 18 September 2018. 	
National security and policing	
<ul style="list-style-type: none"> The Strategy committed to a memorandum of understanding with An Garda Síochána — not completed 	○
Cybercrime	
<ul style="list-style-type: none"> The Strategy committed to a memorandum of understanding with An Garda Síochána — not completed 	○
Civil-military cooperation	
<ul style="list-style-type: none"> Service level agreement and a memorandum of understanding in place with the Department of Defence and Defence Forces 	●
Protection of critical national infrastructure	
<ul style="list-style-type: none"> No mandatory reporting obligations as the Directive had not been transposed Provision of threat information through an 'alerts and advisory' mechanism in place The establishment of a Critical Information Infrastructure Initiative — a forum of critical system operators — not achieved 	◐
Information sharing	
<ul style="list-style-type: none"> Engagement with industry and public sector bodies through agreed and established information sharing mechanisms Public engagement delivered by the Department's Press Office 	●
Education and training	
<ul style="list-style-type: none"> Development of accredited training programmes with academic partners — not delivered Structured exercises for critical national infrastructure operators ongoing 	◐
Public awareness	
<ul style="list-style-type: none"> 'Make IT secure' website was operational during the period from 2012 to early 2018 Further campaigns to raise public awareness — outstanding 	◐
Relationship with third-level institutions	
<ul style="list-style-type: none"> A 'cyber security group' to be developed to lead interaction within the sector — not achieved The "use of memoranda of understanding...to support the developing research agenda in [the] sector" was envisaged, but had not been provided Relationship with UCD Centre for Cyber Crime Investigation not formalised 	○

Source: National Cyber Security Strategy Implementation Plan 2015. Analysis by the Office of the Comptroller and Auditor General.

Note: ● Complete ◐ Partial progress ○ Not complete

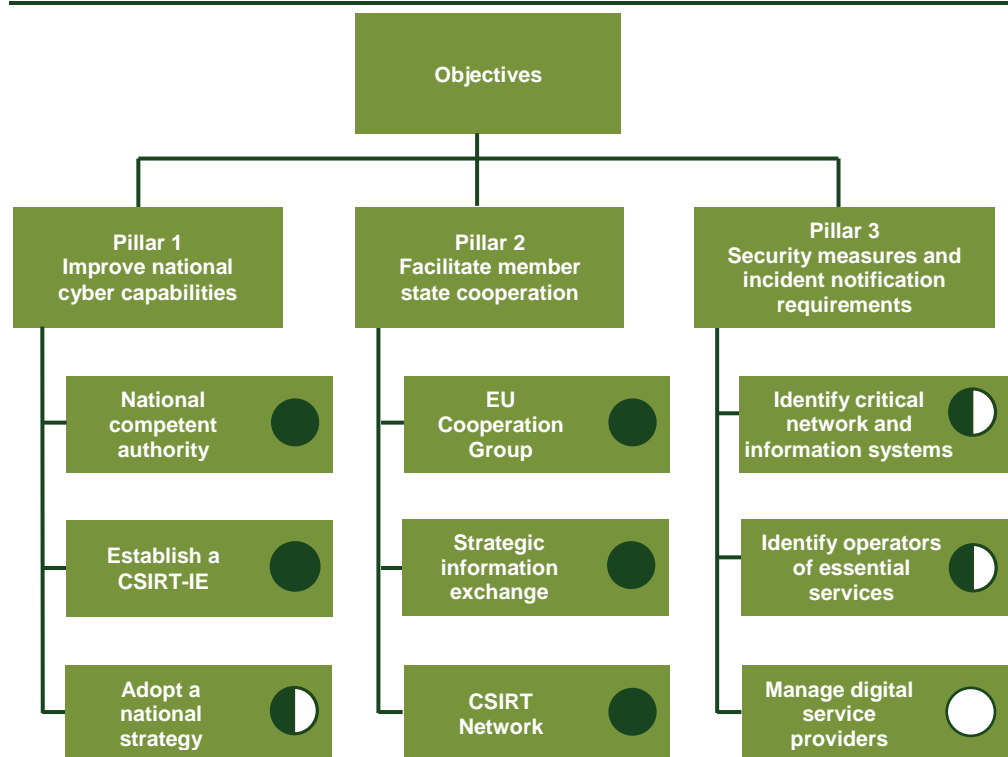
Network and Information Systems Directive

8.18 The EU Network and Information Systems Directive aims to improve the resilience of key network and information systems by addressing the following (referred to as 'pillars')

- improving cyber security capabilities of EU member states
- facilitating cooperation on cyber security among EU member states
- introducing security measures and incident reporting obligations for key sectors.¹

8.19 The structure envisaged in the Directive for achieving these objectives is outlined in Figure 8.5.

Figure 8.5 Directive — Implementation approach



¹ Reporting requirements are not limited solely to cyber security incidents. The Directive defines an incident as any event having an actual adverse effect on the security of network and information security. For example, incidents relating to power and hardware failures, malware, intrusions, viruses or environmental hazards may be reported.

Source: Directive (EU) 2016/1148 of the European Parliament — Network and Information Systems Directive. Analysis by the Office of the Comptroller and Auditor General.

Notes: ● Complete.
◐ Partially implemented.
○ Not implemented.

Pillar 1 — Improve national cyber capabilities

- 8.20** The Minister is designated as the national competent authority in the State in respect of operators of essential services (OESs) and digital service providers (DSPs).¹
- 8.21** Structural requirements under pillar 1 have been put in place, but gaps remain in strategic planning. Figure 8.6 identifies the requirements for a national strategy specified in the Directive and indicates where Ireland's existing national strategy satisfies or meets the Directive requirement.

Figure 8.6 Requirements for a national strategy

The objectives and priorities for the management of cyber security in the national domain	●
A governance framework that defines the roles and responsibilities of relevant stakeholders	○
Identification of measures of preparedness, response and recovery, including cooperation between the public and private sectors	◐
An indication of the public engagement, education and training programmes relating to the national strategy	●
An indication of research and development plans relating to network and information systems strategy	●
A risk assessment plan to identify risks <ul style="list-style-type: none"> A general comment on risks is provided in the existing strategy 	◐
A list of the various actors involved in the implementation of the national strategy on the security of network and information systems	○

¹ The Central Bank of Ireland is designated as a competent authority in respect of operators of essential services in the banking and financial market infrastructure sectors.

Source: EU Directive on the Security of Network and Information Systems and National Cyber Security Strategy 2015–2017.

Notes:

- Present in existing strategy.
- ◐ Partial crossover with existing strategy.
- No crossover with existing strategy.

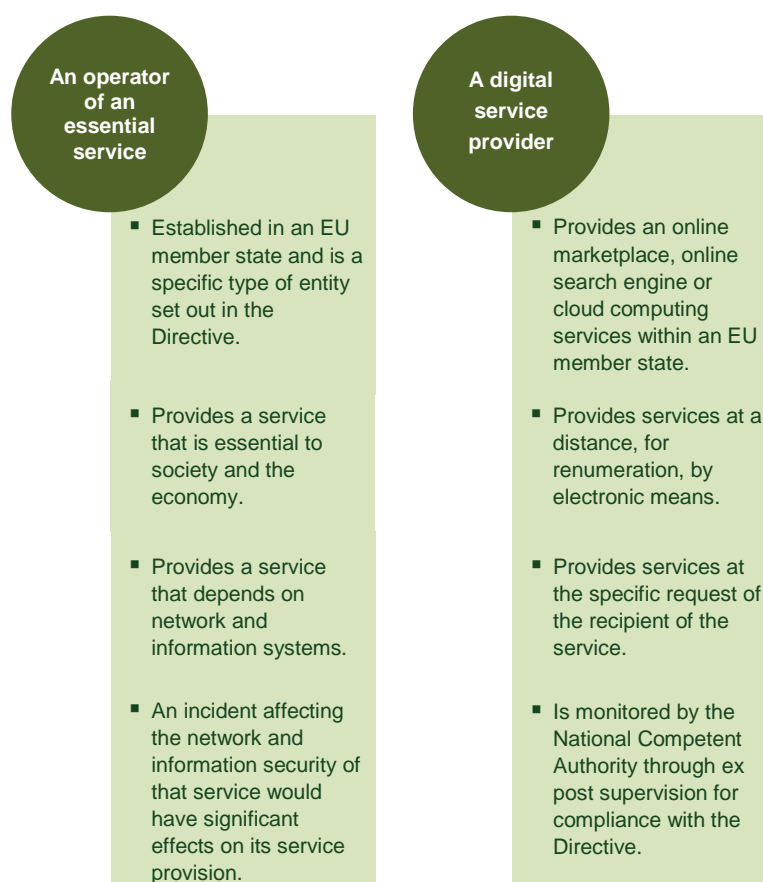
Pillar 2 — Facilitate member state cooperation

- 8.22** The EU Agency for Network and Information Security (ENISA) supports the development and implementation of the EU's policy and law in relation to network and information systems. The National Cyber Security Centre contributes two members to the board of ENISA in addition to participating in the core European working and cooperation groups, EU Co-operation Group and CSIRT Network. This facilitates the sharing of best practice regarding strategic, technical and other measures. In addition, the National Cyber Security Centre also conducts bilateral engagement with other National Cyber Security Centres and Computer Security Incident Response Teams.

Pillar 3 — Security and incident notification requirements

- 8.23** The Directive requires the identification of entities/enterprises that qualify as OES or DSP based on specified criteria (see Figure 8.7). Certain obligations arise under the Directive depending on the criteria that organisations meet.¹ Reportable incidents arise when disruption significantly impacts service provision above a certain threshold.²

Figure 8.7 Categorisation criteria for service providers



¹ Digital Service Providers with less than 50 employees and whose balance sheet total and/or annual turnover does not exceed €10 million are exempt from the security and notification requirements.

² Article 6 of the Directive outlines the factors that constitute a 'significant disruptive effect'.

- 8.24** To date, the National Cyber Security Centre has identified approximately 60 entities as potential OESs in seven sectors specified in the Network and Information Systems Directive. The Minister has not yet completed formal designation of these entities as OESs.
- 8.25** There are obligations on the Minister as national competent authority to establish and maintain a register of OESs. The register must be reviewed on a regular basis, at least every two years.
- 8.26** A DSP providing a service in another EU state but headquartered in Ireland is considered the responsibility of the Irish authorities for cyber security purposes.
- 8.27** The Department notes that the State is responsible for dealing with the security of services provided across the EU by multinational companies (deemed DSPs under the Directive), that have their European headquarters located in Ireland. As a result, Ireland will have additional financial and administrative responsibility associated with acting as the *de facto* European security regulator, which will impact on resourcing requirements in the future.
- 8.28** The Minister has authority to require both OESs and DSPs to provide all information needed in order to assess the security of their network and information systems.
- 8.29** Furthermore, the Department published draft security measures and incident reporting guidelines for OESs and DSPs on 16 November 2017 for consultation. It is intended that these will be finalised following transposition of the Directive.

Governance and oversight

- 8.30** The Government decision in July 2011 approving the National Cyber Security Centre also approved the setting up of an interdepartmental committee to set and implement policy in relation to addressing the challenges of cyber security in Ireland. The group first met in December 2013. Minutes of only one meeting, dated February 2014 (noted as the third meeting) were available for review. The Department has indicated that its records suggest that the group met five times.
- 8.31** The National Cyber Security Centre Strategy Implementation Plan (2015) states that the overarching governance structure for the National Cyber Security Centre will remain the interdepartmental high level steering group, indicating the group would be reoriented to function as the oversight mechanism for all the work of the National Cyber Security Centre. The Department states that the committee has not met since the strategy was published in 2015.
- 8.32** The Department states that the committee consisted of an Assistant Secretary from the Department and the Department of the Taoiseach, an Assistant Commissioner from An Garda Síochána, a Principal Officer of the Department of Justice and Equality, a Colonel from the Defence Forces and a Counsellor from the Department of Foreign Affairs and Trade.
- 8.33** The Department stated that the Assistant Secretary with responsibility for telecommunications has policy and operational responsibility for the National Cyber Security Centre. The Secretary General is also briefed regularly on developments. There were no minutes or other evidence provided as to the regularity of briefings.
- 8.34** The Department stated that its Management Board considers cyber security from time to time. The Department provided the relevant extracts from the minutes of Management Board meetings (summarised in Figure 8.8).

Figure 8.8 Summary of Management Board minutes 2015 — June 2018

Meeting dates	Points recorded as having being discussed
2015 — June	Memo for Government relating to publishing the cyber security strategy. Delivery of the associated implementation plan.
2016 — January	Update provided on attacks on Government websites
2017 — Jan, Feb, Mar, May	Update from HR on progress with recruitment competitions for cyber security functions
2018 — April	Strategic priorities were discussed and agreed that the next presentation in May would cover cyber security
— May	Detailed presentation on the National Cyber Security Centre (NCSC) and its operations to date
— June	Update on accommodation and reference to additional NCSC staff

Source: Department of Communications, Climate Action and Environment

- 8.35** The Department further stated that a component for the next strategy will be the governance and oversight arrangements for the unit, based on international best practice and a draft organisation structure has already been considered by the Department.
- 8.36** The National Cyber Security Strategy Implementation Plan commits to publishing an annual report and to conducting a formal impact assessment of their work in late 2017. These are outstanding, though the work of the Centre is outlined in the Department's annual report.
- 8.37** The Department's Strategy Statement 2016 — 2019 outlines two performance indicators related to the work of the National Cyber Security Centre
- implementation of the EU Network and Information Systems Directive
 - services response capacity developed to be able to engage in cyber security actions.
- 8.38** An assessment of the Centre's performance was formally requested from the Department. No evidence of an assessment having been carried out was provided. The Department stated that performance assessment of the work of the National Cyber Security Centre formed part of the normal performance management and corporate governance of the Department.

Conclusions and recommendations

National Cyber Security Centre

- 8.39** The National Cyber Security Centre performs a critical "whole-of-government" function. However, the level of resourcing in the first four years was significantly less than that initially envisaged.

Recommendation 8.1

It is recommended that the Department conducts a review of the resourcing of the National Cyber Security Centre in order to ensure that it is adequate to meet its obligations and development objectives.

Accounting Officer response

Agreed.

Reviews of the resourcing (people and ICT) of the National Cyber Security Centre have been conducted on a regular basis as part of the annual estimates process and most recently in 2017 as part of the assessment of requirements for the implementation of EU Directive on the Security of Network and Information Systems. Additional staff were recruited to the National Cyber Security Centre in 2017, and in line with the Department's 2018 Workforce Plan, a further significant cohort of staff, including a Director and Chief Technology Officer, will be recruited in 2018/2019. The issue of resourcing will be examined again in the context of the 2018 National Cyber Security Strategy.

- 8.40** The overall strategic direction of the National Cyber Security Centre is not clear. There is no strategic plan currently in place. Not all objectives in the previous strategy were achieved. The new timelines for delivery of these objectives and the relative priorities have not been set down. Where resources are limited, such clarity is particularly important.

Recommendation 8.2

It is recommended that an updated strategy document be finalised, which sets out objectives and related key performance indicators aligning them to planned and available resources.

Accounting Officer response

Agreed.

The context in which the 2015 Strategy was drafted ceased to apply very quickly. In the first instance, while the Strategy anticipated the Network and Information Systems Directive itself, the finalised Directive was substantially different from the draft that existed in mid-2015, both in terms of how critical infrastructure was to be treated and critically, due to the inclusion of the DSPs components.

The National Cyber Security Centre has always sought to benchmark itself against international best practice. The model outlined in the 2015 Strategy represented best practice given the threat environment at the time, but this changed substantially thereafter. Nationally, we have been involved in responding to incidents that were entirely unanticipated at the time of drafting; it was clearly not possible to ignore these. Entities such as the National Cyber Security Centre have to remain flexible and adaptive in order to remain effective. This reflects international experience also — in the global CSIRT community, focus has shifted significantly in the last number of years and we have followed suit to target our resources at the most pertinent threats.

Within the international CSIRT community, there is large-scale adoption of open-source technology and in-house tool development, at least in part due to the need to avoid vendor risk. While other areas of the public sector can incur significant expenditure on consultancy and software licencing and support, the National Cyber Security Centre has adopted a policy of using open-source technology, where possible. The traditional notion that increased current or capital spending correlates directly with output or capacity does not hold true for CSIRTs and National Cyber Security Centres in general.

As such, the strategic direction of the National Cyber Security Centre is entirely clear, and the general thrust of the 2015 strategy holds — to build capacity and to prepare for the entry into force of the Network and Information Systems Directive. However, circumstances have required that the roles and functions of the National Cyber Security Centre develop in somewhat different ways to that envisaged in the 2015 strategy. A National Cyber Security Strategy is one of the requirements of the Network and Information Systems Directive, and work is already underway on a revised strategy which is expected to be completed by the end of 2018. A steering group will be established to bring all relevant stakeholders together in order to fully inform the process. This strategy will capture developments in the cyber security area, and within the National Cyber Security Centre, and will set out governance arrangements for the centre, including how the National Cyber Security Centre functions with regard to the Government's Cabinet Committee F.

- 8.41** The memorandum of understanding with An Garda Síochána envisioned in the National Cyber Security Strategy remains outstanding. Clarification regarding the roles of each entity should facilitate effective and efficient investigation of cyber crimes and national security incidents.

Recommendation 8.3

It is recommended that the Department agree a memorandum of understanding with An Garda Síochána in order to ensure that resources and capabilities can be deployed in a targeted and efficient manner.

Accounting Officer response

Agreed.

A draft memorandum of understanding was sent by the Department to An Garda Síochána in 2017, and discussions are ongoing with a view to its finalisation as soon as possible.

However, operational effectiveness is not impeded, in any way, by the absence of a formal memorandum of understanding and there is ongoing and positive engagement with An Garda Síochána, particularly in the areas of cyber crime and national security. There is also ongoing shared training and a member of An Garda Síochána is currently on secondment to the National Cyber Security Centre, with a second member to be seconded in the near future.

Network and Information Systems Directive

- 8.42** The EU Network and Information Systems Directive was formally adopted in 2016 and aims to achieve a high common level of security of network and information systems across the EU. The deadline for transposition of the Directive into Irish law was 9 May 2018. Transposition was achieved on 18 September 2018.
- 8.43** A requirement of the Directive is to adopt a national strategy that contains a number of requirements. No national strategy is currently in place and the previous strategy did not include some of the required elements such as: a risk assessment plan, a listing of various stakeholders and a governance framework.

Recommendation 8.4

The Department should ensure that its updated strategy meets all the requirements of the Directive.

Accounting Officer response

Agreed.

Work is already underway on a revised strategy which is expected to be completed by the end of 2018. A steering group will be established to bring all relevant stakeholders together in order to fully inform the process.

Accountability and oversight

- 8.44** Although governance structures were described in the strategy implementation plan, in practice, it is not clear what structures are in place. A key role of such structures is to look at the overall strategic direction of the National Cyber Security Centre and to review, monitor and oversee how available resources are being used.

Recommendation 8.5

The Department should implement an appropriate governance framework for the National Cyber Security Centre.

Accounting Officer response

Agreed.

The National Cyber Security Centre is an operational unit within the Internet Policy Division of the Department and complies with the Department's corporate governance framework. It is not a separate entity, but rather forms an integral part of the Department.

Cross-government arrangements have further developed since the 2015 National Cyber Security Strategy. This has led to an improvement in bilateral co-operation and overall governance structures relating to cyber security matters in the State. The Government's Cabinet Committee F and the related Senior Officials Group provide an overarching forum at senior level to engage on cyber security issues. This formal interdepartmental and Cabinet level structure was not anticipated in 2015, and presents a far more coherent and central forum for the discussion of policy matters relating to cyber security.

The governance framework will be assessed and reviewed in the context of the forthcoming National Cyber Security Strategy.

- 8.45** The overall cost attributed to cyber security is not reported separately in the appropriation account of the Department. As a result, there is a lack of transparency around the availability and use of resources.

Recommendation 8.6

The Department should disclose separately the activity relating to the National Cyber Security Centre in its estimate and appropriation account.

Accounting Officer response

Agreed.

Expenditure relating to the National Cyber Security Centre is reported in the appropriation account under the Communications Programme in line with the Department's vote structure.

The Department seeks to prevent operational information relating to the operations and work of the Centre from becoming public due to operational security concerns. However, the Department will work towards separately identifying cyber security expenditure in an appropriate manner in the 2019 or 2020 revised estimates for public services.

9 The Energy Efficiency National Fund

- 9.1** Ireland has a target of improving its energy efficiency by 20% between 2009 and 2020. In order to meet this objective, the Department of Communications, Climate Action and Environment (the Department) introduced a number of national energy efficiency plans.
- 9.2** The Carbon Revenue Levy Account was established in September 2010. Relevant electricity producers were required to pay a levy on their carbon emissions, which was paid into the account. In addition, a special dividend from the ESB was also paid into the account. These funds were used to subsidise the energy costs of large energy users (for example, large businesses).
- 9.3** In 2012, after a legal challenge, the collection of the levy was discontinued. In March 2014, the final balance on the account was disbursed as follows¹ — €35 million to the Energy Efficiency National Fund (EENF)² and €9.4 million to the Office of Public Works (OPW) for energy efficiency schemes for the public sector. The OPW's allocation was used for the 'Optimising Power@Work' programme, the objective of which is to raise awareness of energy efficiency in the public sector and to reduce its energy use.
- 9.4** The EENF was established to provide loan financing to both private and public organisations in order to
- support the delivery of energy efficiency improvement programmes and other energy efficiency measures, and
 - promote the development of a market for energy efficiency improvement measures.

Energy Efficiency National Fund

- 9.5** Instead of investing directly in energy efficiency projects, the Department, advised by NewERA, decided to establish a 'qualifying investor fund' (QIF) managed by outside fund advisors.³ The QIF advisors identify and manage the investment projects.
- 9.6** The QIF was registered as a company called Ireland Energy Efficiency Investments plc (hereafter the QIF). In addition to the funding from the EENF, the company sought the involvement of private investors, allowing the QIF to pool the resources of the EENF with funding from the private sector.
- 9.7** The Department has stated that the potential benefits of using a QIF included access to private sector funding, access to external expertise to develop the energy services sector in Ireland and the use of energy performance contracting. In addition, in light of the Exchequer position at the time, the QIF was designed to provide a new funding instrument while complying with both the limits on project expenditure impacting on the Government deficit and State aid requirements.
- 9.8** There are potential risks for the Department in accepting a minority interest in an externally-controlled investment fund. These include
- The Department does not have control over the investment decisions, including the pace at which those investments are made.
 - The Department may incur significant professional services costs.

¹ The Electricity Regulation (Amendment) (Carbon Revenue Levy) Act 2010, which established the account, provided for the transfer of funds for the benefit of the Exchequer.

² The EENF is held in a Paymaster General deposit account under the control of the Department.

³ A qualifying investor fund (QIF) is a regulated investment structure targeted at sophisticated and institutional investors, and which may provide tax benefits to investors who are not resident in Ireland. A QIF is operated in accordance with the Alternative Investment Fund Managers Directive (Directive 2011/61/EU).

- 9.9** This report examines how the QIF was established, what involvement the Department had in overseeing its activity, the level of investment in energy efficiency projects that was achieved, and the professional service fees and expenses that were incurred since its inception.

The establishment of the QIF

- 9.10** Three Government decisions were made during the period from February 2013 to March 2014 to establish the EENF and to use a QIF as its investment vehicle. It was set up with the expectation that the QIF would generate an annual return for the investors of at least 8%, net of fees and expenses.
- 9.11** In August 2013, the Department issued a request for tender for outside investment experts to manage the QIF. The investment advisors role was to identify appropriate investment projects, negotiate the contract details, and manage the contracts until their conclusion.
- 9.12** On 14 November 2013, Sustainable Development Capital LLP (SDCL) was selected to manage the QIF. As the manager of the QIF, SDCL receives an annual fee from the QIF for its services. It was also responsible for appointing the investment manager and the fund administrator.
- 9.13** The QIF was envisaged to have three stages in its development
- an **investment period** — May 2014 to May 2017 (with provision for this to be extended for one year) — where projects would be identified by SDCL and contracts signed, and investments would start to provide a return for the QIF
 - a **post-investment period**, to start after May 2017, where the QIF would be closed to new investments, but those that had been agreed would continue to be managed by SDCL
 - an **exit period** where the company's activities would be divested to a third party, estimated to occur in May 2024.
- 9.14** The Department stated that the QIF structure is very common in the Irish market and considered by investors to be an attractive and efficient fund structure. It stated that this is evidenced by the third party commercial investors who agreed to participate in the QIF and who continue to participate.

Decision making and control in the QIF

- 9.15** The investment criteria to be met by the QIF are set down in the fund documents. The Department has no involvement in the day-to-day management of the QIF. However, a representative of the Department is a member of an investment advisory committee. NewERA acts as informal advisor to the Department.
- 9.16** The investment advisory committee exists to advise on general investment strategy and to be consulted by the investment advisor and the QIF in relation to potential conflicts of interest. The advisory committee receives quarterly activity reports, but has no control over operational matters. At September 2018, the most recent activity report the Department had received was for the first quarter of 2018. Decisions on investments, and their timing, are under the control of the investment manager and the directors of the QIF.

- 9.17** In addition to the information it receives from participating in the investment advisory committee, the Department as a shareholder also receives regular investment valuation statements detailing the current net asset value of the QIF per share and the total number of shares owned.

Investment activity of the QIF

- 9.18** Although the investment period was due to close in May 2017, the QIF's prospectus allowed for it to be extended by one year. This was foreseen in the Government approval. An extension was agreed by the QIF's board in March 2017 and the investment period was extended to May 2018. The Minister, as a shareholder, agreed to this extension.
- 9.19** The QIF may invest in both private and public sector projects. Two types of financing are available
- an energy performance contract, where funding is loaned to an energy services company
 - direct lending to companies for energy efficiency projects.
- 9.20** From May 2014 to the end of March 2018, the QIF had invested a total of €3.4 million in three projects. Case A provides an example of an energy performance contract financed by the QIF.

Case A Major retailer — 60% energy saving project

The QIF funded the installation of a lighting system in premises of a major retailer under a fully-funded services contract, using an energy performance contract with a service delivery partner (a lighting contractor). The project involved the upgrading of 5,000 LED panels across seven stores to deliver energy savings. Lux levels (the quantity of light supplied) were measured and verified on a quarterly basis by the project delivery partner, with payments from the retailer conditional on the agreed lux levels being achieved.

The total investment by the QIF was around €2 million.

- 9.21** Based on information in the quarterly activity reports, this examination calculated the internal rate of return for the two projects which were largely complete by mid 2018. In both cases (including Case A), the rate of return exceeded the 8% indicated in the proposal to Government to establish a QIF.
- 9.22** On 9 April 2018, the board of the QIF sought shareholder agreement to extend the investment period by a further 12 months and to make changes to certain investment restrictions. The Department decided not to support this change.
- 9.23** The Department has stated that the other shareholders have decided to continue with their active involvement in the QIF beyond the end of the investment period on 8 May 2018. To facilitate the wishes of those investors, the Minister voted in favour of an ordinary shareholder resolution on 16 July 2018. The Department has indicated that while no further calls can be made on the State, the QIF remains in operation as a commercial enterprise.

Fees and expenses incurred by the QIF

- 9.24** The QIF uses the services of a range of financial, taxation and legal experts. In addition, it incurs annual fees and expenses payable to the investment advisors, the investment manager, the depositary¹ and the fund administrator. The management fee was set at 1.25% of the committed capital during the investment period. After the investment period closed, this was to change to 1% of the invested capital. The total fees and expenses incurred by the QIF to March 2018 were approximately €3.8 million. In addition, approximately €760,000 was paid directly to the QIF's investment advisor by its shareholders for preliminary charges.
- 9.25** Up to the end of March 2018, a total of €1.7 million in fees and expenses could be considered attributable to the State based on its proportionate shareholding. In addition to these fees and expenses, the EENF contributed approximately €300,000 directly to the investment advisor for preliminary charges.

Drawdown of funds

- 9.26** The Department committed to investing the full €35 million held in the EENF in the QIF. At end March 2018, private investors had committed to invest €38.8 million. The QIF draws down funds from these commitments to fund approved projects and to meet costs.
- 9.27** By the end of March 2018, only €6.4 million had been drawn down — €2.9 million of which was from the EENF (exclusive of the preliminary charges of €300,000 paid directly to the investment advisor).
- 9.28** Before the end of the extended closing date for investment, the directors of the QIF confirmed that a number of further projects had been committed to. €10.8 million was drawn down in two separate instalments from the EENF in May 2018. This brings the EENF's total investment to €14 million. The activity of the EENF is shown in Figure 9.1. The Department has stated that the balance of €21 million in the EENF will be used to fund the newly established Climate Action Fund.

Figure 9.1 Energy Efficiency National Fund, April 2014 to June 2018

	€m	€m
Received from Carbon Revenue Levy Account (April 2014)		35.0
Payments^a		
May 2014	(1.1)	
January 2015	(0.3)	
June 2015	(0.8)	
October 2015	(1.0)	
May 2018 ^b	(10.8)	(14.0)
Balance at June 2018		21.0

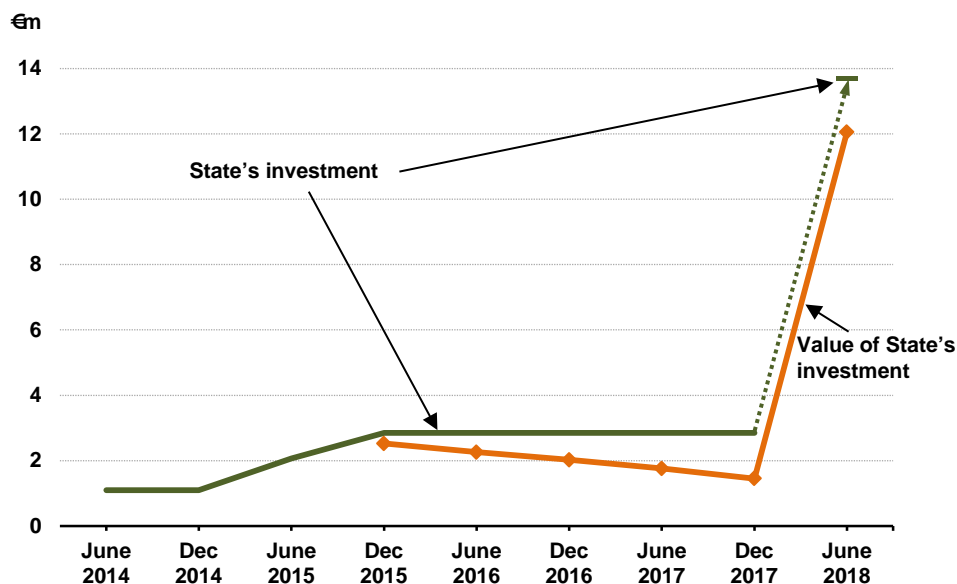
Source: Office of the Comptroller and Auditor General

- Notes: a Includes approximately €300,000 paid directly to the QIF's investment advisor for preliminary charges.
- b Includes two transfers of €1.8 million and €9 million respectively.

¹ The depositary of a QIF is responsible for the safe-keeping of its assets, the settlement of trades, and has oversight duties which require it to supervise the investment activities of the fund.

9.29 Figure 9.2 shows the State's investment in the QIF, and the movement in the value of that investment. The value of the State's investment in the QIF of €2.9 million at December 2017 was approximately €1.4 million. In June 2018, the value increased to approximately €12 million after the drawdowns of €10.8 million in May 2018.

Figure 9.2 Cost and value of State's investment, December 2015 to June 2018



Source: Investment valuation statement received by the Department from fund administrators. Statements not available for periods before December 2015.

Conclusions

9.30 Although the Government made €35 million available for investment in the QIF, only €2.9 million had been drawn down by March 2018. Just before the closure of the extended investment period in May 2018, a further €10.8 million was drawn down from the EENF for projects that the directors of the QIF confirmed had been committed to. This brings the total transfers from the EENF to €14 million. The Department has stated that there will be no further investment in the QIF by the EENF and that the balance remaining of €21 million will be transferred instead to the Climate Action Fund.

9.31 In seeking Government approval, the Department projected an annual rate of return on the investment of 8%, and anticipated a significant investment in energy efficiency in the State. The significant investment in energy efficiency projects has not yet been achieved.

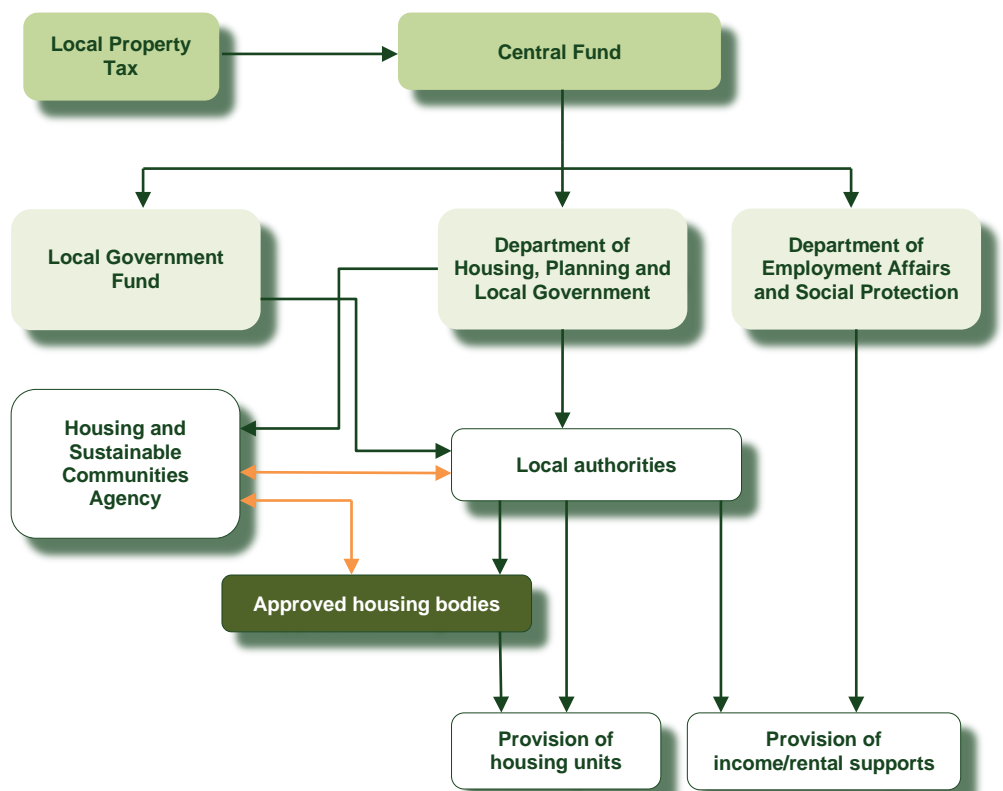
9.32 The complex structure used to invest the EENF resulted in a disproportionately high level of costs to date. Effectively, it will cost the State at least €2 million in fees and expenses out of a total transfer from the EENF of €14 million.¹ However, the value of the State's investment into the future is not known at this stage.

¹ The expenses incurred are paid from the QIF's resources, which includes both the capital drawn down and the income it receives from its operations. The figure of €2 million relates to the portion of total fees and expenses that can be considered to be attributable to the State's shareholding.

10 Funding and oversight of approved housing bodies

- 10.1** Exchequer funding is provided to assist households who cannot provide for their own accommodation needs. Funding is provided mainly to local authorities and approved housing bodies (AHBs) to construct, purchase or lease housing units to accommodate those in need of social housing. In addition, funding is provided to assist those in rental accommodation in need of support. In 2017, the Department of Housing, Planning and Local Government spent €1.408 billion¹ on housing and the Department of Employment Affairs and Social Protection spent €231 million on rent supports.
- 10.2** This report gives an overview of the funds provided from central government for social housing supports and information on the main funding provided by central government to AHBs. Figure 10.1 presents an overview of the main funding flows.

Figure 10.1 Overview of Social Housing Funding Flows



¹ This comprises €1.288 billion on social housing provision and rent supports, and €120 million on other housing-related matters such as repairing and adapting homes, infrastructural works, research and funding of the Pyrite Resolution Board.

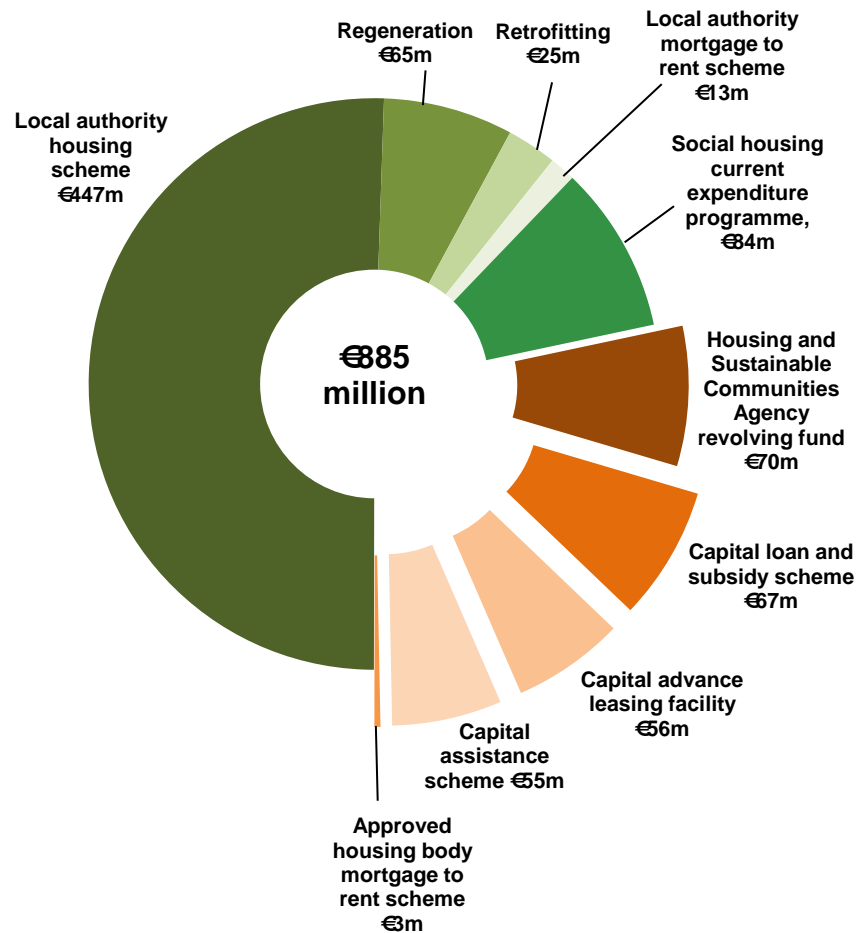
Source: Department of Housing, Planning and Local Government. Analysis by the Office of the Comptroller and Auditor General.

Note: ↔ Housing and Sustainable Communities Agency Revolving Fund.

Funding to construct, purchase or lease social housing units

- 10.3** A number of schemes funded by the Department of Housing, Planning and Local Government support the construction, purchase or leasing of social housing units by local authorities or AHBs. Figure 10.2 gives an overview of the main schemes and the related expenditure in 2017. Annex 10A provides further detail on each scheme.

Figure 10.2 Supports for social housing



Source: Department of Housing, Planning and Local Government

Note: This funding includes expenditure that directly results in construction, purchase, lease or bringing units back into use.

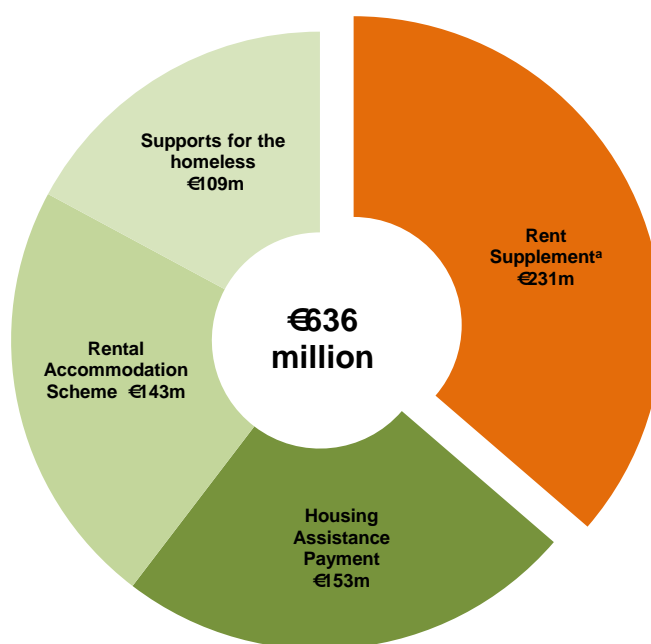
This funding is inclusive of surplus Local Property Tax receipts allocated from the Local Government Fund and directed by the Department to be used for housing services in the local authorities.

Expenditure of €196,000 under the Repair and Leasing Scheme is not visually represented due to the level of expenditure.

Funding to support privately rented or temporary accommodation

- 10.4** Support for those in need of rental accommodation is also provided under a number of schemes. One scheme, rent supplement, is funded by the Department of Employment Affairs and Social Protection. The other schemes are funded by the Department of Housing, Planning and Local Government (the Department). Figure 10.3 shows an overview of the main rental accommodation supports and the related expenditure in 2017 — further detail is provided in Annex 10B.

Figure 10.3 Rental accommodation supports



Source: Department of Housing, Planning and Local Government and Department of Employment Affairs and Social Protection.

Note: a Funded and managed by the Department of Employment Affairs and Social Protection.

Output data — housing units

- 10.5** The Department does not report the number of housing units delivered on a scheme-by-scheme basis. For 2017, it has reported the outputs as shown in Figure 10.4.¹

Figure 10.4 Reported housing outputs

Category	Number of units
Local authority build or buy ^a	2,468
Local authority voids ^b	1,757
Capital advance leasing facility <i>not including Part V builds</i>	1,094
Leasing ^c	827
Part V builds ^d	522
Capital assistance scheme <i>not including Part V builds</i>	427
Total	7,095

Source: Department of Housing, Planning and Local Government

Notes:

- a Includes units delivered through rapid build, traditional construction, turnkey and regeneration.
- b Local authority properties that have been vacant, upgraded and rented during 2017 to a social housing tenant.
- c New leasing units operational are defined as the number of new leasing units which the local authority is claiming for in the period. A number of these units are funded from capital initially.
- d Part V is a mechanism in planning legislation where developers may be required to provide land and/or housing units for social housing at less than full market value.

- 10.6** The Department does not report the housing stock i.e. the total number of social housing units on hand. It does report the number of units being rented by local authorities to tenants but this does not include the number of units being rented by the AHBs. The latest reported data is for 31 December 2016.

- 10.7** Data reporting limitations were identified by the Department of Public Expenditure and Reform as part of a spending review in July 2018.² That review found a number of areas related to social housing where data availability could be enhanced to ensure that appropriate research and evaluation can be carried out to inform policy development.

- 10.8** While data is generally available in terms of the main costs involved in delivery (e.g. construction/acquisition costs, average Housing Assistance Payment/Rental Accommodation Scheme/lease payments, etc.), the review report highlighted areas where cost data is either not comprehensively collected or not routinely collated by the Department. These areas include maintenance, renewal and administration.

¹ Available on the Department's website
<https://www.housing.gov.ie/housing/social-housing/local-authority-housing-scheme-statistics>.

² Irish Government Economic and Evaluation Service, *Spending Review 2018, Current and capital expenditure on social housing delivery mechanisms*.

Revolving Fund

- 10.9** In the last quarter of 2016, the Department provided the Housing and Sustainable Communities Agency (HSCA) with €6.7 million for the purposes of acquiring vacant houses and apartments. Fifteen houses and apartments were purchased at a total cost of €1.9 million and transferred to local authorities for no consideration.
- 10.10** In 2017, the HSCA was provided with €70 million capital funding to establish an acquisition fund to buy units for social housing from financial institutions. The units are sold at cost, primarily to AHBs, thereby replenishing the fund for use to purchase more properties. The remainder of the funds provided in 2016 (€4.8 million) will also be recycled to the greatest extent possible.
- 10.11** By the end of 2017, the HSCA had purchased 367 units using the revolving fund. Units purchased are assigned to an AHB under a caretaker lease in advance of being sold to the AHB. At end 2017, 10 units had been acquired but were not yet under a caretaker lease, 321 units were under a caretaker lease, and 36 units had been sold to AHBs for €7.2 million.

Approved housing bodies

- 10.12** AHBs are not-for-profit organisations that provide and manage housing for people with a housing need. Housing associations and co-operatives can apply to the Minister for Housing, Planning and Local Government for approved status, which is a requirement for any organisation seeking funding from local authorities for social housing provision. The Department maintains a register of AHBs which shows that as at June 2018 there were 547 such bodies. However, the Irish Council for Social Housing have indicated that many of these bodies are not active.¹
- 10.13** AHBs can be limited companies, societies or trusts. In order to be approved, their memorandums and articles of association must
- have as primary objectives the relief of housing needs, or poverty or hardship or the welfare of travellers, and the provision and management of housing
 - include provisions preventing the distribution of any surplus, profit, bonus or dividend to its members
 - have a clause which states that in the event of winding up or dissolution of the company, any property shall be given or transferred to another institution having objectives similar to the objectives of the company
 - state that assets must be used solely to meet the objectives.
- 10.14** An AHB is required to notify the Department if it changes its objectives. The Department have stated that AHBs that change the relevant objectives or clauses are not able to retain their status as an AHB and to date this has not arisen. A number of AHBs have been dissolved and any units owned by the AHB have transferred to another AHB, or in exceptional circumstances, when this was not possible, the units were transferred to the relevant local authority.

¹ The Irish Council for Social Housing is a national social housing federation set up by housing and hostel organisations in Ireland to act both as a national representative, and as a promotional, information and advisory federation.

- 10.15** AHBs obtain a significant level of funding from government sources. In 2017, at the request of Eurostat, the Central Statistics Office (CSO) examined the classification of AHBs.¹ The review involved an examination of 15 of the largest AHBs, which jointly hold approximately 80% of the housing stock of the sector.² The CSO found that 14 of the 15 AHBs should be reclassified and included in the government sector due to factors including the degree of, and conditions attached to, financing. The remaining AHB has a number of other activities and therefore only its housing activity was included in the government sector.
- 10.16** In March 2018, Eurostat confirmed its agreement with the CSO findings.
- 10.17** The Department provides capital funding to AHBs under four schemes (see Figure 10.5).³ Borrowings by AHBs may be guaranteed by a local authority.⁴

1 *Review of Sector Classification of Approved Housing Bodies*, Central Statistics Office, December 2017.

2 The Regulation Office of the Housing and Sustainable Communities Agency Annual Report 2016 reported 232 AHBs managed 28,781 social housing units at year-end 2016, estimated to be 95% of the housing units of the sector.

3 The Department provides capital funding to AHBs to build or purchase housing units. AHBs also receive payment for housing units leased to local authorities for social housing.

4 Section 6(2)(c), Housing (Miscellaneous Provisions) Act 1992.

Figure 10.5 Funding for AHBs 2013 to 2017

Scheme	2013	2014	2015 ^a	2016 ^a	2017 ^a
	€m	€m	€m	€m	€m
Capital Assistance Scheme	36.7	34.3	38.0	37.0	55.0
Capital Advance Leasing Facility	4.8	4.4	13.3	35.3	55.6
Capital Loan and Subsidy Scheme ^b	69.1	54.8	80.2	55.3	66.7
Mortgage to Rent Scheme ^c	1.8	0.4	0.8	1.8	3.0
Total^d	112.4	93.9	132.3	129.4	180.3

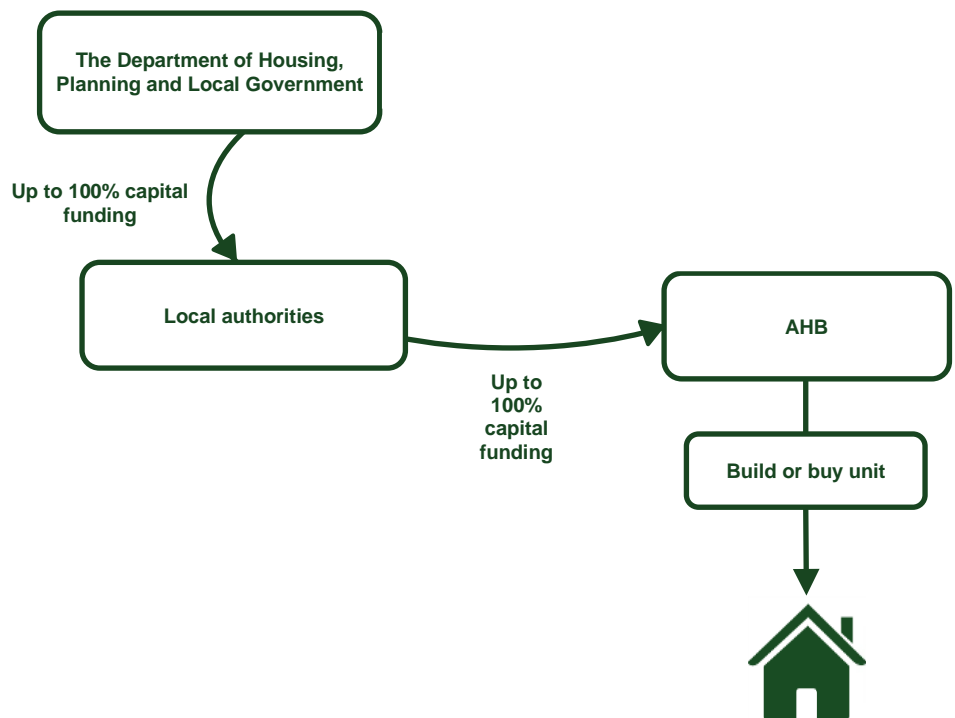
Source: Department of Housing, Planning and Local Government

- Notes:
- a This funding is inclusive of surplus Local Property Tax receipts allocated from the Local Government Fund and directed by the Department to be used for housing services in the local authorities.
 - b This funding relates both to payments to local authorities to repay the principal and interest charges due to the Housing Finance Agency for the loans advanced (2017: €61.7 million) and to annual management and maintenance fees (2017: €5 million).
 - c See Figure 10A.1 in Annex 10A for information on this scheme
 - d The Communal Facilities Scheme also paid €107,000 directly to AHBs in 2017 to provide open space and communal shared areas for apartments

Capital Assistance Scheme

- 10.18** The capital assistance scheme provides up to 100% funding for the purchase or construction of housing for older people, those with special needs, disadvantaged households or those who are homeless. The funding remains non-repayable by the AHB as long as the unit remains a social housing unit for eligible categories of people. There is no annual maintenance payment to the AHB.
- 10.19** Tenants of the AHB may be entitled to income support in relation to the rent they pay. The properties are owned by the AHB from the outset and a mortgage agreement with the local authority is put in place for a period of 30 years to ensure that the properties are used for the purpose for which they were provided.¹ At the expiration of the mortgage period, the mortgage charge is removed.

Figure 10.6 Capital Assistance Scheme



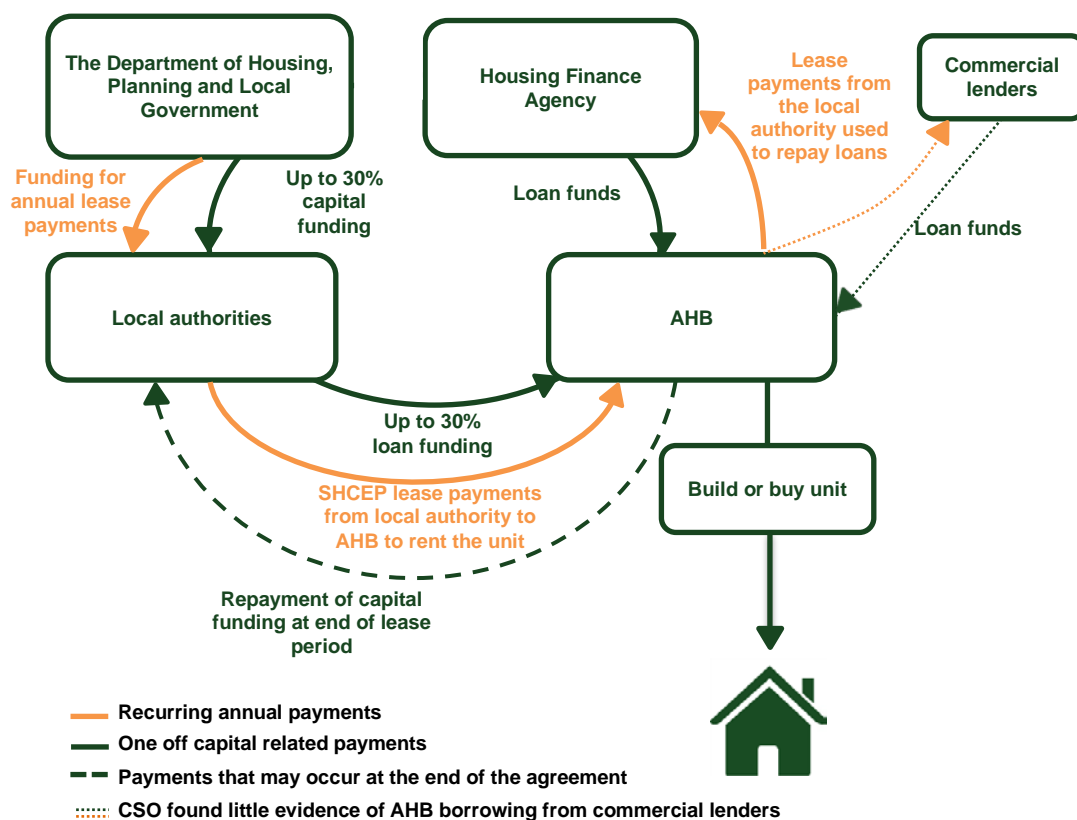
¹ Prior to 1 June 2002, the mortgage agreement period was 20 years.

Source: Department of Housing, Planning and Local Government. Analysis by the Office of the Comptroller and Auditor General.

Capital Advance Leasing Facility

- 10.20** The capital advance leasing facility (CALF) provides up to 30% funding as a loan to AHBs to build or purchase housing units. The loan is provided on an unsecured basis with simple interest of 2% and is underpinned by a loan agreement between the AHB and the relevant local authority.¹
- 10.21** The AHB must make the units available for social housing, to accommodate households from local authority waiting lists, for a period of 20 – 30 years. In return, the AHB receives lease payments from the local authority, funded through the Social Housing Current Expenditure Programme (SHCEP). This is underpinned by a payment and availability agreement which generally mirrors the length of the loan agreement.
- 10.22** Repayment of the CALF loan is not required during the lifetime of the availability agreement. The loan plus interest is repayable when the availability agreement ends. However, if the availability agreement is renewed, the repayment of the loan can be offset against future availability payments. As the scheme was introduced in 2011, no loans have yet become repayable.
- 10.23** The balance of initial capital funding required may be from the AHB's own resources, finance from the Housing Finance Agency, or commercial lenders. However, the CSO noted that for the 15 AHBs reviewed, there was very little evidence of private sector funding under this scheme.

Figure 10.7 Capital Advance Leasing Facility

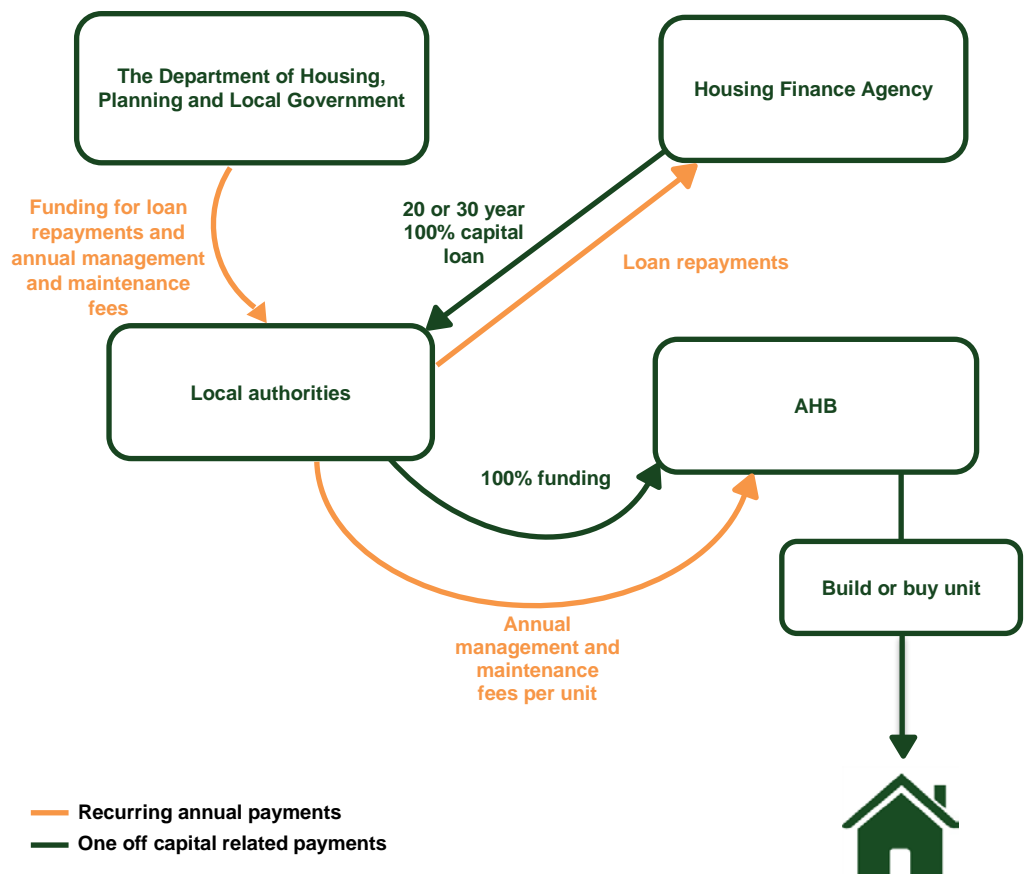


¹ The loan agreement stipulates the terms and conditions on which the money is being made available to the AHB.

Capital Loan and Subsidy Scheme

- 10.24** The capital loan and subsidy scheme (CLSS) ceased for new funding in 2011. It provided 100% funding to AHBs to meet the cost of providing housing units for those on the social housing waiting list and was effectively a grant to AHBs. The local authority obtained a (20 or 30 year) loan from the Housing Finance Agency which it used to provide a grant to the AHB.
- 10.25** The scheme continues to provide funding to local authorities to cover the annual cost of the loan payments by the local authority to the Housing Finance Agency. In addition, the local authority pays the AHB an annual management and maintenance fee for each unit. These fees are also recouped by the local authority from the Department under the scheme.
- 10.26** Ownership of the housing units is vested in the AHBs under mortgage agreements with the local authorities. At the expiration of the mortgage period, the property is fully owned by the AHB.

Figure 10.8 Capital Loan and Subsidy Scheme



Source: Department of Housing, Planning and Local Government. Analysis by the Office of the Comptroller and Auditor General.

Housing Finance Agency

- 10.27** The Housing Finance Agency (HFA) provided loans to local authorities equivalent to 100% of the capital funding under the CLSS scheme. At end 2017, the balance due from local authorities to the HFA was €970 million. Under the CALF scheme, the HFA lends up to 70% directly to AHBs. At December 2017, the HFA had outstanding loans of €357 million advanced to AHBs.
- 10.28** The HFA's 2017 financial statements show that it is mainly financed by borrowings of €3.4 billion including €1.7 billion from the National Treasury Management Agency and €1.5 billion from local authorities.

Regulation of AHBs

- 10.29** Currently, there is no statutory regulation of AHBs. The Department has stated that it is engaged in drawing up legislative proposals to establish a statutory regulatory system to oversee the corporate and financial governance of the sector.
- 10.30** In 2014, in preparation for a statutory regulatory system, a regulation office was set up on an administrative basis under the aegis of the Housing and Sustainable Communities Agency. The office reports to an interim regulatory committee appointed by the Minister for Housing, Planning and Local Government.
- 10.31** The regulation office oversees a voluntary regulation code which includes financial and governance standards. A set of performance standards is being drawn up to complete the code. In order to access funding, AHBs are required to comply with the code and complete a detailed annual return.
- 10.32** By mid-2018, 246 AHBs had signed up to the voluntary regulation code. This represents 45% of AHBs registered with the Department. The Department has pointed out that the registered AHBs account for 95% of the social housing units in the sector.

Management and oversight of AHBs

- 10.33** The Department of Public Expenditure and Reform's circular 13/2014 on the *Management of and Accountability for Grants from Exchequer Funds* sets out a framework for the management and accountability arrangements for grants from Exchequer funds. The circular defines a grant as a financial provision, originating in a vote, for a particular activity or service administered or undertaken by an outside body, including agencies, companies, committees, advisory groups, charities or individuals. It applies to the movement of funds from a vote to an outside body, as well as any onward movement of that funding.
- 10.34** The management and oversight of the funding provided to AHBs is complex as the funding is provided under a number of schemes, through 31 local authorities who in turn provide funding to a large number of AHBs. In addition, because of the scale of operation of some AHBs, they are in receipt of more than one type of funding, and from more than one local authority.

10.35 The provision of social housing through AHBs involves a number of bodies — the Department, the Housing and Sustainable Communities Agency, the Housing Finance Agency, the 31 local authorities and the AHBs. Of these, only the Department and the Housing and Sustainable Communities Agency are subject to audit by the Comptroller and Auditor General and by implication, to direct examination by the Committee of Public Accounts.

10.36 A report from the Local Government Audit Service (LGAS) in December 2015 found a number of instances in a number of local authorities, where mortgages, related to the three schemes, were not fully executed and recommended conducting a review and reconciliation of all mortgages charged on AHB properties.¹

10.37 The LGAS report also made a number of other recommendations

- local authorities should operate a comprehensive management information system to record details of properties and their tenants
- statements of occupancy should be obtained from each AHB for all properties funded
- proposed rents should be agreed at project development stage for capital assistance scheme projects
- local authorities should carry out periodic inspections of funded properties
- local authorities should hold regular formal meetings with all AHBs
- local authorities should encourage all AHBs to sign up to the voluntary regulatory code, work with those who have not signed up to ensure good governance and obtain financial statements from AHBs
- where instances of poor governance or management cannot be resolved with the AHB, the local authority should facilitate the takeover of the housing units by another AHB
- local authorities should record all loans outstanding on their financial systems and issue annual loan balance statements
- local authorities should demonstrate that best value was obtained in the allocation of unsold affordable housing units to AHBs²
- local authorities should review AHB projects to ensure that final accounts and post-project reviews have been completed, and that balances are shown correctly in the local authority's financial statements
- suitably qualified local authority staff should inspect and verify certificates for payment for capital projects
- local authorities should ensure that relevant staff received training in capital appraisal and procurement requirements.

¹ *The oversight role of local authorities in the provision of social housing by Approved Housing Bodies*, Local Government Audit Service, Report No. 29, December 2015.

² Unsold affordable housing units held by local authorities due to poor market conditions, now managed by AHBs to house social housing tenants.

³ Circular 18/2016, *Capital Advance Leasing Facility*, Department of Housing, Planning and Local Government.

10.38 The Department has stated that it has taken a number of steps in response to the LGAS report to direct local authorities on a number of the issues arising. For example, local authorities were directed, by way of Departmental circular, in relation to the proper recording and accounting for CALF loans to AHBs.³

10.39 The Department also indicated that a follow-up examination of the implementation of the recommendations has been initiated by LGAS with a final report due by end 2018 or early 2019.

Conclusions and recommendations

- 10.40** Significant Exchequer funding is provided to assist households who cannot provide for their own accommodation needs. In 2017, funding of around €1.5 billion was provided to support the construction, purchase or lease of housing units; to bring units back into use; to assist those in rental accommodation; and to provide temporary accommodation — €1.288 billion by the Department of Housing, Planning and Local Government and €231 million by the Department of Employment Affairs and Social Protection.
- 10.41** There are a number of schemes involved, with varying degrees of complexity. Increased complexity makes oversight more challenging. The Department does not report outputs on a scheme-by-scheme basis and this information is not readily available.

Recommendation 10.1

In addition to its current output reporting, the Department should consider reporting outputs of social housing support schemes on a scheme-by-scheme basis, both to assist its own oversight and to increase transparency.

Accounting Officer response

Agreed.

The Department publishes social housing delivery output in terms of units delivered under the main programme headings of build, acquisition, leasing, Housing Assistance Payment and Rental Accommodation Scheme on a quarterly and annual basis. This reporting structure has been designed to match targets set under Rebuilding Ireland and to create maximum transparency in terms of delivery against targets. Delivery is determined having regard to such criteria as actual completion of units, availability for tenanting, legal handover from developer to local authority/AHB, set up of tenancy with the shared service centre, etc. It is not determined by completion of financial recoupment by the Department to a local authority. A typical example is where a local authority capital scheme may drawdown funding on a multi-annual basis on submission of certified expenditure. In these circumstances, there would be financial output, but no unit output until programme completion. In other cases, delivery may precede financial recoupment by the local authority from the Department.

Detailed management information relating to expenditure and outputs across all funding programmes, is available within the Department, much of which forms part of the regular reporting to the Oireachtas and to the Department of Public Expenditure and Reform. While published output reporting is programme oriented to align with targets, the Department will give consideration to additional reporting on a scheme-by-scheme basis.

- 10.42** There is significant funding provided to AHBs annually for the provision, acquisition and maintenance of social housing. In 2017, funding of €180 million was provided through schemes exclusively available to AHBs. AHBs also receive payment for social housing units leased to local authorities. These entities function as arms-length bodies with their own legal status and with capacity to transact business in accordance with their own constitutional arrangements. It is important therefore that appropriate arrangements are in place to provide assurance that the public funds provided are properly administered, used for the purposes intended and that the State's investment is protected. Such arrangements are made more complex due to the number of local authorities through which the funding is provided and the number of AHBs. An examination in 2015 by the Local Government Audit Service identified a number of areas where the oversight of AHBs by local authorities could be improved.
- 10.43** Currently, regulation of AHBs is on a voluntary basis. A proposal to provide for statutory regulation has not yet been finalised. Many of the 547 AHBs registered with the Department are believed to be inactive.

Recommendation 10.2

The Department should consider introducing a process for identifying inactive AHBs, so that they do not retain approved status.

Accounting Officer response

Agreed.

The Department carried out a delisting exercise in 2012/2013, when non-active AHBs were removed from the register. The Department commits to ensuring a delisting exercise is carried out before the introduction of statutory regulation and the Bill will make provision for both voluntary and, in certain circumstances, compulsory, deregistration. The Department/Regulator will carry out a review of registered AHBs periodically.

Recommendation 10.3

The Department should review arrangements for the management and oversight of public funds provided to AHBs to ensure that the requirements of the Department of Public Expenditure and Reform circular 13/2014 are met.

Accounting Officer response

Agreed.

While the Department is confident that the requirements of the Department of Public Expenditure and Reform circular 13/2014 are being applied, we will nevertheless review all circulars relating to AHB activity, to ensure they set out the requirements and that the processes stemming from the circulars are compliant with the circular. This will be completed within a period of three months. We will also assess, when it is finalised, the review that is currently underway by LGAS on the implementation of its recommendations.

The Department of Housing, Planning and Local Government is fully aware of and compliant with the Department of Public Expenditure and Reform circular 13/2014 in regard to the provision of funding to AHBs.

All funding to AHBs is provided via the local authorities who are the statutory housing authorities for their areas.

All social housing provision in each area, including that provided by AHBs, must be provided with the approval and oversight of the local authority. It is the local authorities who determine whether an AHB project is to be approved or not, based on housing need, suitability of the proposed development, etc.

As with all Exchequer supported projects, the Department as sanctioning authority, assesses each project for suitability, value for money, and compliance (including with the *Public Spending Code*, statutory building regulations, etc.). This applies whether the proposed project is being delivered by the local authority itself, or is one they have selected and approved for delivery by an AHB.

Detailed grant approval, payment and performance monitoring arrangements are in place across all Departmental funding arrangements. In particular

- approvals are undertaken in a defined and robust way consistent with the *Public Spending Code* and the capital works management framework
- letters of sanction include detailed terms and conditions relating to payments, and onward payments to AHBs
- payments to local authorities are made only on the basis of vouched expenditure, in compliance with circular 13/2014
- assurances with regard to financial control procedures and systems are provided by LGAS in the context of their independent scrutiny of the financial stewardship of local authorities.

The proposed Housing (Regulation of Registered Housing Providers) Bill proposes a Regulator to oversee the governance, financial management and performance of voluntary and co-operative housing bodies providing housing in accordance with the Housing Acts. The Bill includes statutory safeguards for public and private investment in the social housing provision sector, a framework that will enable the voluntary and co-operative housing sector to contribute more effectively to the provision of social housing and ensure that the assets built through investments in the sector are managed sustainably. The statutory regulatory framework will provide further assurances to tenants, the Government, investors and to the sector itself that social housing providers operate in a well-regulated and stable environment.

The Regulator will be responsible for approving and registering housing bodies and the setting of regulatory standards. The Bill provides extensive powers for the Regulator in relation to inquiries, investigations and assessments. The Regulator will also have enforcement and other powers.

The Department is working with the Office of the Parliamentary Counsel to finalise the text of the Bill. It is expected the Bill will be published by end of 2018.

Annex 10A

Figure 10A.1 Supports for social housing 2017^a

Scheme	€m	€m
Funding to Build or Buy		
<i>Local Authority Housing Scheme</i>	446.5	
Construction and purchase of housing units by local authorities for social housing.		
<i>Regeneration Works</i>	65.2	
Regeneration programme is a mix of funding for demolition, new build and refurbishment.		
<i>Local Authority Retrofitting</i>	24.7	
Expenditure on the upgrade of local authority properties that have been vacant and following upgrade, rented to a social housing tenant.		
<i>Local Authority Mortgage to Rent Scheme</i>	13.6	
Homeowners who cannot meet their mortgage payments and who qualify for social housing support may be eligible to switch to renting their home as a social housing tenant from the local authority – this funding is to aid the local authority in clearing the mortgage charge on the property.		
		550.0
Capital Funding for Approved Housing Bodies (AHBs)		
<i>Capital Advance Leasing Facility (CALF)</i>	55.6	
Long term loan of up to 30% for construction or acquisition of housing units.		
<i>Capital Loan and Subsidy Scheme (CLSS)^b</i>	66.7	
Funding for capital repayments and interest on loans as well as management and maintenance fees.		
<i>Capital Assistance Scheme (CAS)</i>	55.0	
Funding of up to 100% may be advanced to AHBs to provide accommodation for the elderly, homeless and people with disabilities.		
<i>AHB Mortgage to Rent</i>	3.0	
Homeowners who cannot meet their mortgage payments and who qualify for social housing support may be eligible to switch to renting their home as a social housing tenant from an AHB which purchases the home from the private lender. The structure of this scheme is similar to the CALF scheme.		
		180.3
Housing and Sustainable Communities Agency Revolving Fund		70.0
A fund to acquire units for social housing from financial institutions, to be sold at cost primarily to AHBs. The funding is therefore replenished for use to purchase more properties.		
Funding to Lease		
<i>Social Housing Current Expenditure Programme (SHCEP)</i>	84.0	
Long term leasing of housing units of which some have been initially funded through the CALF scheme above. This amount also includes the current rental costs of renting units from the AHBs for local authority tenants.		
<i>Repair and Leasing Scheme</i>	0.2	
Funding of repairs to vacant properties owned by private individuals on condition the property is then made available as social housing for a period of at least five years.		
		84.2
Total		884.5

Source: Department of Housing, Planning and Local Government

Note: a This funding is inclusive of surplus Local Property Tax receipts allocated from the Local Government Fund and directed by the Department to be used for housing services in the local authorities.

b €5 million of this funding related to annual management and maintenance fees and €61.7 million related to payments to local authorities to repay the principal and interest charges due to the HFA for the loans advanced.

Annex 10B

Figure 10B.1 Rental accommodation supports 2017

Scheme	€m
<i>Rent Supplement^a</i>	231
Assistance to tenants in private rented accommodation.	
<i>Housing Assistance Payment</i>	153
Funding to local authorities to make rental payments to landlords on behalf of tenants.	
<i>Rental Accommodation Scheme</i>	143
Funding to local authorities to lease accommodation from private landlords.	
<i>Supports for the Homeless</i>	109
Private emergency accommodation, supported temporary accommodation, temporary emergency accommodation and Tusla domestic violence refuges.	
Total	636

Source: Department of Housing, Planning and Local Government and Department of Employment Affairs and Social Protection.

Note: a Funded and managed by the Department of Employment Affairs and Social Protection.

11 Regularity of social welfare payments

- 11.1** The Department of Employment Affairs and Social Protection (the Department) is required to ensure that the expenditure it incurs has been applied for the purposes for which the money was made available by Dáil Éireann, and that its financial transactions conform with the authorities under which they purport to have been carried out. Financial transactions are considered to be 'regular' when both of these conditions are satisfied.
- 11.2** Any payments in excess of entitlements under the terms of welfare schemes are, accordingly, irregular. Such excess payments can arise in a number of ways, including
- **Claimant fraud** — where a claimant for welfare payments intentionally provides incomplete or inaccurate information in relation to a claim, or deliberately fails to inform the Department of relevant changes in circumstances (such as an increase in means or a change in medical condition) affecting a claim in payment.
 - **Claimant error** — which arises when the claimant has provided inaccurate or incomplete information, or failed to report a relevant change in circumstances, but there is no fraudulent intent on the claimant's part.
 - **Official error** — where benefits are paid incorrectly due to inaction, delay or mistakes made by the Department's staff.¹
- 11.3** The Department has a well-established programme to undertake control surveys of social welfare schemes. The surveys involve 'point-in-time' reviews of random samples of 500 to 1,000 claims in payment to establish if the recipients are entitled to the payments they are currently receiving and if so, whether the correct amounts are being paid. The surveys assist the Department in identifying scheme risks and the need for any changes to the control measures in place. Higher value schemes are surveyed more frequently than low value schemes. Annex 11A outlines past surveys, and those planned for 2019.

Eligibility for payment

- 11.4** Eligibility to a welfare payment varies from scheme to scheme and may include satisfying age, family circumstances and/or economic status criteria. Most schemes depend on either a social insurance contributions record or a claimant's income from other sources determined through means testing.
- 11.5** Medical eligibility is a key qualifying criterion for payment under a number of welfare schemes. For example
- Recipients of disability allowance must have an injury, disease or physical or mental disability that has continued or may be expected to continue for at least one year and as a result of that disability, be substantially restricted in undertaking work that would otherwise be suitable for a person of their age, experience and qualifications.
 - Recipients of illness benefit must be unable to work due to illness or injury — weekly or monthly certification of their continuing inability to work must be provided to the Department by their GP.

¹ In some cases, claimant and official error can also result in claimants receiving less than they are entitled to.

- Recipients of invalidity pension must be assessed to be permanently incapable of work, or have been incapable of work for at least 12 months and be likely to be incapable for work for at least a further 12 months.

- 11.6** When the Department carries out a control survey of a scheme which has medical eligibility payment criteria, medical reviews of a subset of cases are undertaken. This may result in cases being identified whose medical condition is considered to no longer meet the specified criteria. Where this occurs, welfare payments may be stopped, or the amount payable may be reduced.
- 11.7** Because the medical condition of a welfare recipient may improve over time, the Department does not consider a review finding that a welfare recipient is currently medically ineligible necessarily constitutes a payment error or fraud. The Department considers that up to the point of medical review, the payment is supported by previous medical evidence. In its view, any change found on medical review does not reflect a payment error or suspected fraud because both the Department and the recipient were acting in good faith, supported by medical evidence up to this point.
- 11.8** Because improvements in medical condition can result in a recipient losing entitlement to a welfare payment, the identification of such cases as a consequence of an entitlement review indicates the existence of a payment in excess of entitlement at the time of the review, which should be included in the estimation of excess payment levels.

Gross and net excess payments

- 11.9** A recipient of welfare payments who is found not (or no longer) to be entitled to a payment under a particular scheme may be entitled to a payment under a different scheme operated by the Department.¹ In that event, the detected excess payment on the scheme may be offset (fully or in part) by additional payments on the other scheme. In other cases, a recipient whose payments are altered as a result of a control survey review, may be restored (or part restored) to payment as a result of an appeal.
- 11.10** These outcomes give rise to a distinction between gross excess payments and net excess payments. Both have implications for the regularity of scheme and aggregate expenditure recorded in the appropriation account of Vote 37 Employment Affairs and Social Protection and in the accounts of the Social Insurance Fund (SIF).

Survey results

- 11.11** Figure 11.1 shows the expenditure in 2017 on Vote and SIF schemes in respect of which control surveys have been undertaken (at least once) since 2012.^{2,3} It also shows the estimated levels of excess payment for each scheme found during the latest surveys due to suspected fraud, error or medical ineligibility.
- 11.12** There is wide variation in the level of excess payments found by surveys of Vote funded schemes. Apart from child benefit, which is a universal payment (i.e. not means-tested), the gross excess payments range from 1.9% of scheme expenditure to 18.4%. The net excess for Vote funded schemes ranges from 0.5% to 10.4%.
- 11.13** There is also variation in the level of excess payment in the SIF funded schemes surveyed. Estimates of gross excess payments on the SIF funded schemes range from 0.8% to 13.4%. The net excess for SIF funded schemes ranges from 0.7% to 6%.

1 The Department may also pay welfare in respect of persons whose payment is stopped and who are dependents of another welfare recipient.

2 Non-contributory State pension is included in the table because of the level of scheme expenditure, although the most recent control survey for that scheme was in 2008. A new survey of the scheme is underway.

3 The Household Benefits survey in 2016 is not included because the survey related to beneficiaries not in receipt of another welfare payment and represented only 7% of those in receipt of the benefits package.

11.14 In aggregate, the schemes included in Figure 11.1 accounted in 2017 for 76% (€7.9 billion) of Voted expenditure, and 91% (€8 billion) of SIF expenditure.

Figure 11.1 Estimated level of excess payments in surveyed schemes

Account and scheme	Scheme cost 2017	Estimated level of excess payments	
		Gross	Net
€million			
Vote funded schemes			
Jobseeker's Allowance	2,103	4.6%	3.1%
Child Benefit	2,086	0.5%	0.5%
Disability Allowance ^a	1,469	18.4%	4.1%
State Pension (non-contributory)	995	1.9%	n/a
One-Parent Family Payment	498	7.1%	2.7%
Family Income Supplement	415	1.9%	0.5%
Rent Supplement	231	6.0%	5.0%
Supplementary Welfare Allowance (BASI)	97	2.6%	2.4%
Farm Assist	78	10.6%	10.4%
Total Vote funded schemes	7,972		
Social insurance funded schemes			
State Pension (contributory/transition)	4,916	2.0%	2.0%
Widow's/Widower's/Surviving Civil Partner's Contributory Pension	1,467	0.8%	0.7%
Invalidity Pension ^a	673	2.8%	1.5%
Illness Benefit ^a	599	13.4%	6.0%
Jobseeker's Benefit	340	2.5%	1.6%
Total Social Insurance Fund schemes	7,995		

Source: Office of the Comptroller and Auditor General

Note: a The levels of excess payments in the three illness related schemes attributed to medical ineligibility included in the results above are shown below

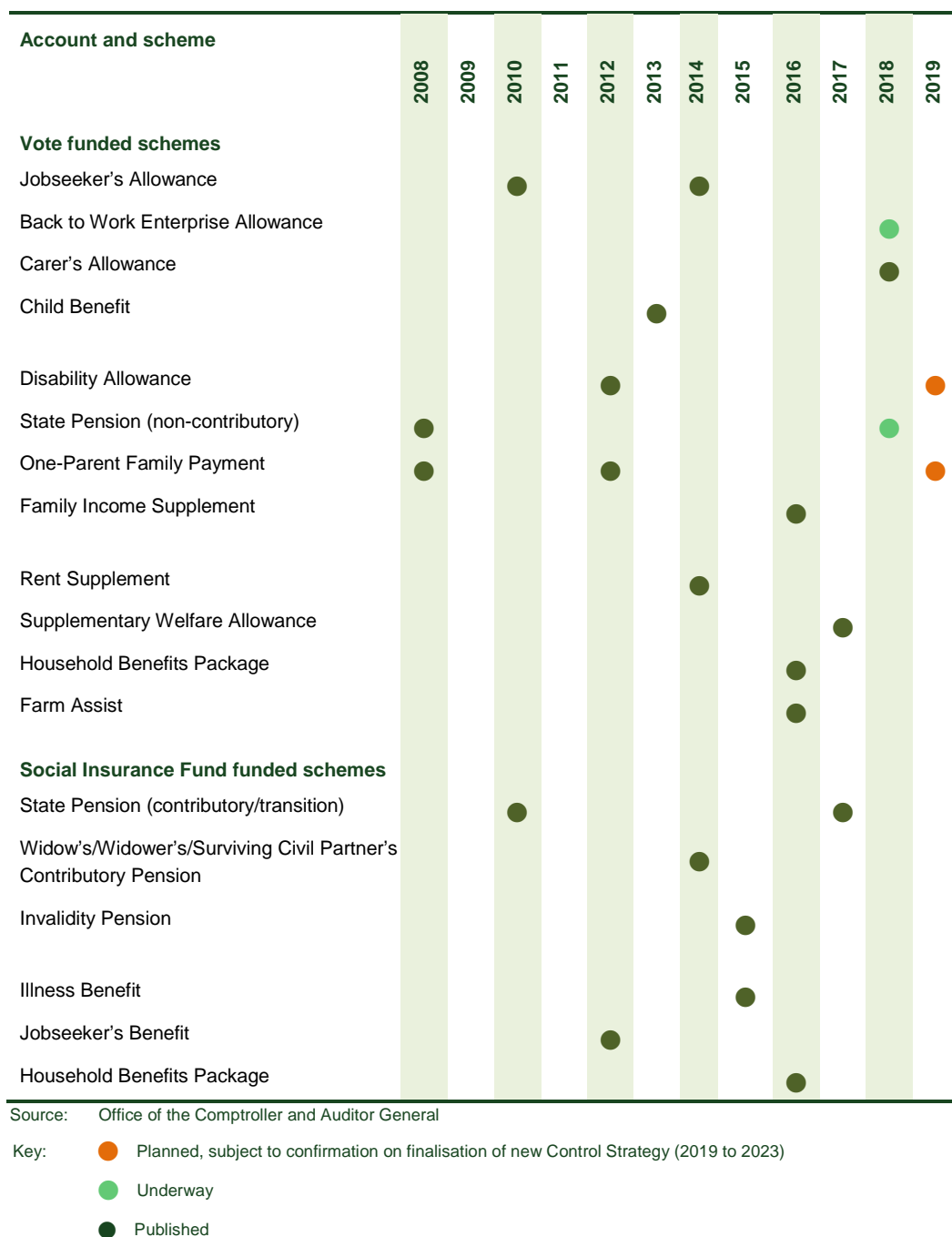
Scheme	Estimated level of excess payments	
	Gross	Net
Disability allowance	15.3%	2.0%
Invalidity pension	2.3%	1.0%
Illness benefit	12.9%	5.6%

Conclusion

- 11.15** The level of excess payments found by the Department's control surveys is material both at a scheme/gross level, and at a net/departmental level. Accordingly, I have referred in my audit reports on the 2017 Appropriation Account for Vote 37 Employment Affairs and Social Protection and the 2017 Account of the Social Insurance Fund to the material level of irregularity of scheme payments.

Annex 11A

Figure 11A.1 Schedule of control surveys published and underway 2008 to 2018, and planned, 2019



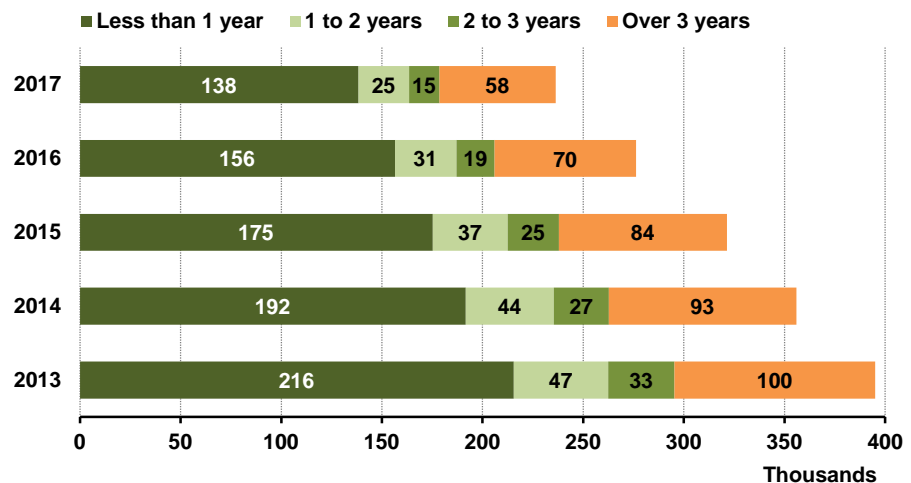
12 JobPath Employment Activation Service

- 12.1** In addition to monetary income support payments, the Department of Employment Affairs and Social Protection (the Department) provides employment activation services for unemployed persons. Employment activation involves taking an all-inclusive view of the needs of the unemployed person through identifying sources of support, other than payments, such as assistance from other agencies and opportunities for training. The service is intended to assist unemployed persons to find and sustain permanent employment or self-employment.
- 12.2** The Department stated that, due to the sharp increase in the numbers who were unemployed during the last economic downturn, there was a requirement for more intensive activation/employment support to help unemployed jobseekers prepare for and secure employment.
- 12.3** The Department's Intreo network is responsible for processing claims and payments for the unemployed. It also provides activation services aimed primarily towards the short-term unemployed — those unemployed for less than one year. In contrast, JobPath is an approach to employment activation designed to support the long term unemployed (LTU) — those unemployed for one year or more. The JobPath service was rolled out from mid-2015.
- 12.4** The JobPath service provides jobseekers with practical assistance in
- identifying barriers to employment and solutions to overcome these barriers
 - identifying hidden or undervalued talents and skills and potential fields of work
 - job searching, preparing and tailoring CVs and preparing for interviews
 - building confidence and motivation.
- 12.5** Following an open public procurement process, contracts to deliver JobPath were signed with two companies — Seetec Limited and Turas Nua Limited. These companies provide JobPath services in two contract areas based on the Department's divisional structure.
- Seetec — West; Midlands North; North East; North West; Dublin Central; Dublin North; Dublin South.
 - Turas Nua — Cork Central; South East; Mid-Leinster; Mid-West; South West; Midlands South.
- 12.6** This report examines how the Department monitors and measures the achievement of the JobPath contract objectives, and the associated costs.

Unemployment trends

- 12.7** The level of unemployment reached a peak in July 2011 with almost 470,000 people on the live register. The number on the live register had reduced to 236,000 at the end of 2017, and further reduced to 228,000 at the end of June 2018. Figure 12.1 shows the live register by duration of unemployment for the period 2013 to 2017.

Figure 12.1 Live register by duration of unemployment, year end 2013 to 2017



Source: Central Statistics Office. Analysis by Office of the Comptroller and Auditor General.

- 12.8** The number of persons unemployed for more than one year and classified as long-term unemployed decreased by 45% between the end of 2013 and the end of 2017.

Categorisation of jobseekers and selection for referral

- 12.9** Figure 12.2 shows the categorisation used by the Department to stratify jobseekers, based on the length of time they have been in receipt of income support payments.
- 12.10** The Department commenced referral of jobseekers in groups 1 to 4 to the JobPath service providers in July 2015. The referral of jobseekers in group 5 commenced in November 2016. No referrals had been made in respect of jobseekers classified in group 6 up to end March 2018.

Figure 12.2 Categorisation of jobseekers

Group	Jobseekers who are in receipt of an income support payment
1	passing the twelve months duration threshold
2	over one year and less than two years unemployed
3	two years or more, but less than three years unemployed
4	three years or more unemployed
5	in part-time employment and seeking to secure full-time employment
6	less than twelve months unemployed but assessed to be among the 5% with the highest probability of becoming long-term unemployed.

Source: Department of Employment Affairs and Social Protection

Operation of service

- 12.11** The Department randomly selects jobseekers for referral to JobPath on a weekly basis.
- 12.12** The jobseekers selected are invited to a group session where they are provided with information on the services available through JobPath. Following this session, a one-to-one meeting with a JobPath advisor is arranged.
- 12.13** The advisor draws up a Personal Progression Plan (PPP) with the jobseeker which includes a series of actions designed to assist him/her in securing a job. Appropriate training and development opportunities and career advice are given. Assistance with compilation of a CV and interview preparation is also given. The personal advisor helps the unemployed person in identifying barriers that may be preventing them from working and provides assistance to help overcome those barriers.

Employer engagement

- 12.14** In addition to the services provided to jobseekers, services are also provided to employers, including
- recruitment and selection
 - interview facilities
 - candidate screening
 - tailored employee training and support
 - job-brokering and in-work support.
- 12.15** The Department does not prescribe how the service providers should engage with employers. It is left to each provider to determine the nature and type of employer engagement that it considers will deliver the best job outcomes. The service providers are prohibited from charging employers for any services provided.¹

Performance of service

- 12.16** The key objectives of the JobPath service are to get more people moving from the live register into employment with fewer moving back onto the live register, and to reduce the duration of unemployment when it does arise. The service also aims to achieve a high level of satisfaction from participating jobseekers.
- 12.17** The key performance indicators (KPIs) set out in the agreement against which the JobPath service is to be measured are

- **job commencements:** the number of JobPath clients moving into employment — the Department set performance targets for job commencements for each referral category which average at 14% over-all²
- **job sustainment:** the duration of sustained periods of employment — the Department did not set a target rate for the job sustainment milestones — this was left to the bidders in preparing their tenders
- the average **duration of unemployment** for jobseekers participating in the JobPath service — a specific performance level was not set for this performance measure
- the level of **JobPath client satisfaction** as part of the public employment services — a specific performance level was not set for this performance measure.

¹ The Department has in place an employer engagement protocol that includes liaison at local level with the Department's own Intreo service.

² The Department set minimum performance rates for job commencements to be achieved for each of the categories referred to the service in each of its regions, varying from 7% to 30% nationally. The average for all regions and categories is 14%. This was based on the calculated 8% rate of progressions into employment over a 12 month period for long-term unemployed jobseekers in the period prior to the introduction of JobPath.

- 12.18** The Department has stated that it is currently conducting an in-depth econometric review of the JobPath service in collaboration with the Organisation for Economic Cooperation and Development (OECD), and expects the report of the review to be available towards year end. The objective of reducing the average unemployment duration of jobseekers engaging with JobPath will be measured as part of the review and examination of the long-term impact of the service.

Service throughput

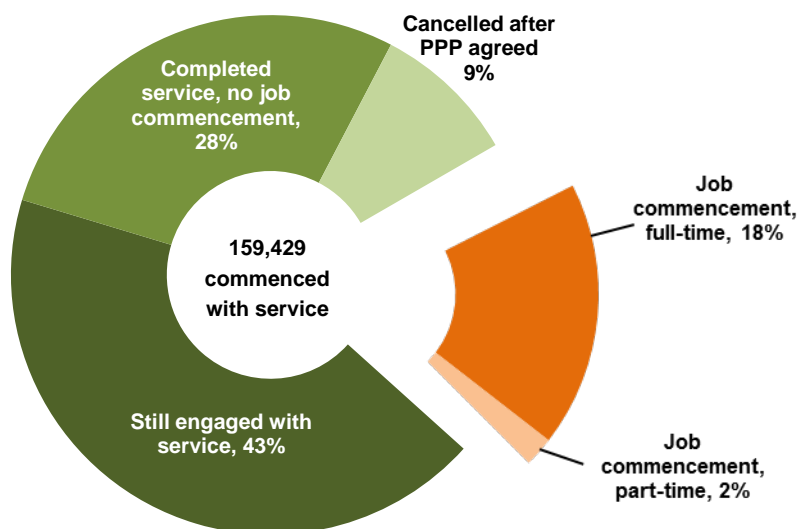
- 12.19** Over 192,000 jobseekers were referred by the Department to the JobPath service in the period July 2015 to March 2018. Of these

- almost 16,000 referrals were cancelled prior to registering with the service
- a further 16,000 were in the process of agreeing a PPP at the end of March 2018 or, having been referred, had not yet engaged with their designated service provider
- just under 160,000 had completed a PPP with a personal advisor.

- 12.20** Of the 159,429 individuals who completed a PPP in the period July 2015 to March 2018, 9% dropped out of the planned programme (see Figure 12.3). Just over a quarter (28%) completed the plan without having secured a job commencement while 43% were still engaged with the service at March 2018.

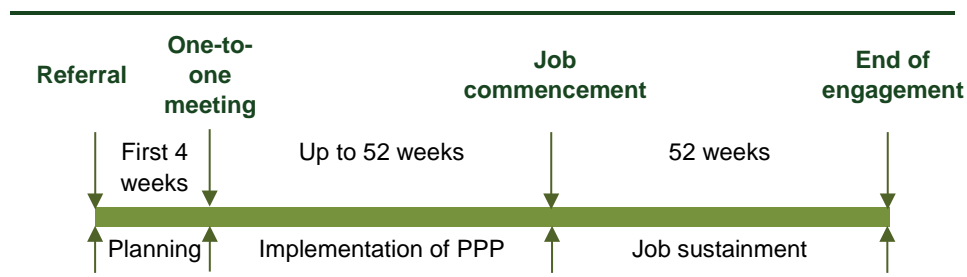
- 12.21** One in five of those who agreed a plan had commenced an employment during the period. 18% commenced full-time employment with a further 2% starting part-time employment. The job commencement rate compares favourably to the 14% target performance level set by the Department for the service and the 8% achieved in the period prior to the introduction of the JobPath service.

Figure 12.3 Outcome of jobseekers commencing with JobPath July 2015 to March 2018



Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Note: a Part-time relates to jobseekers that commenced part-time employment.

Figure 12.4 Indicative JobPath service engagement timeline^a

Source: Office of the Comptroller and Auditor General

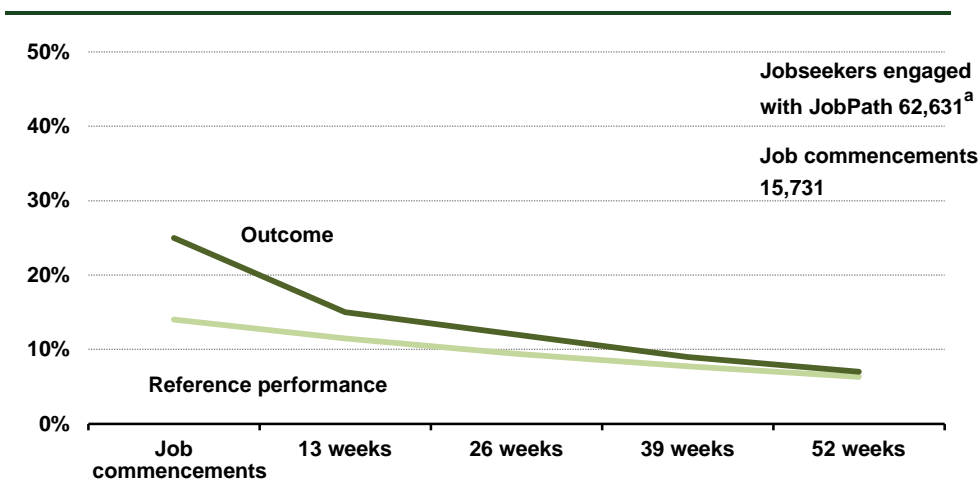
Note a The date of completion of the service by a jobseeker may be more than two years after they have their one-to-one meeting due to the date of commencement of employment and where a course of education or other training is undertaken.

12.22 Figure 12.4 shows the indicative engagement timeline for jobseekers referred to the JobPath service. Fees payable to the service providers comprise a registration fee payable when the jobseeker agrees the PPP and job sustainment fees which are payable at intervals of 13, 26, 39 and 52 weeks when a jobseeker, having commenced employment, remains in full time employment for the relevant number of weeks.

Service outcome

12.23 In order to assess the outcome of the service, it is necessary to allow a significant period of time from the date of the jobseeker's referral for completion of the service. Accordingly, this report examined the outcomes for jobseekers referred in the period up to the end of 2016, the latest of whom were engaged in JobPath in 2017/2018. (It should be noted that jobseekers referred in the period and who commenced employment from mid-2017 did not have the opportunity to progress their employment to the later job sustainment milestones by March 2018.)

12.24 Figure 12.5 overleaf shows the outcome, as at March 2018, for jobseekers who were referred to the service in the period from July 2015 to December 2016. In this period, 62,631 jobseekers had engaged with the JobPath service with 15,731 (25%) commencing a job of some duration. 15% of those referred sustained the employment for at least 13 weeks, 12% for 26 weeks, 9% for 39 weeks and 7% for at least 52 weeks.

Figure 12.5 Overall outcome at March 2018 compared to reference performance rates, for referrals from July 2015 to December 2016

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Note: a A total of 71,855 jobseekers completed a personal progression plan in the period. However, 9,224 did not continue with the service.

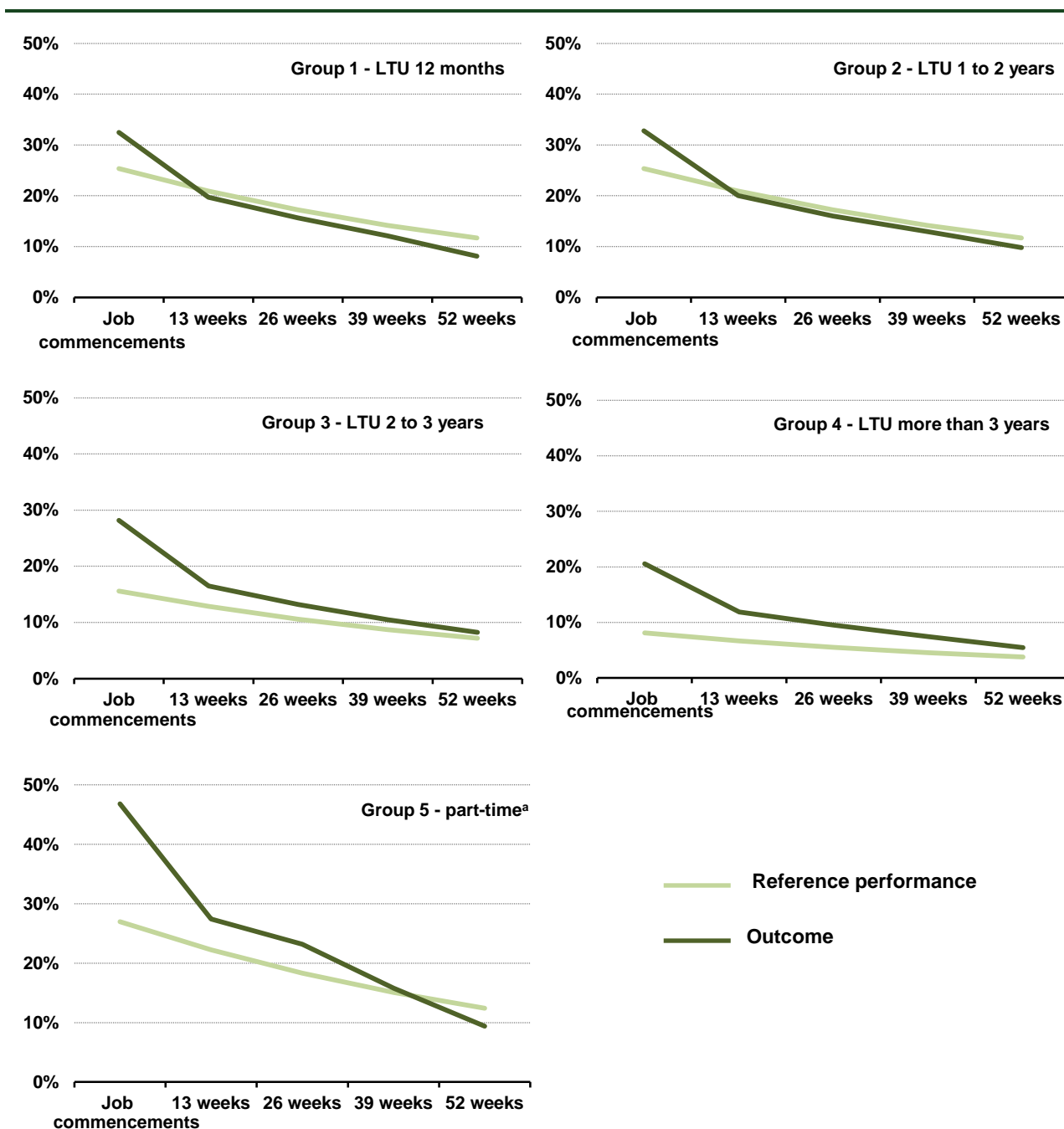
12.25 Figure 12.6 shows the outcome for each referral category in respect of jobseekers referred to the service up to December 2016. The figure for each of the five categories compares the overall outcome for the category against the Department's minimum target performance rate for job commencements and to the reference rate for job sustainment at each of the milestones — 13 weeks, 26 weeks, 39 weeks and 52 weeks.¹

- **Group 1 — unemployed twelve months and entering long-term unemployment** — the level of job commencements significantly exceeded the target performance rate but the reference performance rate was not achieved for the job sustainment milestones by a small margin.
- **Group 2 — long term unemployed one to two years** — the job commencement target was exceeded, while the job sustainments did not reach the reference performance rates, again, by a small margin.
- **Group 3 — unemployed for between two and three years** — the target performance rate for job commencements and the reference performance rate for job sustainments were both exceeded.
- **Group 4 — unemployed for three or more years** — the target performance rate for job commencements and the reference performance rates for job sustainments were exceeded.
- **Group 5 — part-time employed in receipt of benefit** — referrals only began in November 2016 and not all participants will have completed their engagement with JobPath by March 2018. The figure shows that the target performance rate for job commencements was exceeded as was the rate for 13 and 26 week job sustainments. While the target performance rate for 39 week job sustainment was met, the rate for 52 week job sustainment was not reached.

¹ Job sustainment milestones were set at 13, 26, 39 and 52 weeks of continuous full-time employment. Based on actual job sustainment rates in the period prior to the introduction of JobPath, the request for tender documentation specified a reference job sustainment rate of 82% i.e. job sustainment at thirteen weeks is 82% of the job commencements, and the rate for each subsequent sustainment milestone is 82% of the previous rate.

12.26 Figures showing the performance of the two contractors against the Department's job commencement target rates and the job sustainment reference rates are included in Annex 12A.

Figure 12.6 Outcome at March 2018 compared to reference performance rates for referrals from July 2015 to December 2016, by referral category



Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Notes: a Referral of jobseekers to the service commenced in July 2015. However, referral of jobseekers in the part-time category did not commence until November 2016 and consequently the numbers referred in 2016 are relatively low. The 'part-time' category relates to jobseekers that are in part-time employment and are seeking full-time employment.

Referrals cancelled and withdrawn

- 12.27** In the period July 2015 to March 2018, almost 16,000 referrals were cancelled or withdrawn prior to the jobseeker engaging with the service. A further 14,000 cancelled after commencing with the service, thus giving total cancellations of almost 30,000.
- 12.28** The Department's analysis of the reasons for cancellations is shown in Figure 12.7. About half of the cancellations relate to jobseekers commencing a claim on another welfare scheme; almost 17% were recorded as not yet ready for JobPath; and 9.3% were recorded as beginning employment. Over 13% commenced further education.

Figure 12.7 Analysis of referrals cancelled, July 2015 to March 2018

Reason recorded for cancellation	Before commencement with service		After commencement with service		Total	
	Number	%	Number	%	Number	%
Commenced on welfare scheme	5,396	34.7%	8,892	62.6%	14,288	48.0%
Not yet ready for JobPath	4,366	28.0%	677	4.8%	5,043	16.9%
Commenced employment	2,359	15.1%	409	2.9%	2,768	9.3%
Claim no longer in payment	1,480	9.5%	1,029	7.2%	2,509	8.4%
Further education or training	1,392	8.9%	2,625	18.5%	4,017	13.5%
Other	585	3.8%	575	4.0%	1,160	3.9%
Total	15,578	100%	14,207	100%	29,785	100%

Source: Department of Employment Affairs and Social Protection

Costs and fees

- 12.29** Fees payable by the Department to the service providers are on a results basis. The rates comprise a registration fee payable when the jobseeker agrees the PPP and job sustainment fees which are payable at intervals of 13, 26, 39 and 52 weeks when a jobseeker, having commenced employment, remains in full time employment¹ for the relevant number of weeks.
- 12.30** These fees are the only amounts payable by the Department to the contractors and are used by them to cover all their costs in relation to provision of the services.
- 12.31** The total paid from July 2015 to end March 2018 amounts to just under €109 million. Figure 12.8 shows the total annual payment broken down between fees paid for registrations and for job sustainments.

¹ Full-time employment is defined as being for 30 hours or more per week or for a lesser number of hours where the normal number of hours for the job is less than 30 but the income was such that a jobseeker related income support payment was not required.

Figure 12.8 Fees paid to contractors, July 2015 to March 2018

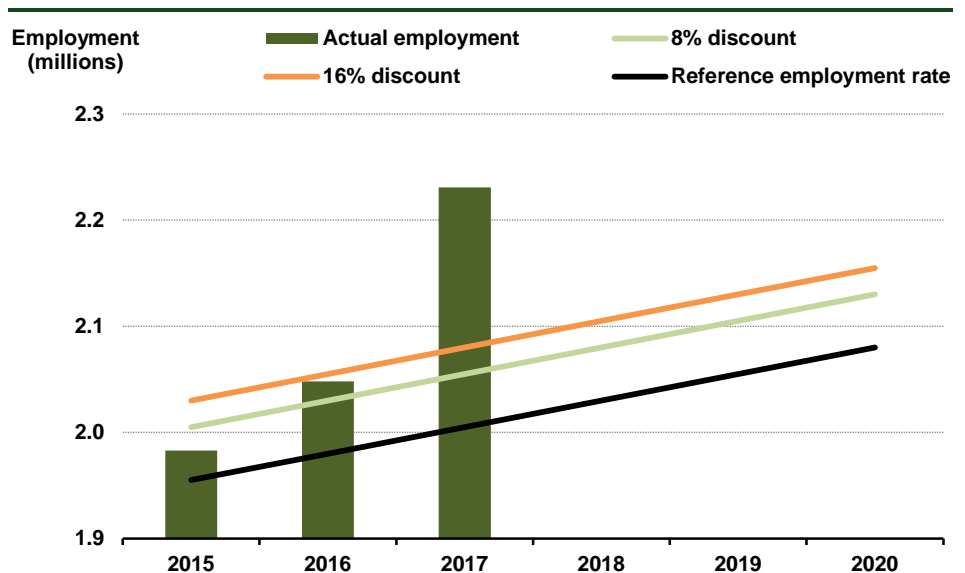
	Fee payment triggers		Total fees €m
	Registration	Job sustainment	
	€m	€m	
2015	1.2	—	1.2
2016	22.5	2.7	25.2
2017	27.2	30.2	57.4
2018	7.4	17.6	25.0
Total	58.3	50.5	108.8

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Discount

12.32 The agreements between the Department and the contractors provide for discounting of registration fees and job sustainment fees should the general level of employment in the economy exceed prescribed reference employment levels set out in the agreements. The level of employment is measured by the labour force survey which replaced the quarterly national household survey in 2017.

12.33 Figure 12.9 shows the prescribed reference employment levels and the levels of employment at which discounts of 8% or 16% of fees may be applied by the Department.

Figure 12.9 Reference employment levels 2015 – 2020 and actual^a employment levels 2015 to 2017

Source: Department of Employment Affairs and Social Protection and Central Statistics Office. Analysis by Office of the Comptroller and Auditor General.

Note: a Actual employment levels are as measured by the quarterly National Household Survey in the last quarters of 2015 and 2016 and the Labour Force Survey in the last quarter of 2017.

12.34 The first year of the contract was deemed to end on 31 December 2016 as the roll-out of the contract in 2015 was slower than anticipated. The first year in which a discount could be applied under the terms of the contract was 2017, based on the quarterly national household survey of the last quarter of 2016. The Department applied a discount of 8% to fees paid to both contractors from April 2017 to December 2017.

12.35 The Department stated in September 2018 that, having commissioned an in-depth evaluation of the financial position of the contractors and their cost, it had recently applied discounts within the range provided for in the contract on all fees payable to the contractors for the full year starting in January 2018.

Verification of claims for payment

12.36 An audit review of a sample of 25 claims from each contractor concluded that the claims for payments were validly supported by evidence of performance having been achieved.

Validation

12.37 Each contractor submits a list of jobseekers that have completed a PPP or have sustained a job for a period of time equal to or exceeding a milestone period (of 13, 26, 39 or 52 weeks). Once the Department has validated the cases on the listing, by establishing that the criteria for payment have been met, the contractor may submit a claim for payment.

12.38 During the validation process for some 50,000 claims for job sustainment fees submitted in the period July 2015 to March 2018, the Department found a total of 10,000 claims (20%) to be invalid (see Figure 12.10). Over half of the claims found invalid were due to the jobseeker also being in receipt of an income support payment.

Figure 12.10 Reasons for job sustainment claims found invalid, July 2015 to March 2018

Reason for invalid finding	Number	%
Jobseeker was in receipt of an income support payment in period covered by claim	2,520	25.7%
Casual employment with entitlement to benefit payment within milestone period	2,518	25.7%
A new jobseeker allowance claim was opened in milestone period	473	4.8%
	5,511	56.2%
Not verified against Revenue data ^a	3,305	33.8%
The employment claimed commenced prior to start of engagement with JobPath service	296	3.0%
Requires more information on nature and extent of the employment	123	1.3%
Other	553	5.7%
Total	9,788	100.0%

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Note: a Employment data is received by the Department of Employment Affairs and Social Protection from the Revenue Commissioners on a regular basis. This data is used to validate the claims for payment from the contractors.

- 12.39** A further one-third of the claims found invalid were not supported by Revenue job commencement employment data. The Department has stated that a significant number of job commencements are not notified to the Revenue Commissioners by employers in a timely manner and, as a result a significant number of claims are found invalid on initial verification. Where a claim is disallowed, it may subsequently be presented for payment once the criteria are met e.g. when Revenue data becomes available and supports the claim.

Inspections

- 12.40** The Department carries out onsite inspections, at the contractors' premises, of the implementation of the service, the quality of service provided and the manner in which it is delivered. The inspectors also undertake post payment review of job sustainment fees by reviewing the evidence held to support the claims made and paid.
- 12.41** Onsite inspections of contractors commenced in 2016. Up to June 2018, a total of 62 inspections had been undertaken, 31 in respect of each contractor. The proportion of un-notified inspections undertaken increased from 15% in 2016 to 73% in 2018.
- 12.42** The principal issues arising on the 28 inspections conducted in 2017 were
- The mandatory review of agreed PPPs, after 13, 26 and 39 weeks, was not completed in all cases. At six of the 28 locations inspected, reviews were not completed or were completed late in between 30% to 80% of the cases inspected.
 - The opening hours of the offices at which services were to be available were less than agreed in four locations.
 - On claiming payment of a job sustainment fee, the contractor is required to obtain and retain evidence of employment to support the claim for possible post payment review. In six cases, over four locations, the evidence recorded on file was not of the type stated with the claim for payments. In addition, the evidence from two employers did not state the number of hours being worked.

Satisfaction survey

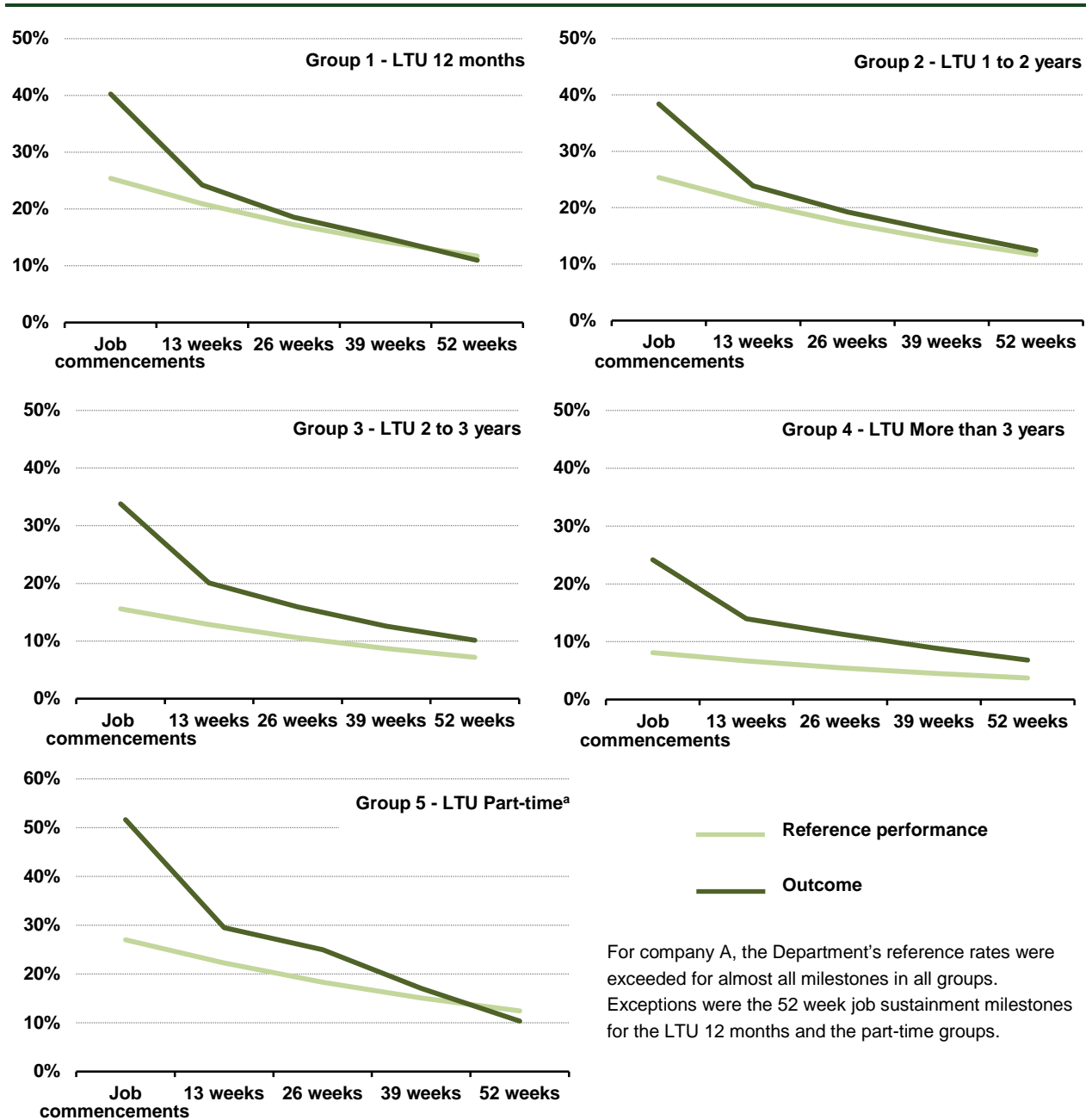
- 12.43** The Department engaged an external firm to conduct surveys of JobPath participants in 2016 and 2017 with the objective of establishing the level of overall satisfaction with the JobPath service. In each survey, an interview was carried out over the telephone with over 2,000 jobseekers participating in JobPath.
- 12.44** The 2016 survey results shows that 79% of respondents were either very satisfied or fairly satisfied with the JobPath service. This increased to 82% in the 2017 survey. The level of those moderately or very dissatisfied with the service rose marginally from 6% in 2016 to 7% in 2017.
- 12.45** Opinions of the respondents on how the JobPath service compares to the service provided by the Department's Intreo offices shows a 54% positive response in 2016 which reduced to 42% in 2017. The level of respondents that were neutral on this question increased from 31% in 2016 to 52% in 2017, while those giving a negative response declined from 15% to 7%.

Conclusions

- 12.46** The JobPath service is a new service being delivered since July 2015 by two companies covering de-facto 'North' and 'South' regions of the country. Fees totalling €109 million were paid to the companies from inception to March 2018, based on their performance in putting in place personal progression plans and job sustainment.
- 12.47** Under the JobPath service, the number of persons moving into employment (job commencements) exceeded the target set by the Department. The number of persons sustaining employment (job sustainment) was broadly in line with the Department's own performance in previous years at each of the key milestones i.e. 13 weeks, 26 weeks, 39 weeks and 52 weeks.
- 12.48** The Department has a reasonable basis underpinning the key performance measures selected and target setting for the JobPath service. However, a difficulty arises in assessing the outcome of the service on a timely basis, because it takes up to two years for a jobseeker to complete their engagement with the employment activation service.
- 12.49** The fees paid to the contractors are after a discount of 8% applied by the Department in respect of the period April 2017 to December 2017, as the total number of people in employment nationally exceeded specified discount trigger levels.
- 12.50** Based on a review of a sample of paid claims, the audit concluded that the payments were validly supported by evidence of performance achieved.

Annex 12A

Figure 12A.1 Company A — Outcome at March 2018 compared to reference performance rates for referrals from July 2015 to December 2016 — by referral category

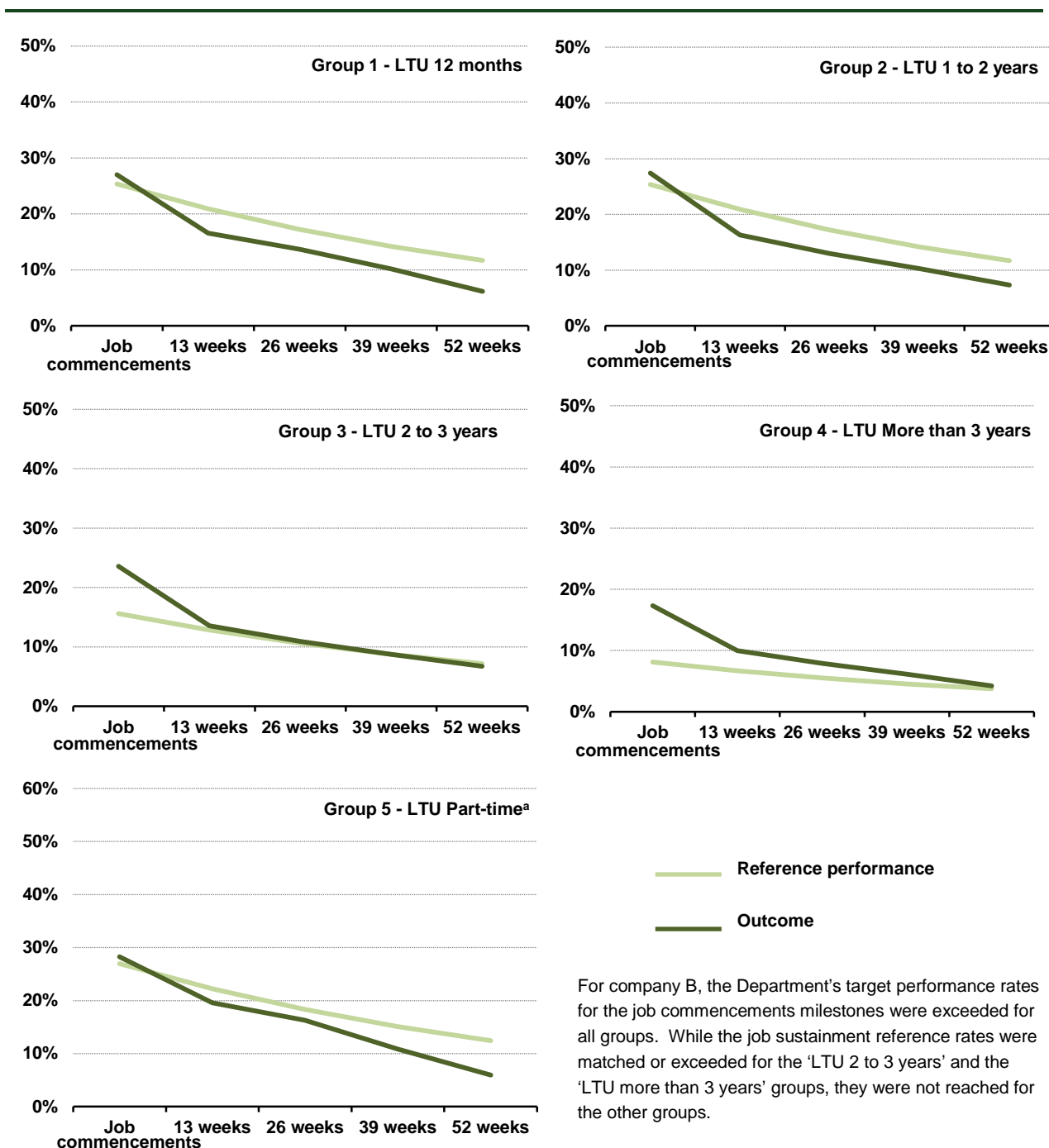


For company A, the Department's reference rates were exceeded for almost all milestones in all groups. Exceptions were the 52 week job sustainment milestones for the LTU 12 months and the part-time groups.

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Notes: a Referral of jobseekers to the service commenced in July 2015. However, referral of jobseekers in the part-time category did not commence until November 2016 and consequently the numbers referred in 2016 are relatively low. The 'part-time' category relates to jobseekers that are in part-time employment and are seeking full-time employment.

Figure 12A.2 Company B — Outcome at March 2018 compared to reference performance rates for referrals from July 2015 to December 2016 — by referral category



For company B, the Department's target performance rates for the job commencements milestones were exceeded for all groups. While the job sustainment reference rates were matched or exceeded for the 'LTU 2 to 3 years' and the 'LTU more than 3 years' groups, they were not reached for the other groups.

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Notes: a Referral of jobseekers to the service commenced in July 2015. However, referral of jobseekers in the part-time category did not commence until November 2016 and consequently the numbers referred in 2016 are relatively low. The 'part-time' category relates to jobseekers that are in part-time employment and are seeking full-time employment.

13 Actuarial review of the Social Insurance Fund

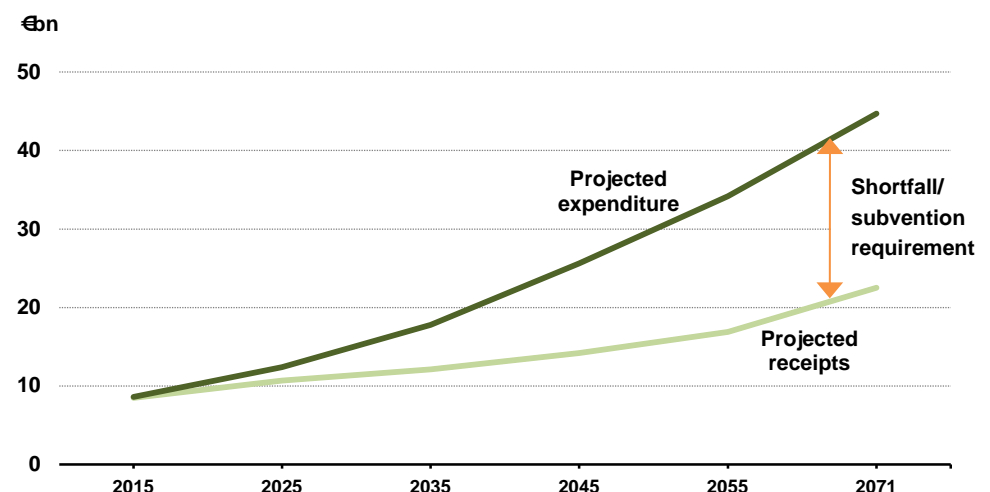
- 13.1** The Minister for Employment Affairs and Social Protection is required by law to commission and publish actuarial reviews of the financial condition of the Social Insurance Fund (SIF) at least every five years.¹ The review of the Fund's position as at 31 December 2015 included projections from 2016 to 2071.² The projected 'base case' Fund receipts and expenditure are shown in Figure 13.1.
- 13.2** The review projects that there will be an increasing annual shortfall in the Fund from 2021 up to 2071, and that sizeable Exchequer subvention will be required in the long-term to meet ongoing expenditure requirements in the absence of reductions in expenditure levels or increases in Pay Related Social Insurance (PRSI) income. The review projects an Exchequer subvention requirement, in 2017 real price terms, of €1.7 billion in 2025, €5.6 billion in 2035 and €11.4 billion in 2045. The net present value of the aggregate future projected shortfalls to 2071 is €335 billion based on a real discount rate assumption of 1.5% per annum.³
- 13.3** In the medium to long-term, pension-related expenditure is projected to be the predominant component of the Fund expenditure, rising from 70% in 2016 to approximately 80% in 2071. This projected increase is attributed to Ireland's changing population structure, and in particular the large rise in those over **State pension age** - currently 66 years of age and due to rise to 68 in 2028. The proportion of the population over the State pension age is projected to increase from 12% in 2015 to 17% in 2035, and to 23% in 2055.
- 13.4** Simultaneously, the **pensioner support ratio** is projected to decline from 4.9 workers for every individual over age 66 to 2.9 workers in 2035 and to 2 workers by 2055. The report notes that this position will be alleviated somewhat by the planned increase in the State pension age to 67 in 2021, and to 68 in 2028. This is expected to increase the support ratio to 3.4 for every individual over age 68 in 2035, and to 2.3 workers for every individual over age 68 in 2055.

1 Section 10 of the Social Welfare Consolidation Act 2005.

2 The review was completed in September 2017 and laid before the Houses of the Oireachtas on 18 October 2017.

3 An alternative measure of the Social Insurance Fund future liability is the accrued-to-date liability which is required by the EU for reporting purposes, and used by the CSO in its report entitled *Estimates of Irish Pension Liabilities 2015*. The accrued-to-date liability for State pension schemes at 31 December 2015 as per that report was €231 billion. Chapter 10 of the SIF actuarial review compares both measures.

Figure 13.1 Projected SIF receipts and expenditure, 2015 to 2071



Source: Actuarial review of the Social Insurance Fund 31 December 2015 (September 2017)

- 13.5** The actuarial review included an analysis of the sensitivity of the deficit projections to changes in the key underlying assumptions (see Figure 13.2). Changes in the assumptions for real earnings growth and life expectancy have the most significant impact on the projected SIF shortfall.

Figure 13.2 Key assumptions used in SIF actuarial review^a

1. Real annual GDP growth was assumed to be 5.2% in 2016, 4.3% in 2017, 3.7% in 2018 and between 1.5% and 3.1% thereafter.
2. The annual rate of inflation was assumed to be between 1% and 2% up to 2018, 2.1% up to 2021 and 2% thereafter.
3. Life expectancy at age 66 was assumed to increase by 7 years for males and 5.9 years for females between 2015 and 2071.
4. Real earnings growth was assumed to be 1.9% in 2016, 1.4% in 2017 and between 1% and 1.1% in the period 2018 to 2021. It was assumed that real earnings would grow at a rate of 1.8% a year between 2022 and 2025, 1.2% a year from 2026 to 2030, 1.4% a year from 2031 to 2035 and 1.5% a year for the remainder of the projection period. It was assumed that benefits would increase in line with real earnings growth.
5. Employment growth was estimated to fall significantly from a high of 2.9% in 2016 to 1.4% in 2021 and to be 0.4% a year between 2022 and 2030, between 0.2% and 0.5% a year between 2031 and 2040, with a decline in employment rates of 0.1% per annum between 2041 and 2050 before returning to growth of between 0.1% and 0.6% thereafter.
6. The pensioner support ratio was projected to decrease from 4.9 workers for every individual over pension age in 2015 to 2.1 workers per pensioner by 2071. This position is alleviated by the increase in State pension age to 67 and 68 respectively in 2021 and 2028 such that the support ratio improves to 2.4 workers per pensioner by 2071.
7. The unemployment rate was assumed to decrease significantly from a high of 7.9% in 2016 to 6.4% in 2017, 5.8% in 2018 and 5.5% in the period 2019 to 2021 before rising to 5.7% between 2022 and 2025 and remaining constant at 6.2% for the remainder of the projection period.

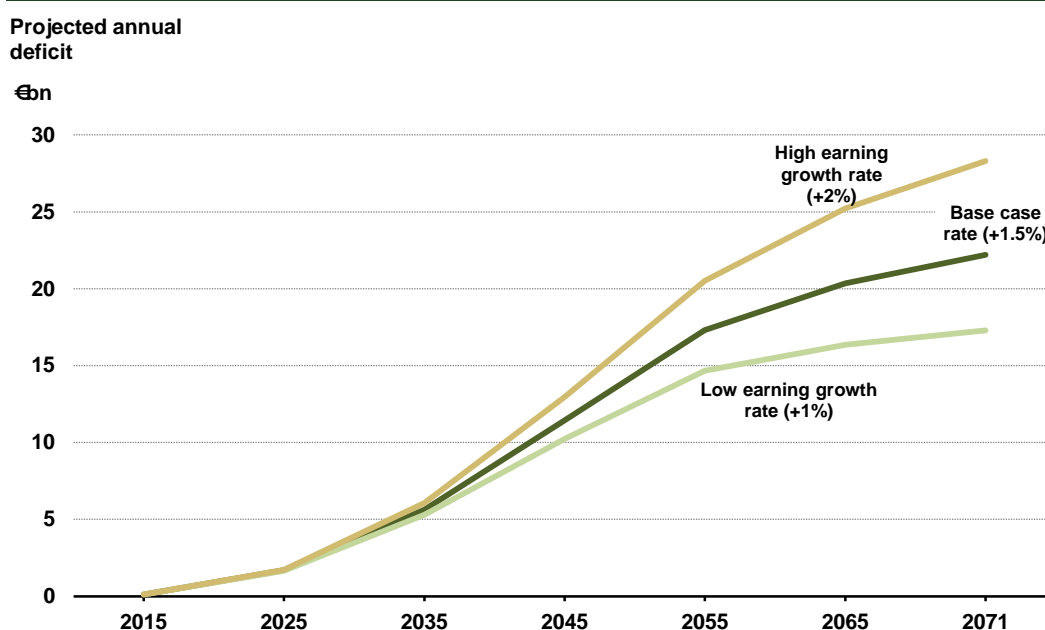
Source: Actuarial review of the Social Insurance Fund 31 December 2015 (September 2017)

Note: a The review used 2016 estimated outturn figures and 2017- 2021 short-term projections as set out by the Department of Finance in the Stability Programme Update of April 2017. The assumptions underpinning the long-term projections (2022+) were based on projections run by the European Commission and formed the basis for the 2018 Ageing Report. Mortality improvement factors are based on those used by the CSO in their most recent population projections (Population and Labour Force Projections (2016 - 2046), dated April 2013). Other assumptions reflect macroeconomic and other demographics (e.g. labour force) assumptions provided by the Department of Finance.

Real earnings growth

- 13.6** The review assumed that real earnings would grow over the projection period and that SIF benefits would increase in line with that growth. This means that earnings in the economy (and by extension, contributory benefit rates) would grow at a margin above the rate of general price inflation. The base case assumption was that real earnings would grow at an average annual rate of 1.5% for the majority of the projection period. As shown in Figure 13.3, if real earnings grow by just 1% per annum, the projected deficit in 2071 is €17.3 billion rather than the €22.2 billion deficit projected under the base case.

Figure 13.3 Sensitivity of projected SIF deficit to changes in real earnings growth rates



Source: Actuarial review of the Social Insurance Fund 31 December 2015 (September 2017)

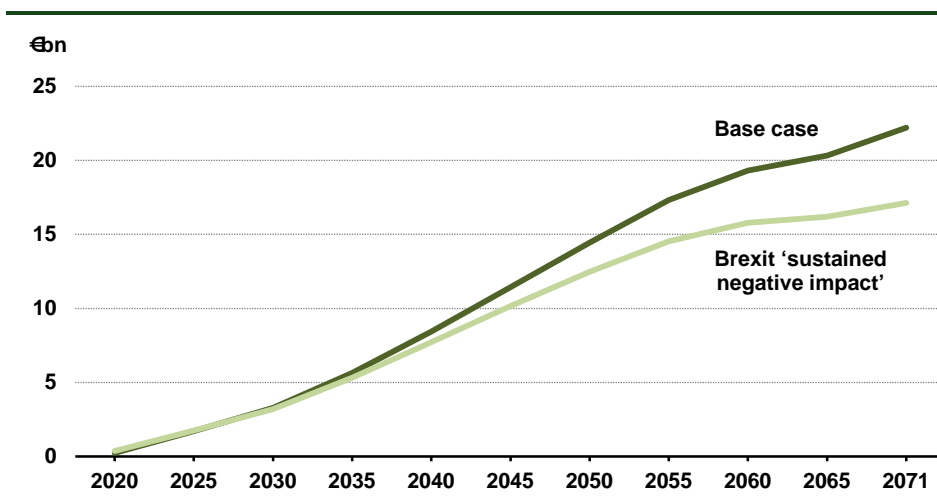
Life expectancy

- 13.7** Based on the CSO's *Population and Labour Force Projections (2016 to 2046)*, the review assumed that, between 2015 and 2071, life expectancy at age 66 would increase by 7 years for males and by 5.9 years for females. When improvements in life expectancy are assumed to be at half those rates, the deficit for 2071 is projected at €16 billion (rather than €22.2 billion). This is because life expectancy impacts on the length of time for which the projected pension payments (the most material benefits of the SIF) are expected to be paid.

Impact of Brexit

- 13.8** The review also considered the potential impact of Brexit on the finances of the SIF, outlining two potential scenarios — a sustained negative impact or an acute short-term economic shock.
- 13.9** The review examined the scenario of a sustained negative impact of Brexit in the longer term, based on the following assumptions
- due to long-term negative impact on growth, labour productivity increases are moderated, resulting in real earnings growth of 1% per annum (from 1.5% per annum in the long-term in the base case)
 - overall employed numbers are reduced by 2% for the entire duration, with the numbers of unemployed increased by the same amount.
- 13.10** Under this ‘sustained negative impact’ scenario, notwithstanding that PRSI receipts are projected to gradually reduce following Brexit, the overall long-term ‘gap’ between income and expenditure is expected to be lower than otherwise identified (€17.1 billion in 2071 compared with €22.2 billion in the base case). This is because pensions and other benefit levels are limited in the projection to average earnings increases which are expected to be moderated in the post Brexit scenario as compared with the base case.

Figure 13.4 Projected SIF deficit under base case and ‘sustained negative impact’ Brexit scenario



Source: Actuarial review of the Social Insurance Fund 31 December 2015 (September 2017)

- 13.11** If, instead of a sustained negative impact, Ireland experienced an acute short-term economic shock as a result of Brexit leading to a severe reduction in PRSI receipts, then the impact of Brexit on the finances of the SIF were shown by the review to be very different, and relatively small over the projection period.
- 13.12** In this case, the review assumed the economic shock would be similar in magnitude to the 2008 recession and that it would commence from 2020. A full recovery was assumed to be made within five years of the initial event, returning to normal thereafter. The review estimated the total impact of a shock of this magnitude at €4.3 billion in 2017 real price terms.

Conclusion

- 13.13** The periodic actuarial review of the Social Insurance Fund is a valuable exercise that enables informed discussion about the expected long-term implications of current decision making.

14 Overpayments of age-related jobseeker's allowance

- 14.1** Jobseeker's allowance (JA) is a means-tested payment to people who are unemployed. To qualify, a person must, among other qualifying conditions, be at least 18 and under 66 years of age. JA is administered by staff of the Department of Employment Affairs and Social Protection (the Department) at its network of Intreo centres and branch offices throughout the country.
- 14.2** Since April 2009, a reduced rate of JA has been in place for persons aged 18 and 19 years. The age-related reduced rates were extended to persons aged under 25 years in 2010 and to persons aged under 26 years in 2014. The changes were given legislative effect through amendment of the Social Welfare Consolidation Act 2005 (SWCA).
- 14.3** The rates of JA applicable at end December 2017 are set out in Figure 14.1 below.

Figure 14.1 Jobseeker's allowance payment rate — end December 2017

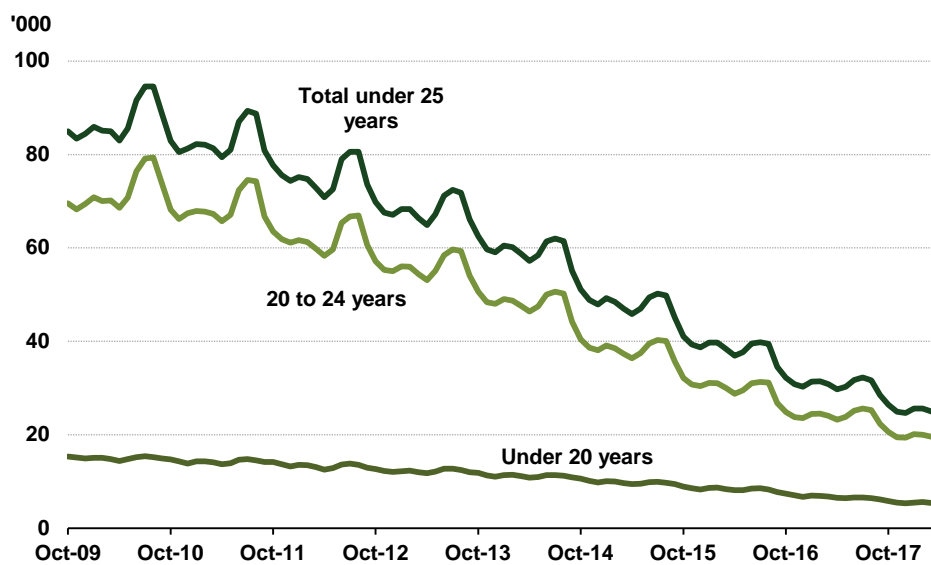
Age	Personal rate	Adult dependent rate
18 to 24	€102.70	€102.70
25	€147.80	€128.10
26 and older	€193.00	€128.10

Source: Department of Employment Affairs and Social Protection

- 14.4** Exceptions to application of the reduced rates apply where
- a claimant has a dependent child
 - a claimant is transferring directly from disability allowance to JA
 - a claimant aged 22-25 was getting a higher rate before 15 January 2014
 - a claim is linked to a previous JA claim made within the previous 12 months to which the maximum personal rate applied
 - the claimant was in the care of the HSE during the 12 months before reaching age 18¹
 - a claimant under age 26 on the age-related reduced payment takes part in a course of education, training or an employment support scheme.²
- 14.5** Data produced by the Central Statistics Office shows that the number of recipients of JA aged under 25 has fallen significantly since 2009 (see Figure 14.2).

¹ This exception only applies between the ages of 18 and 24. From the age of 25, the age-related rate applies.

² In such cases, the appropriate personal rate of payment applicable to the course or scheme will apply.

Figure 14.2 Live register under 25 years old, October 2009 to April 2018

Source: Central Statistics Office^a

Note: a The Central Statistics Office (CSO) dataset includes data on under 20 year olds, 20-24 years of age and 25-34 years of age. This chart excludes data in the 25-26 year age group as this is not identifiable from the CSO data.

Audit work

- 14.6** As part of the audit of the Department's 2017 appropriation account, a review of the JA claimload as at 3 November 2017 was undertaken. There were 30,019 claimants aged 18 to 25 in receipt of JA at that date with 24,794 (83%) on a reduced rate. The balance of 5,225 claims (17%), were in receipt of the maximum personal rate of €193 per week.
- 14.7** The audit analysed the cohort of claimants in receipt of the maximum rate to establish how they met the qualifying criteria for such payment and concluded that 4,739 were entitled to the maximum personal rate.
- 14.8** Of the remaining 486 maximum personal rate payment claims (1.6% of those under 26), the Department agreed with the audit that these claimants did not meet the qualifying conditions for payment of the maximum personal rate of JA and were being paid the incorrect amount.
- 14.9** The cost to the Department in 2017 of these excess payments is estimated at just under €1.2 million. This is based on the length of time the claim was in payment in 2017.¹

¹ The audit calculated the overpayment from 1 January 2017 or start of claim whichever was later, to end date of the claim or 31 December 2017, as appropriate.

Conclusions and recommendation

- 14.10** An estimated 1.6% of JA claims for those aged 18 to 25 were not paid at the appropriate age-related personal rates when examined by the audit. This resulted in an estimated €1.2 million in payments in excess of entitlement for 2017.
- 14.11** The controls in place to ensure that age appropriate personal rates are applied correctly were not operating effectively to prevent overpayments occurring.

Recommendation 14.1

The Department should examine the possibility of programming the rules for those under 26 in receipt of JA into the claim handling system to prevent overpayments occurring. In the interim, a greater level of quality control checking should be applied to this category of payment. Staff training should be undertaken to ensure all staff are aware of the rules and regulations.

Accounting Officer's response

Agreed.

The Department is committed to moving jobseeker's payments to the business object model implementation (BOMi), our strategic platform, as quickly as possible. This large project was scheduled for 2018 but due to budgetary and other commitments has been rescheduled to 2019. The BOMi development for jobseeker's payments will provide the decision support capacity suggested.

With immediate effect, the Department has instructed that all under 26 JA cases are to be decided by just two Deciding Officers (DOs) in each Intreo centre.

Also with immediate effect, the Department has instructed management in each Intreo centre to carry out 10% sampling of all under 26 JA claims awarded each week to ensure that the rates payable in each case are correct and in accordance with the conditions for payment of JA to that client category. In addition, the Regional Support Unit will monitor this process to confirm that checks are being carried out, that any errors are corrected and that any misunderstandings or misinterpretation of the rules are addressed.

The Department is restructuring Intreo centres along front office/back office lines. As this work progresses, the decision function in relation to under 26 JA claims will be moved to a small number of back offices. This will create a limited number of centres of expertise which should improve the accuracy of decisions and enable the more efficient and effective delivery of ongoing training in relation to this cohort of claimants.

The Department recognises that training is an integral element of the quality process. Specific training will be provided to the two nominated DOs in each Intreo centre and to the DOs in the nominated back offices as that work progresses.

15 Hepatitis C treatment in Ireland

- 15.1** Hepatitis C is a disease caused by a virus that infects the liver. In time, it can lead to cirrhosis, liver cancer and liver failure. Six major subtypes (genotypes) of the hepatitis C virus cause infection. Genotype 1 and 3 are the most common strains in Ireland.
- 15.2** Some people who get hepatitis C have it for a short time and then get better without treatment. This is called acute hepatitis C. However, it is estimated that about 75% of those infected fail to clear the virus and develop long-term, or chronic hepatitis C.¹
- 15.3** The Health Service Executive (HSE) estimates that 20,000 to 30,000 people in Ireland have hepatitis C. A small proportion of these are individuals infected through the administration of blood and blood products mostly between the 1970s and 1990s. With the introduction of screening of blood donors for hepatitis C antibodies in 1991 in Ireland, new transfusion-related hepatitis C cases have almost disappeared. At present, injecting drug use is the most common risk factor.
- 15.4** The HSE has set a target to make hepatitis C a rare disease in Ireland by 2026.
- 15.5** The cost of hepatitis C treatment is significant and varies depending on type of drugs used, the list price of the drug and length of treatment. A course of treatment can cost between €23,000 and €92,000. Advances in the drugs used to treat hepatitis C have resulted in significantly improved treatment outcomes in recent years and a reduction in side effects. Research cited in the *Public Health Plan for the Pharmaceutical Treatment of Hepatitis C, 2014* noted that treatment of hepatitis C was cost effective irrespective of the level of liver damage present.
- 15.6** This examination
- reviews the costs of compensation and treatment and patient profile for individuals infected through the administration of contaminated blood and blood products mostly between the 1970s and 1990s
 - considers available evidence in relation to the prevalence of hepatitis C in Ireland
 - assesses the strategies and plans adopted in relation to the treatment of hepatitis C
 - reviews progress in implementing the national treatment programme established in 2015.

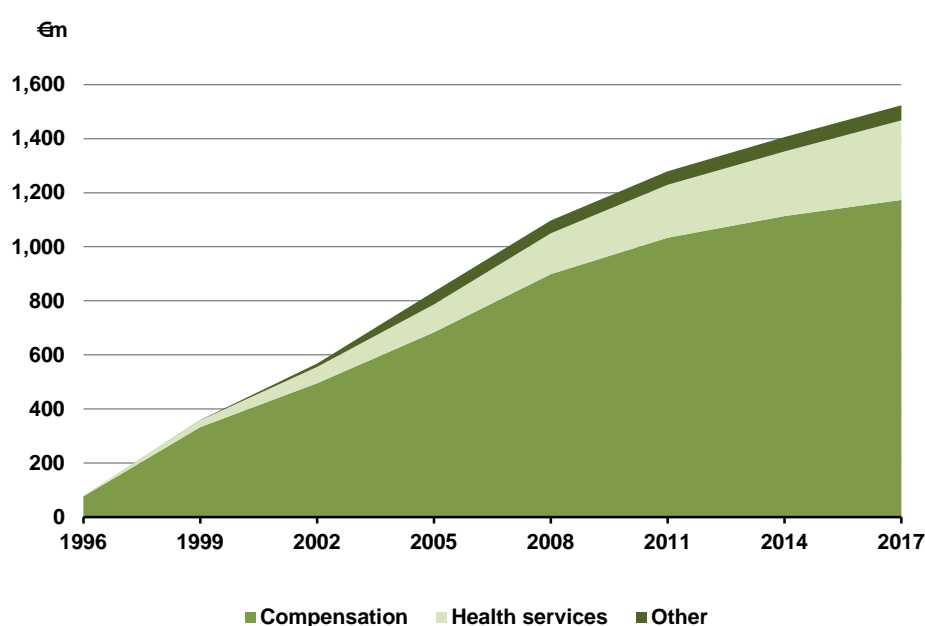
Infection through the administration of contaminated blood and blood products

- 15.7** In early 1994, it was discovered that a blood product — anti-D immunoglobulin — contaminated with hepatitis C had been administered to women in the State between 1977 and 1979 and between 1991 and 1994. Additionally, a number of people were also infected through other contaminated blood products, blood transfusions and treatments. In February 1994, the Irish Blood Transfusion Service instituted a national hepatitis C screening programme for all women who had received anti-D between 1970 and 1994.

¹ *Public Health Plan for the Pharmaceutical Treatment of Hepatitis C*, December 2014.

- 15.8** It is estimated that around 1,700 people were infected with the hepatitis C virus through the administration of contaminated blood and blood products in Ireland. A number of schemes, the majority of which had a legislative basis, were implemented to provide supports for persons infected through contaminated blood and blood products.¹
- 15.9** Schemes put in place to compensate and support State-agency infected hepatitis C sufferers were extended in 2002 to support HIV positive persons similarly infected.
- 15.10** Expenditure incurred in relation to compensation and other health services provided to individuals infected through the administration of contaminated blood and blood products is recorded in a number of different accounts including the Department of Health Appropriation Account, the HSE financial statements and special accounts set up to administer compensation and insurance schemes. As a result, the total costs incurred in this regard are difficult to identify.
- 15.11** Figure 15.1 shows that up to end 2017, expenditure of around €1.5 billion has been incurred, which mostly relates to compensation and health services. A breakdown of these costs is included at Annex 15A.

Figure 15.1 Cumulative costs incurred in relation to infection through administration of contaminated blood and blood products, 1996 to 2017



Source: HSE Financial Statements; HSE Appropriation Accounts 2005 to 2014; Health Appropriation Accounts 1995 to 2017; (Annex 15A).

Compensation

- 15.12** A large proportion of the costs incurred relate to compensation and associated costs. Legislation was enacted in 1997 and 2002 to provide for compensation of persons infected through contaminated blood and blood products. Total expenditure of €1.17 billion including compensation and associated legal costs was incurred since the establishment of the schemes.

¹ Appropriation Act 1995, Hepatitis C Compensation Tribunal Act 1997, Health (Amendment) Act 1996, Hepatitis C Compensation Tribunal (Amendment) Act 2002 and Hepatitis C Compensation Tribunal (Amendment) Act 2006.

- 15.13** The highest level of annual expenditure was incurred in 1998 when the costs of compensation and associated legal costs totalled €132 million. Between 1999 and 2009, annual expenditure was between €50 million and €70 million. Annual expenditure has been decreasing since then and was between €18 million and €21 million between 2015 and 2017.

Health services

- 15.14** The majority of the remaining expenditure related to hospital and primary care services provided without charge. Expenditure of around €295 million was incurred by the HSE (and its predecessor health boards) during the period between 1996 and the end of 2017 in this regard. Since 2000, the average spend has been between €10 million and €20 million per annum.

Other costs

- 15.15** An insurance scheme was set up under the Hepatitis C Compensation Tribunal (Amendment) Act 2006. The scheme enables people with State acquired hepatitis C and/or HIV to take out life assurance, mortgage protection cover and travel insurance at standard rates. Since the inception of the scheme, expenditure of approximately €9 million has been incurred. The HSE initially expected to incur expenditure of about €90 million over the life of the scheme. However, the HSE noted that it does not have a current estimate of future expenditure to be incurred on the scheme.
- 15.16** Expenditure of €47 million was also incurred in relation to formal enquiries into infection through contaminated blood and blood products.

Hepatitis C patient profile

- 15.17** A national hepatitis C database was established in 2004 to collect data in relation to people infected with hepatitis C through contaminated blood and blood products. The database was established and is maintained by the Health Protection Surveillance Centre (HPSC) which is part of the HSE. It examines the progression of infection, evaluates the outcomes of treatment and also provides information for planning of services.
- 15.18** With regard to the cohort who were infected through the receipt of contaminated blood and blood products, patients must give consent to have their information recorded on the database.¹ Information is collected from the participants' health records in the eight participating hepatology units. Of the 1,700 people estimated as infected with the hepatitis C virus, the database at end 2013, included information in relation to 1,320 people representing a participation rate of 78%.
- 15.19** Data collected during the period 2010-2013 shows that, of the database participants in the period, 813 (62%) became chronically infected.² Figure 15.2 profiles the status (at end 2013) of those patients chronically infected.

¹ Infected patients who are deceased can be entered into the database without consent provided these patients did not refuse consent when alive.

² *National Hepatitis C Database for infection through blood and blood products, Annual Report 2015*. The report includes data on database participants up to the end of 2013.

Figure 15.2 Profile of patients on hepatitis C database as at end 2013

	Chronically infected	Status	
		Alive	Deceased
Spontaneous resolution	27	23	4
Treated with successful outcome	224	215	9
Treated and outcome not successful	166	111	55
Not treated	396	279	117
Total	813	628	185

Source: *National hepatitis C database for infection acquired through blood and blood products in Ireland, 2015 Report*

15.20 The data collected between 2010 and 2013 shows that at end 2013

- just over half of those with chronic infection received treatment or had a spontaneous resolution and of those that received treatment, the outcome was successful in 57% of cases¹
- 390 surviving participants were chronically infected and had not been successfully treated; of these 91 had clinical signs of severe liver disease
- 185 participants who had been chronically infected were deceased, with death from liver disease recorded in 73 cases
- among participants that had developed chronic infection, 23% had died compared to 8% among those that had not become chronically infected.

15.21 The HSE has pointed out that the report is not up to date, and does not take account of the substantial progress made in the treatment of hepatitis C since 2013. It noted that a further round of data collection has been conducted which includes data up to end 2017. A report is due to be published before the end of 2018.

15.22 In December 2016, the Department of Health set a target that all patients infected through receipt of contaminated blood and blood products identified as being suitable for treatment would have been offered and/or commenced on treatment by end 2017. The HSE stated it achieved this target and reported a 98% cure rate for those patients who opted to accept treatment.

Hepatitis C prevalence

15.23 The HSE's departments of public health play a key role in the process of surveillance of hepatitis C through notifications of hepatitis C to the Medical Officer of Health. There are eight departments of public health covering the Republic of Ireland.

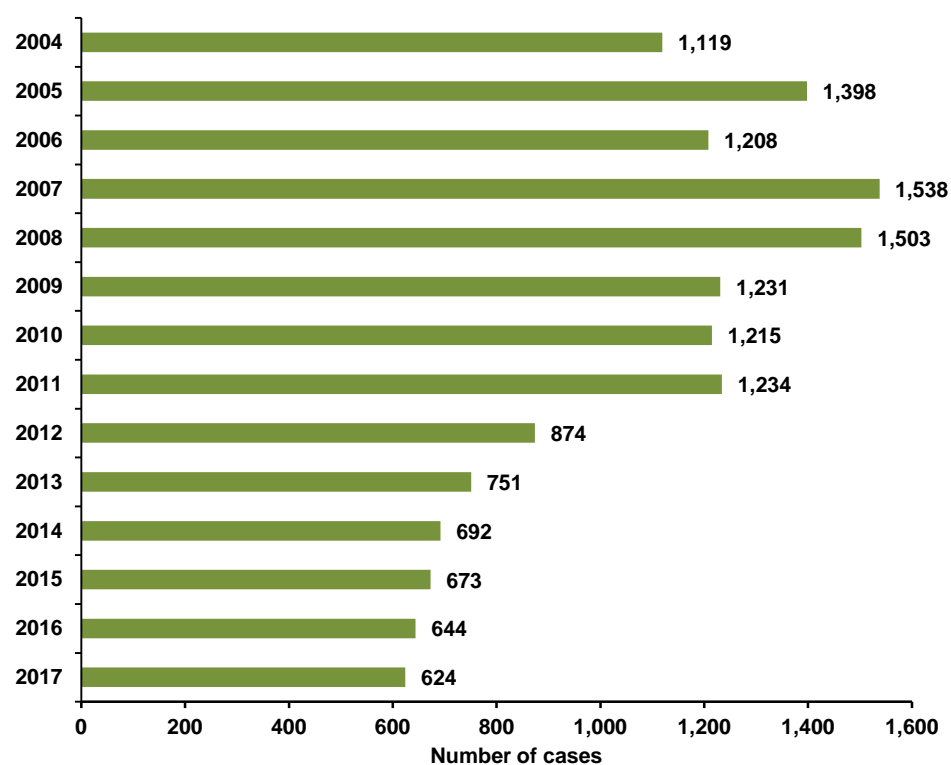
15.24 A database was set up to record details of all notifications of hepatitis C when it became a notifiable disease in 2004. All new notifications of hepatitis C (regardless of route of infection and whether clinical or laboratory diagnosed) are notifiable under the Infectious Diseases Regulations since 2004. All medical practitioners, including clinical directors of diagnostic laboratories, are required to notify the local Director of Public Health of notifiable infectious diseases. A basic dataset of information is requested on all notifiable diseases.² In relation to hepatitis C, additional information relating to risk factors for acquisition of hepatitis C, and details of laboratory test results is requested on notified cases.

¹ Spontaneous resolution refers to a situations where a patient tested positive for the hepatitis C virus but tested negative at a later stage without having undergone treatment.

² This includes name, address, date of birth, age, sex, country of birth, country of infection, phone number, occupation, details of the disease being notified and notifier details.

- 15.25** Between 2004 and 2017, the total number of hepatitis C cases notified was 14,704 (see Figure 15.3). The number of cases notified peaked in 2007 when 1,538 cases were notified but have continued to drop since then and in 2017, 624 cases were notified.

Figure 15.3 Hepatitis C cases notified, 2004 to 2017



Source: Health Service Executive — Health Protection Surveillance Centre

- 15.26** The HSE estimates that between 20,000 and 30,000 people are infected with hepatitis C. This estimate is based on a number of reports as follows

- A 2012 report¹ noted that about 10,000 individuals had been diagnosed with the virus and were living with chronic infection at the end of 2009. Another report² in 2017 noted that the extent of under diagnosis in Ireland was unknown but that assuming levels of between 50% and 67% would suggest that between 20,000 and 30,000 individuals were infected.
- A modelling study³ in hepatitis C prevalence in 2015 carried out for 28 EU countries estimated the number infected with the hepatitis C virus in Ireland at 29,500.

- 15.27** The HSE's estimate of hepatitis C prevalence suggests a significant number of undiagnosed cases. This is in line with estimates of the level of undiagnosed cases in the UK which puts the level of undiagnosed cases at 50%.⁴ However, the absence of a general screening programme means that the true prevalence rate is unknown. Most studies undertaken to date have sought only to calculate the prevalence within specific risk groups.

- 15.28** The HSE noted that it uses clinically peer reviewed international publications and studies in monitoring hepatitis C prevalence, in addition to data from the HPSC database relating to hepatitis C notifications. It noted also that it continues to monitor developments in relation to research in this area in order to obtain more precise information in relation to overall hepatitis C prevalence in Ireland.

1 Thornton et al. *Determination of the burden of hepatitis C virus infection in Ireland*. Epidemiology and Infection, (2012).

2 Carew et al *Incidence of hepatitis C among people who inject drugs in Ireland*. Hepatology, Medicine and Policy (2017).

3 Razavi et al. *Hepatitis C virus prevalence and level of intervention required to achieve the WHO targets for elimination in the European Union by 2030: a modelling study*. Lancet Gastroenterol Hepatol 2017 published Online March 14, 2017.

4 Public Health in England, *Hepatitis C in the UK, 2017* report.

- 15.29** With regard to reducing under-diagnosis, the HSE in collaboration with the Department of Health published the *National Screening Guideline for Hepatitis C* in 2017. The guidelines acknowledged that while screening for hepatitis C had been ongoing in many settings, national guidance for healthcare providers had not been developed. The screening guideline makes recommendations on who should be offered screening for hepatitis C virus (HCV) infection and how screening should be undertaken. The HSE noted that the implementation of these guidelines will be critical in identifying cases of hepatitis C not previously screened. It also stated that considerable uncertainty remains regarding the degree of under-diagnosis of hepatitis C in Ireland.

Treatment strategies and plans

- 15.30** Since 2004, there have been a number of initiatives to develop and implement strategies to treat hepatitis C as set out in Figure 15.4.

Figure 15.4 Hepatitis C strategy and plan development timeline, 2004 to 2017



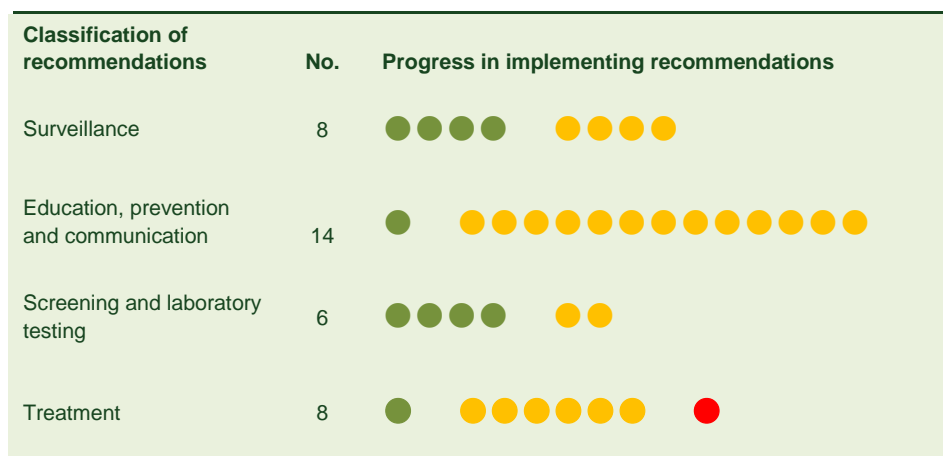
Source: Office of the Comptroller and Auditor General

- 15.31** A strategy document produced by the then Eastern Regional Health Authority in 2004 set out recommendations to enhance prevention, treatment and surveillance of hepatitis C among infected people in the eastern region.¹ The report was never published and an implementation plan was not developed.

National hepatitis C strategy 2011 — 2014

- 15.32** In September 2012, the HSE published a national hepatitis C strategy covering the period 2011–2014. The strategy noted that as part of their range of statutory entitlements under the terms of the Health (Amendment) Act 1996, comprehensive strategies had been put in place for patients who acquired hepatitis C through contaminated blood and blood products. The needs of those who acquired hepatitis C through other means had not been addressed.
- 15.33** The strategy made 36 recommendations covering areas of surveillance, education prevention and communication, screening, treatment and laboratory testing. The majority of the recommendations were to be implemented over the life of the strategy. The strategy did not set target outputs in terms of overall treatment numbers or expected outcomes stated in terms of reduction in prevalence of hepatitis C. The status of these recommendations at December 2017 is outlined in Figure 15.5.

¹ The Eastern Regional Health Authority was subsumed into the Health Service Executive upon establishment in 2005.

Figure 15.5 Status of recommendations included in 2011–2014 national hepatitis C strategy

Source: Health Service Executive

Key:

- Implemented
- Partially implemented
- Not implemented

- 15.34** Of the 36 recommendations outlined in the strategy, the HSE confirmed that ten have been fully implemented, 25 partially implemented and one has not been implemented. The recommendation where no implementation action had been taken relates to the establishment of a postgraduate diploma in hepatitis C management for physicians and nursing staff. The HSE stated that this is no longer deemed necessary. Detail in relation to the status of the individual recommendations is included at Annex 15B.
- 15.35** Surveillance relates to information about the number and demographics of persons infected, the modes of acquisition of infection and trends in the incidence and prevalence of infection and risk factors. While the strategy recommended the development of a national register of patients with hepatitis C, this has not been progressed.
- 15.36** A number of databases exist that include information in relation to patients infected with hepatitis C
- As outlined in paragraph 15.17, the national hepatitis C database was established in 2004 to collect data in relation to people infected with hepatitis C through contaminated blood and blood products.
 - As outlined in paragraph 15.25, a database managed by the HPSC records details of all notified cases of hepatitis C since 2004. This database does not account for the treatment status of patients. 14,704 cases had been notified by end 2017.
- 15.37** The HSE noted that it has also developed a treatment registry as part of the national hepatitis C treatment programme. This registry managed by the National Centre for Pharmacoeconomics (NCPE) on behalf of the HSE records data in relation to treated patients, patients that are undergoing treatment and patients awaiting treatment.
- 15.38** Information is collated from the treatment sites and recorded on a treatment registry. The registry records anonymised patient details using patient initials and date of birth. The treatment sites provide information in relation to a patient's progression through treatment including the type of regimen used, duration of treatment and the outcome. At 31 December 2017, just over 3,600 patients were recorded on the treatment registry.

- 15.39** The patient data contained on the treatment registry is not shared or matched against patient data maintained by the national hepatitis C database of patients infected through blood and blood products or the national register of hepatitis C cases notified under infectious diseases legislation, both of which are managed and operated by the HPSC. As a result, it is not possible to use the information available from the registry to estimate how many of the patients included in the national hepatitis C notifiable disease database have undergone treatment.
- 15.40** The HSE also stated that it has sought to link the records of the treatment registry with those of the notifications database also operated by the HPSC in order to establish an overall national register of patients with hepatitis C. However, obstacles such as gaining retrospective patient consent and restrictions surrounding data protection make this challenging.
- 15.41** The HSE outlined that the national hepatitis C treatment programme has been working through the Office of the Chief Information Officer and the HSE ICT Division in developing a sustainable electronic platform to further enhance the capabilities and efficiency of the existing registry.
- 15.42** In relation to treatment, the strategy did not set targets in terms of numbers to be treated or reductions in hepatitis C prevalence over the life of the strategy. The strategy recommended the development of an expert group to provide guidance on clinical issues and the development of protocols for testing, diagnosis, evaluation, referral for treatment, monitoring of treatment and monitoring of patients not on treatment. Many of these recommendations were implemented as part of the national treatment programme established in 2015.
- 15.43** The HSE noted that the *National Hepatitis C Strategy 2011–2014* was developed during a period where numbers of patients accessing treatment was low and it was estimated that between 20,000 — 50,000 people were infected. Targets were not set as a national approach to treatment, guidelines and a treatment programme had not been developed.
- 15.44** Recommendations in relation to the provision of treatment in community and prison settings are being progressed over the period 2017 to 2019. The HSE have responsibility or partial responsibility with other entities for implementing 24 of the 36 recommendations. The remaining recommendations are the responsibility of various bodies including the Department of Health, the Irish Prison Service and the Health Information and Quality Authority.
- 15.45** A steering group from the social inclusion division of the HSE oversees and monitors the implementation of the recommendations. The group meets bi-annually to review strategy progress. The HSE stated that recommendations included in the 2011–2014 strategy have not been implemented in some cases due to a lack of resources and a clear implementation plan. Also in some cases, recommendations have now been superseded by more current strategies. It was also noted that the implementation of the recommendations is an ongoing process.

Public health plan for pharmaceutical treatment of hepatitis C

- 15.46** In 2014, the Department of Health published a report titled *Public Health Plan for the Pharmaceutical Treatment of Hepatitis C*. This report tasked the HSE with establishing a national hepatitis C treatment programme, which commenced in 2015.
- 15.47** Taking account of the cost of treatment and the (estimated) size of the population to be treated, the plan recommended a multi-annual treatment programme so that the cost could be spread over a number of years. It also recommended clinical prioritisation to ensure patients at greatest clinical risk, in particular those patients with a risk of death or irreversible damage within the next 12 months, would be treated within a managed budget. It recognised that such a treatment approach would require strong governance and management structures and robust clinical leadership and participation.

Programme Advisory Group — ten year high level plan 2016

- 15.48** In 2016, the National Hepatitis C Treatment Programme Advisory Group established a high level ten-year plan for the future of the Programme. In addition to the provision of treatment based on clinical need and expansion of clinical treatment criteria, the plan set the following targets
- 2016-2017 — establish required governance structures, develop a strategic plan, work collaboratively with all hepatitis C initiatives nationally to improve surveillance, education, and pathways to care and monitor developments in therapeutic treatments for hepatitis C.
 - 2017-2019 — devise strategies for the continued identification of patients and explore the feasibility of developing shared models of care across community and acute hospital settings.
 - 2019-2025 — provision of treatment to patients with hepatitis C across community and acute hospital settings.
 - 2026 onwards — the aim was to progress towards making hepatitis C a rare disease in Ireland.
- 15.49** The governance structures specified in the plan were put in place in March 2016. These included the appointment of a programme manager and a clinical lead. In 2017, a pilot programme in HSE addiction services commenced with the aim of extending treatment to community and acute settings. Following evaluation of this pilot, it is planned to expand treatments to other drug treatment centres and examine the feasibility of providing treatment in other settings including prisons and community pharmacy settings.

Progress in delivering treatment and related cost

- 15.50** A database recording information on the numbers of patients treated was first established by a group of clinicians in 2012. Following the establishment of the hepatitis C treatment programme in 2015, the existing registry was developed to record patient information and outcomes with a view to monitoring the effectiveness of drug regimens and the treatment programme.
- 15.51** The HSE stated that complete and accurate data in relation to the numbers of patients treated, the drug regimens used, the costs of treatment and outcome for the years 2004 to 2014 was not readily available due to the absence of a comprehensive treatment registry for those years. The HSE noted that collation of this information would require a trawl of all patient files in individual hospitals. For the purpose of this examination, the HSE sought information from hospitals providing treatment for hepatitis C for those years.
- 15.52** While the HSE noted that the data is incomplete, based on its best estimates, about 147 patients were treated each year. 86% completed treatment and a successful outcome was achieved in 69% of cases. The HSE does not have complete information in relation to the costs of treatment over the period.

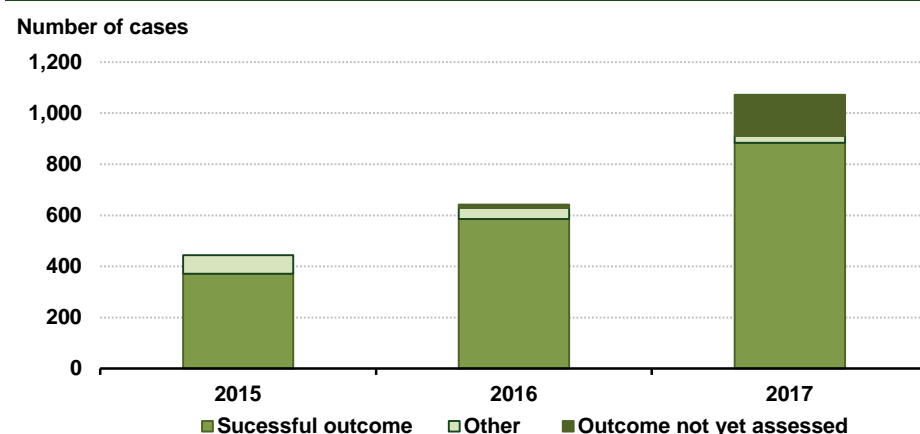
National hepatitis C treatment programme

- 15.53** The ultimate aim of the national hepatitis C treatment programme which commenced in 2015 is to provide treatment across a range of healthcare settings to all persons living with hepatitis C in Ireland. In 2015, the Department of Health allocated €30 million for the treatment of hepatitis C to enable the treatment of approximately 300 people. The Department of Health has continued to allocate this amount each year since 2015 for the programme on the basis that improved commercial terms would be negotiated with drug suppliers so as to expand the numbers treated within the allocation.
- 15.54** The Department of Health engages regularly with the programme manager of the national hepatitis C treatment programme, with regular performance reports being provided detailing the expenditure and progress to date.
- 15.55** Available information is analysed in relation to the numbers of patients requiring treatment, the treatments available and the treatment outcomes. Based on that analysis the HSE enters into negotiations with drug companies and agrees contracts for the purchase of drugs. The Primary Care Reimbursement Service (PCRS) reimburses the treatment centre for the full cost of the drug purchased and claims any rebate that is available from the drug company. Prior to 2018, many of the agreements reached with the drug companies involved rebates where certain volumes are purchased.
- 15.56** There are eight main treatment centres across Ireland. Patients are tested at these centres and if infected with hepatitis C, the diagnosis is notified to the Medical Officer of Health in Departments of Public Health and the national database under the Infectious Diseases Regulations. The treatment centre selects suitable patients for treatment, purchases the drug directly from the drug company under the contract, delivers the treatment programme and seeks reimbursement of drug costs from PCRS.

Treatment outcomes

- 15.57** The total number of patients treated in the period 2015 to 2017 and the treatment outcome is set out below in Figure 15.6.

Figure 15.6 Outcomes of treatments provided, 2015 to 2017



Source: Health Service Executive, National Hepatitis C Treatment Registry

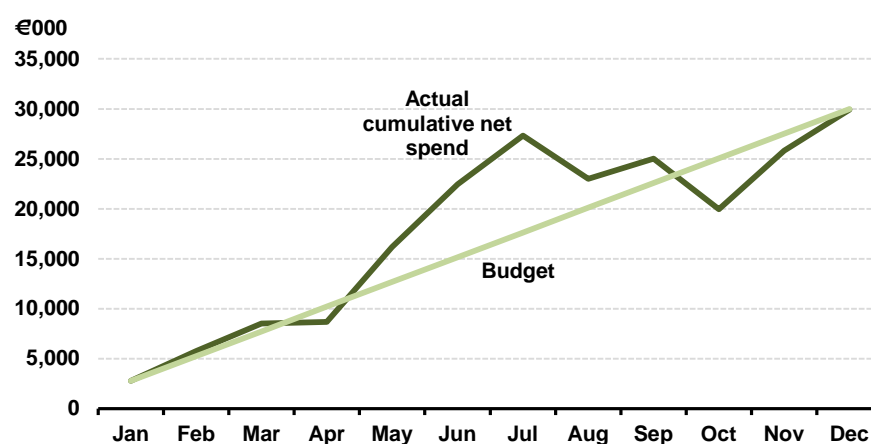
- 15.58** The outcome of treatment is measured twelve weeks after the end of treatment. Over the period 2015 to 2017, a total of 2,133 patients have completed treatment (1,061 patients in 2017) and information in relation to treatment outcome is available for around 90% of these patients. This shows that the treatment was successful in clearing the virus in around 94% of cases. The HSE has stated that since 2017, this rate is now between 95% and 100%.

Spend in 2017

- 15.59** The Department of Health allocated the hepatitis C treatment programme a net budget of €30 million for 2017 and specified that
- the sickest patients should be treated first
 - all State-infected patients should be offered and/or commenced treatment by end 2017.
- 15.60** The budget allocation did not set out the expected numbers to be treated. Around 97% of the budget covers expenditure on drugs and medicines with 3% being used to meet costs associated with the maintenance of the national hepatitis C register and staff costs associated with administering the service at the various treatment centres.
- 15.61** In September 2016, the HSE set about estimating the number of patients that could commence treatment in 2017 within the budget available. To that end, information was sought from each treatment centre on the number of patients identified as ready and likely to complete treatment.

- 15.62** On this basis, the HSE estimated that around 1,600 patients could commence treatment over the 14 month period 1 November 2016 to end December 2017. Information obtained from the treatment centres also showed that the ratio of patients identified as ready for treatment was in the order of 3:1 in respect of genotype 1: genotype 3.¹
- 15.63** In October 2016, the HSE entered into negotiations to secure more favourable terms with drug suppliers. Price reductions on the list price of the drugs were negotiated based on the purchase of specified volumes of particular drug types and the length of treatment.² The national hepatitis C treatment programme selected a preferred drug type for the treatment of each genotype based on what offered best value.
- 15.64** The price reductions were provided in the form of rebates following the purchase of the drugs at list price. The agreements, signed in November 2016, covering the period November 2016 to December 2017, provided for the purchase of 1,200 genotype 1 treatments and 400 genotype 3 treatments (i.e. a ratio of 3:1). The implied average treatment cost was €22,405.
- 15.65** The HSE also developed treatment guidelines which specified that the sickest patients who were ready for treatment would be provided with treatment in the first instance. In early 2017, treatment parameters were expanded by the treatment programme advisory group, and the treatment centres were advised to select patients based on readiness for treatment, in addition to considering patients on the basis of clinical need as per the HSE's national treatment guidelines.
- 15.66** The programme spend was managed by reference to the cumulative net spend — expenditure incurred in purchasing drugs and rebates received from drug suppliers. The cumulative net spend for a given month may not fully reflect the value of rebates due from suppliers (not yet received) in relation to drugs purchased.
- 15.67** Total net spend in 2017 was just over €29.9 million. Around 1,072 patients commenced treatment in 2017, at an average net cost of €27,911.³ Figure 15.7 shows the cumulative net spend of the programme compared to the cumulative net budget allocation during 2017. At July 2017, the cumulative net spend of the programme stood at €27.3 million. This led to the temporary suspension of the programme by the HSE.

Figure 15.7 Cumulative net spend and net budget allocation for 2017



Source: Health Service Executive performance reports

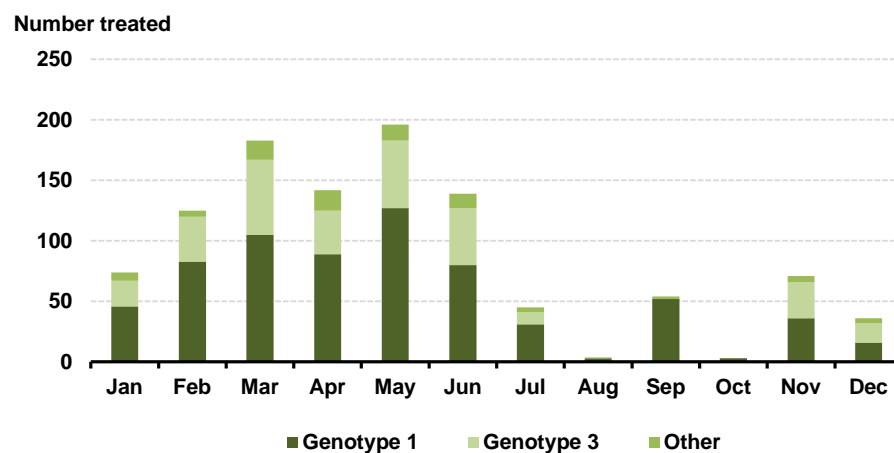
1 The most common genotypes of the hepatitis C virus in Ireland are genotype 1 and genotype 3.

2 Each treatment can range from eight weeks to 24 weeks.

3 Total cost incurred on the programme in a given year may reflect costs for patients where the drugs were purchased in the year preceding the year treatment commences.

- 15.68** Recovery of rebates between July and October provided scope for treatment to resume after the summer, as indicated in Figure 15.8.

Figure 15.8 Numbers that commenced treatment by genotype in 2017

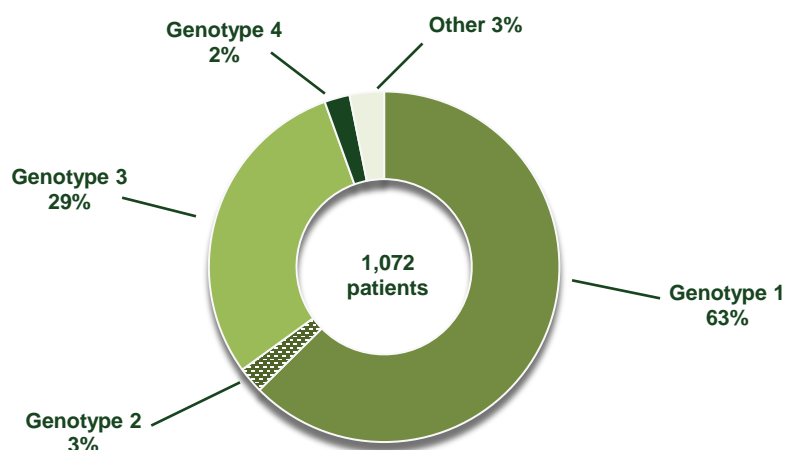


Source: Health Service Executive National Hepatitis C Treatment Registry

Notes: a Other includes genotype 2, genotype 4, genotype 6, mixed genotype and unknown genotype.

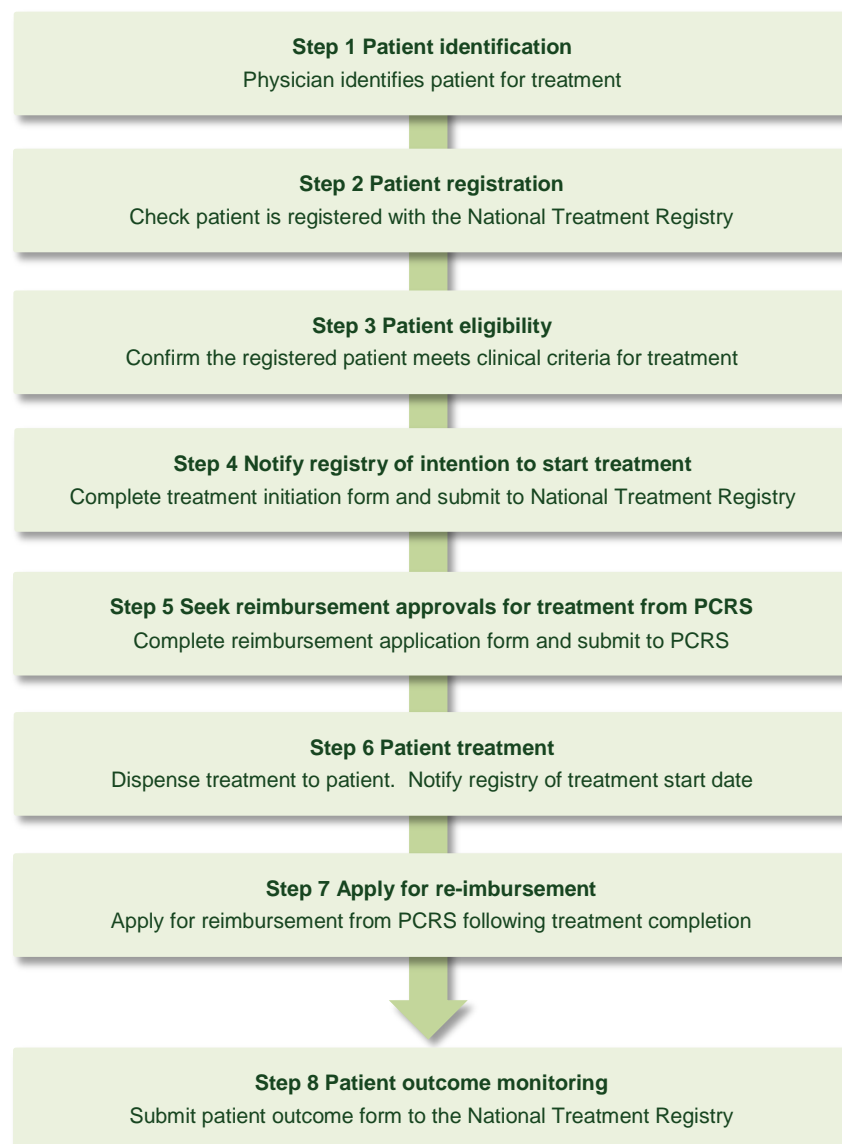
- 15.69** Over the course of 2017, the programme treated almost 300 less than they had targeted, at an average cost of around 25% more per patient. As shown in Figure 15.9, of the patients that commenced treatment in 2017, 671 patients or 63% were genotype 1 and 316 patients or 29% were genotype 3 (a ratio of 2.1:1). 8% of those treated were other genotypes.

Figure 15.9 Number of patients that commenced treatment in 2017 by genotype



Source: Health Service Executive National Hepatitis C Treatment Registry

Notes: a Other includes genotype 6 (two patients), mixed genotypes (nine patients) and unknown genotypes (23 patients).

Figure 15.10 National treatment registry process

Source: Health Service Executive, National Hepatitis C Treatment Programme

- 15.70** All patients selected for treatment must be registered on the National Treatment Registry (Figure 15.10). Prior to a patient commencing treatment, each site is required to complete a treatment initiation form and submit this to the National Treatment Registry. Approval for reimbursement is also required from PCRS prior to treatment commencing.
- 15.71** This information is required on a regular basis as it assists the programme in monitoring the budget spend and ensuring that the budget at all times supports the number of patients selected for treatment. However, in relation to the early part of 2017, the HSE noted that these controls did not operate as intended because a number of treatment centres did not notify the national treatment registry that a patient had commenced treatment and/or had commenced patients' treatment prior to receiving reimbursement approval from PCRS.

- 15.72** As a result, the programme only became aware of the actual numbers being treated and the total costs once claims were submitted by the treatment centres to PCRS for reimbursement. This first became evident around April 2017 when the claims submitted by the treatment centres showed that, if the treatment commencement rate between January and April 2017 continued, the available budget would be fully utilised by October 2017.
- 15.73** By June 2017, the claims being submitted by the treatment sites showed a significant increase in numbers commencing treatment. In addition, the claims were also showing that the expected drug regimen had not been prescribed in all cases for clinical reasons. In particular, a number of genotype 1 patients had been prescribed alternative drug regimens at approximately twice the average price of the preferred drug regimen.
- 15.74** By end July 2017, when the HSE had planned to have utilised around 60% of the net budget available, the majority of the net budget available had been used. The programme was suspended to allow the HSE to determine how many patients the remaining budget could support to commence treatment to end 2017.
- 15.75** In September 2017, treatment centres were advised that they could recommence treatment but could only select patients for treatment in instances where the preferred regimen was being used to treat genotype 1.
- 15.76** The HSE stated that this decision was taken in order to support clinicians in having access to some treatment until such time as an updated financial position was available. In October 2017, treatment centres were advised that they could select patients for treatment based on those in most critical need such as those with chronic liver disease.¹ These measures continued through to the end of 2017 to ensure that the programme operated within budget for the year.

Future treatment of hepatitis C

- 15.77** The HSE has stated that the cost of drugs may no longer be the limiting factor in the treatment of hepatitis C. The cost of drugs to treat hepatitis C has reduced significantly since the national treatment programme commenced in 2015 and recent procurement exercises have enabled the HSE to significantly increase the number of patients to whom it can provide treatment.
- 15.78** However, factors such as a defined number of treatment sites currently providing treatment to patients mostly within the hospital setting may be the main limitation until such time as further treatment sites are identified and established.
- 15.79** The HSE established two new treatment sites on a pilot basis within the addiction service in 2017 and a third site in 2018. The HSE stated that further sites are planned in 2018 and this will enable an enhancement of treatment capacity beyond the volume that can be commenced within the confines of the hospital setting. This extension of treatment to the community also supports the programme's aim of integrating hepatitis C treatment across all healthcare settings.
- 15.80** Targets have as yet not been developed regarding annual treatment numbers up to 2026. Instead, the national hepatitis C treatment programme has been encouraging treatment sites to provide treatment to as many patients as possible.

¹ Chronic liver disease was based on Childs Pugh Score of A, B or C.

- 15.81** The annual budget is set to remain at €30 million. The cost of drug treatments has continued to fall with the average treatment cost per patient in 2018 expected to be less than €15,000.

Conclusions and recommendations

- 15.82** A number of schemes and supports were put in place for the 1,700 people infected with the hepatitis C virus through the administration of blood and other products in Ireland mostly between the 1970s and 1990s. To date, expenditure of just over €1.5 billion has been incurred in this regard. Over three quarters of the costs incurred relate to compensation and associated costs including legal and administration costs. The majority of the remaining expenditure was incurred in relation to hospital and primary care services provided to these patients without charge.
- 15.83** The HSE noted that significant progress has been made in providing treatment for hepatitis C as a result of the development of a national treatment programme in 2015 and that all those infected by blood and blood products had been offered treatment by end 2017. Since 2017, about 98% of patients who opted to accept treatment had a successful outcome.
- 15.84** Hepatitis C became a notifiable disease in 2004, and 14,704 cases had been notified by end 2017. Taking account of likely undiagnosed cases, the HSE estimates that between 20,000 and 30,000 people in Ireland are infected with the hepatitis C virus.
- 15.85** A strategy published in 2012 recommended the development of a national register of persons infected with hepatitis C. This has not been progressed due to consent and data protection issues. A treatment registry recording details of patients undergoing treatment has been developed and it currently records details in relation to just over 3,600 patients.

Recommendation 15.1

The HSE should progress the development of a national database of patients infected with hepatitis C which is linked to the treatment registry. This would provide useful information in relation to planning a national treatment programme.

HSE Director General's response

Agreed.

It is agreed that the principle and concept of sharing this data and linking both information databases would greatly assist in planning a national treatment programme. However, there are a number of considerations relating to patient consent, legislation and data protection that require resolution prior to linking registries.

- 15.86** There have been a number of plans and strategies dating back to 2004 in relation to tackling hepatitis C in Ireland. A national hepatitis C treatment programme was established in 2015. An overall target was adopted to make hepatitis C a rare disease in Ireland by 2026, but targets for the number of treatments to be delivered per annum were not set.
- 15.87** Many of the key governance structures including the appointment of a programme manager and a clinical advisory group did not occur until March 2016. Reliable data is not available in relation to the numbers of patients treated between 2004 and 2014. However, between 2015 and 2017, a total of 2,133 patients completed treatment.

- 15.88** Given the limited budget available and the variable cost of treatment, the HSE needs to review the numbers that would require treatment each year and the associated budget if the target of making hepatitis C a rare disease by 2026 is to be achieved.

Recommendation 15.2

The HSE should develop a treatment plan which sets out the required number of treatments each year in order to achieve the overall target of making hepatitis C a rare disease by 2026. The plan should define the monitoring and reporting arrangements, the information required for monitoring progress and achievement and escalation routes for managing exceptions.

HSE Director General's response:

Agreed.

It is acknowledged that whilst the cost of the drugs will be a factor in developing a treatment plan, identifying undiagnosed cases, providing treatment in other settings and implementing screening guidelines will be critical components of achieving a status of hepatitis C being a rare disease in Ireland by 2026.

Because of the parallel strategies required in order to achieve the programmes aims of making hepatitis C a rare disease in Ireland by 2026 — resources need to be deployed into areas such as screening, testing, providing treatment, access and integration of treatment in community settings. Additionally the national hepatitis C programme is currently scoping the feasibility of appropriate modelling methods to guide treatment planning.

- 15.89** Total net spend on the hepatitis C treatment programme was around €30 million in 2017 with 1,072 patients commencing treatment at an average net cost of around €28,000. The outturn was significantly different from what was planned.

Recommendation 15.3

The HSE should ensure that there are effective systems and procedures in place for managing the programme budget that includes regular reporting between the treatment centres and the hepatitis C programme on the numbers commencing treatment in order to ensure that the budget available at all times can support the number of patients selected for treatment.

HSE Director General's response

Agreed.

With the advent of pan-genotypic drugs in 2017/2018, the cost of treating a patient with hepatitis C infection is broadly consistent regardless of genotype — this had been a limiting factor in previous years where depending on the patients' genotype this may have resulted in a significant cost differential. The national hepatitis C treatment programme routinely monitors the planned volume of patients to be commenced on a monthly basis at each treatment site in addition to reviewing numbers of patients already commenced each month. The programme also monitors the numbers of patients pending treatment at each treatment site and regularly reviews data to establish where patients registered for treatment have not commenced.

Annex 15A Costs incurred in relation to infection through administration of contaminated blood and blood products



Year	Hepatitis C Compensation Tribunal Act 1997 ^a			Health Services	Tribunal of Inquiry ^b	Total
	S.10	S.11	S.4			
	€m	€m	€m	€m	€m	€m
1995	76.2 ^c	—	—	—	—	76.2
1996	—	—	—	2.8	—	2.8
1997	34.3	19.0	—	5.9	—	59.2
1998	113.0	19.0	—	8.3	—	140.3
1999	59.7	11.4	—	8.4	1.0	80.5
2000	47.6	7.0	—	10.3	4.6	69.5
2001	49.5	7.6	—	11.6	5.7	74.4
2002	44.3	6.4	—	13.0	1.2	64.9
2003	46.6	8.3	—	13.8	9.9	78.6
2004	53.0	8.5	—	14.2	17.8	93.5
2005	63.5	8.5	—	14.8	7.0	93.8
2006	64.3	11.3	—	16.8	—	92.4
2007	54.9	9.0	—	16.0	— ^d	79.9
2008	64.3	11.4	0.2	15.3	—	91.2
2009	49.0	5.2	0.4	15.0	—	69.6
2010	42.0	6.4	0.9	15.2	—	64.5
2011	28.6	3.6	1.3	14.5	—	48.0
2012	25.3	3.3	0.7	14.2	—	43.5
2013	21.2	3.0	0.9	14.9	—	40.0
2014	24.0	3.2	1.7	14.2	—	43.1
2015	17.8	2.9	—	19.6	—	40.3
2016	18.4	3.0	1.7	17.8	—	40.9
2017	15.3	2.4	0.8	17.9	—	36.4
Total	1,012.8	160.4	8.6	294.5	47.2	1,523.5

Source: Health Service Executive Financial Statements; Health Service Executive Appropriation Accounts 2005 to 2014; Health Appropriation Accounts 1995 to 2017.

- Notes:
- a Sections 10 and 11 of the Act provide for pay awards made by the Tribunal to infected persons. Section 4 provides for financial support for insurance costs of infected persons.
 - b Tribunal of Inquiry into the Infection with HIV and Hepatitis C of Persons with Haemophilia and Related Matters
 - c Payment to the Special Account established under Section 3 of the Appropriation Act 1995 pending the establishment of the schemes on a statutory footing.
 - d Expenditure of €28,000 in 2007.

Annex 15B Status of recommendations included in 2011-2014 national hepatitis C strategy

Recommendation	Responsibility	Implementation	Summary status at end December 2017
Surveillance			
1 All laboratory requests for hepatitis C serology must contain full patient identifiers and full clinician details. This information should then be transmitted by laboratories to Public Health.	Clinicians Laboratories	●	An average of 95% of notifications have full identifiers.
2 Encourage clinicians to notify newly diagnosed cases of hepatitis C and to provide as much relevant information as possible.	HSE in conjunction with practicing clinicians	●	Notifications come directly from laboratories as soon as diagnosis made.
3 Undertake enhanced surveillance of all cases of newly diagnosed hepatitis C infection.	Departments of Public Health	●	An enhanced surveillance system has been in place since 2007 & available for approx 50% of cases notified.
4 Establish a national register of hepatitis C infected patients (other than those referred to as "state-infected").	Departments of Health – HSE Eastern Region	●	The national hepatitis C treatment programme has developed a hepatitis C treatment registry of all treated patients or those due to commence treatment. A national registry of all infected individuals has logistical, ethical and confidentiality issues to be considered in addition to patient consent.
5 Instigate appropriate public health follow-up on all cases of newly notified hepatitis C infection.	Departments of Public Health	●	Linked to 3 above. Follow up is prioritised by Departments of Public Health as per Guidelines for the management of notifications of hepatitis C in Departments of Public Health 2017 .
6 Undertake a population prevalence study.	Health Protection Surveillance Centre	●	A population prevalence study was carried out in 2016. A paper on this study was published in 2017. Garvey P et al. <i>Hepatitis C virus seroprevalence and prevalence of chronic infection in the adult population in Ireland: a study of residual sera</i> , April 2014 to February 2016. Euro Surveill , 2017;22(30):pii=30579. https://doi.org/10.2807/1560-7917.ES.2017.22.30.30579





Recommendation	Responsibility	Implementation	Summary status at end December 2017
7 Complete a modelling exercise to estimate future disease burden and aid service planning.	HSE - Department of Public Health (HSE East), HPSC Health Research Board (HRB) and National Virus Reference Laboratory (NVRL)		A study was published in 2017 by HPSC and HRB on the incidence of HCV in Persons Who Inject Drugs (PWID). The results contribute to estimating the disease burden as they indicate numbers of PWID infected and their duration of infection. Carew et al. Incidence of hepatitis C among people who inject drugs in Ireland. Hepatology, Medicine and Policy (2017) 2:7. DOI 10.1186/s41124-017-0024-1.
8 Conduct follow-up studies amongst Injecting Drug Users to identify seroconverters and therefore incidence rates.	HSE and service providers		See update under no 7 above but may also be difficult to progress because of data protection limitations.

Education, prevention and communication

9	<p>Increase the number of drug treatment facilities including detoxification units, methadone clinics, treatment for addictions other than intravenous heroin use etc, particularly outside of the Eastern Region.</p> <p>Reduce existing waiting lists for treatment</p> <p>Reduce delays between assessment and treatment.</p> <p>Target young and newly initiated drug users.</p> <p>Provide flexible holistic services that can meet the needs of all drug users including homeless drug users and drug users from new communities.</p> <p>Develop prison-based drug addiction treatment programmes that are linked with community-based programmes for when prisoners are released.</p> <p>Provide after-care and rehabilitation services to prevent relapse.</p>	<p>HSE</p> <p>Existing organisations</p>	<p>● According to the Central Treatment List (CTL) — in 2011 there were 74 Clinics and 311 General Practitioner participating in methadone programmes (excluding prisons) — in 2017 there were 80 Clinics and 376 General Practitioner clinics participating in methadone programmes (excluding prisons).</p> <p>The number of residential beds has increased significantly since 2007, largely due to the increased provision of beds in community based residential facilities. The most recent figures available (including private provision) estimate the current provision nationally at 148 detoxification beds. The figure of 148 detoxification beds is made up of 19 inpatient unit detoxification beds, 125 community based residential detoxification beds and 4 adolescent residential detoxification.</p> <p>As at end December 2017 the % of substance misusers (over 18 years) for whom treatment has commenced within one calendar month following assessment (against a national performance target of 100%) was 98.5%.</p> <p>As at end December 2017 the % of substance misusers (under 18 years) for whom treatment has commenced within one week following assessment (against a national performance target of 100%) was 96.5%.</p> <p>Following an addiction staff scoping exercise (Social Inclusion), under 18 service provision and review of under 18 tier 4 provision additional funding was approved to purchase additional treatment episodes for under-18 residential treatment and for the employment of 4 Clinical Nurse Specialists and 2 Young Persons Counsellors to complement the Community Healthcare (CHO) Organisation 9 multi-disciplinary Tier 3 addiction teams for under-18s in CHO 1, 2, 3, 6. The HSE is currently expanding under 18 services to include employment of 4 Clinical Nurse Specialists and 2 Young Persons Counsellors to complement the CHO multi - Tier 3 addiction teams for under18s across CHO's 1, 2, 3 with one in place in CHO 6.</p> <p>As at end September 2017 925 individuals (9%) registered as homeless on CTL, 9 Opiate Substitution Therapy (OST) clinics operate in homeless hostels in Dublin treating 157 individuals.</p> <p>The Irish Prison Service (IPS) has for many years worked with the community addiction services to ensure planned through-care is in place for all prisoners leaving custody. This works very well via the local addiction teams, and all prisoners initiated on OST in prisons have an identified port release community placement confirmed, prior to commencement of treatment in the prison. This works very well in larger urban areas, however, challenges remain for rural areas where the community infrastructure is limited.</p> <p>Relapse prevention and harm reduction form a significant part of the addiction work in the prison environment. While the IPS does not have any community services, the continuation of this approach is fostered and planned with community services. Admittedly, compliance and engagement with community services is person dependent and some people do choose to disengage from services on release from prison. Nonetheless, all prisoners are informed and linked with community services.</p>
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10	<p>Develop interventions to delay / prevent transition from smoking to injecting, including training for staff in motivational interview techniques and brief interventions.</p> <p>Treat drug addiction in those who have become dependent but are not yet injecting, in line with national performance indicators as outlined in the National Drugs Strategy.</p>	HSE	<p>● The expected number of staff trained in SAOR Screening and Brief Intervention for problem alcohol and substance use for 2017 was 778.</p> <p>The proportion of new cases who reported ever injecting decreased over the period 2009 to 2015, from 19.7% in 2009 to 14.5% in 2015. The proportion of previously treated cases who reported ever injecting decreased from 50.2% in 2009 to 46.1%. However the actual number of previously treated cases who reported ever injecting increased by 38.4% over the period from 1,952 cases in 2009 to 2,701 in 2015. The proportion of all cases (including new and previously treated) who reported current injecting (past 30 days prior to treatment) remained relatively stable over the period (around 37%).</p> <p>Between 2009 and 2014, the proportion of all cases (including new and previously treated) who reported ever sharing remained relatively stable over the period. However in 2015, the proportion of previously treated cases who reported sharing dropped from 52.4% in 2014 to 48.5% in 2015, the lowest rate reported in the seven year period.</p> <p>Health Research Board (2017) Drug Treatment in Ireland National Drug Treatment Reporting System (NDTRS) 2009 to 2015 available at: www.drugsandalcohol.ie/27023 and at www.hrb.ie/publications.</p>
11	<p>Work with established injectors to discourage them from initiating others into injecting through peer education.</p>	HSE Voluntary service providers	<p>● UISCE (www.myuisce.org) has carried out some research with persons who inject drugs (PWID) in relation to street injecting as part of developing safe injecting facilities (SIFs). No specific peer education programmes to discourage injecting.</p>
12	<p>Ensure all drug users have access to harm-reduction materials regardless of location.</p> <p>Expand the current provision of harm-reduction materials, particularly outside of the Eastern Region, both in terms of geographical coverage and time.</p> <p>Eliminate the policy of "one for one" needle/syringe exchange.</p> <p>Encourage collaborative links with local Gardai around centres for provision of harm reduction materials.</p>	HSE Voluntary service providers	<p>● Information provided via drugs.ie website http://www.drugs.ie/resources/publications/guides_and_support_booklets</p> <p>Harm reduction approach continues to be rolled out nationally, OST, Naloxone project, Pharmacy Needle Exchange Programmes (PNEX). PNEX pharmacies are based in all Community Healthcare Organisations.</p> <p>121 pharmacies offer a free needle exchange in major towns and cities outside of Dublin, Wicklow and Kildare. 1600 individual clients use the service nationwide every month. The National Liaison Pharmacist for Addiction Services has been in post since 2011 and the role is to support community pharmacies in the provision of harm reduction services.</p> <p>PNEX continue to educate clients on safe sharps disposal.</p> <p>HSE continues to work collaboratively with Gardai in implementation of National Drugs Strategy.</p>
13	<p>Promote provision of harm-reduction materials within the pharmacy setting.</p>	Department of Health (DoH) HSE	<p>● PNEX whose remit includes the provision of harm reduction materials are based in all Community Healthcare Organisations and continue to be rolled out nationally</p>

14	<p>Pilot and evaluate the Dublin Area Homeless Hepatitis C Project.</p>	<p>Safetynet Ana Liffey Drug Project Mountjoy Street Family Practice HSE</p>	<p>● <i>National Screening Guidelines for Hepatitis C</i> published in 2017 & includes specific recommendations for homeless population. Treatment for hepatitis C provided to patients under the care of Safetynet during 2017.</p>
15	<p>Implement recommendations from the MQI report entitled "Drug Use Among New Communities: an exploratory study" on a national basis including:</p> <p>Engage hard-to-reach drug users, including those from Ethnic Minority Groups (EMGs), through drugs outreach teams.</p> <p>Promote community engagement in the design and delivery of services.</p> <p>Recruit staff from EMGs into the drug services.</p> <p>Provide anti-racist and cultural competency training to staff in the drug services as part of a wider initiative for all health and social care providers.</p> <p>Provide culturally-specific drug awareness training to different cultural groups as indicated.</p>	<p>HSE — Drug treatment services</p>	<p>● Outreach workers funded by the HSE and/or Drugs Task Forces are in place across a number of areas. Their role includes support to hard to reach populations including those from EMGs. Intercultural health training is provided to substance misuse staff across a number of areas as part of the wider health service initiative. Traveller specific SAOR training (brief intervention for problem alcohol use) has been developed and delivered across some areas. Interpreter services used where appropriate to engage service users from EMGs across some areas. In certain areas service user forums are established inclusive of hard to reach drug users. The HSE recruitment policy is inclusive of the recruitment of staff from EMGs. Cultural training is provided across the health services as part of the wider health service implementation of the HSE National Intercultural Health Strategy (NIHS) 2008-2012 (available at https://www.hse.ie/eng/services/publications/socialinclusion/national-intercultural-health-strategy-2007---2012.pdf) The 2nd NIHS 2018-2023 is currently in draft.</p>

16	<p>The DoH to approve both the draft “Best Practice Guidelines for Body Piercing” and draft “Best Practice Guidelines for Tattooing and Permanent Make Up (PMU)” and issue to practitioners nationwide.</p> <p>The DoH to appoint an agency or representative to monitor the implementation of these guidelines following roll-out to practitioners nationwide.</p> <p>Regular inspections, in the interests of public health and health and safety in the workplace, to ensure adherence to standard precautions.</p> <p>Develop an information leaflet to inform the public of the health risks involved in body piercing, tattooing and PMU and to highlight the dangers inherent in unprofessional and/or self-administered tattoos and/or piercing.</p>	DoH	 <p>At present the Department of Health are currently finalising an infection prevention and control guidance document for the tattooing and body piercing industry. The purpose of the document is to provide guidance to the industry in relation to minimising the risk of infection to practitioners and clients in the absence of sector specific regulation. It is intended to publish the guidelines later this year. There is no plan to introduce regulation or legislation in this area at this present time. This document sets out best practice in infection control for the tattooing and body piercing industry and is aimed at achieving the highest standards of infection control and prevention in this sector. The draft guidelines were developed by public health practitioners and environmental health experts in conjunction with the Department of Health.</p>
17	<p>Review existing informational and educational material that is in current use with a view to proofing (culturally, linguistically and literacy), standardising and improving the quality of information</p>	HSE	 <p>A hepatitis C leaflet and FAQ, developed by HPSC and Departments of Public Health, are available on HPSC website at http://www.hpsc.ie/A-Z/Hepatitis/HepatitisC/Factsheetleaflets/</p> <p>Leaflet updated 2017 and available in 7 languages. FAQ updated Jan 2018.</p>
18	<p>Facilitate access to a standardised accredited interpreting service for individuals who do not have English as their first language</p>	HSE – Social Inclusion Directorate	 <p>Funding has been provided towards interpreting provision for refugees arriving under the Irish Refugee Protection programme.</p> <p>Development and implementation of a comprehensive model of interpreting provision is a key element of the forthcoming HSE National Intercultural Health Strategy 2018 – 2023.</p>
19	<p>Provide clear, consistent and updated advice on the transmission risks of hepatitis C to those involved in the diagnosis and management of hepatitis C patients in the community.</p>	HSE - Departments of Public Health, HPSC	 <p>A hepatitis C leaflet and FAQ, developed by HPSC and Departments of Public Health, are available on HPSC website at http://www.hpsc.ie/A-Z/Hepatitis/HepatitisC/Factsheetleaflets/</p> <p>Leaflet updated 201. FAQ updated Jan 2018.</p>

20	<p>Include competency based training modules on harm reduction for all those working with drug users in a community setting that are guided by national standards in health promotion</p>	HSE via Social Inclusion Governance Group	●	Competency based training modules developed for pharmacists working in PNEX Programmes accredited by the Irish Institute of Pharmacy which is responsible for pharmacists' continuous professional development (CPD) including opioid addiction.
21	<p>Employ staff trained to an appropriate standard in all services engaged in health promotion to prevent hepatitis C infection.</p> <p>Develop minimum standards of education for outreach and other staff who are in direct contact with IDUs.</p> <p>Standardise recruitment and training for peer educators that is evidence-based and continuously evaluated. A model similar to that used by the Third Collaborative Injection Drug Users Study/Drug Users Intervention Trial could be developed.</p> <p>Increase learning from peer education models already in place (e.g. UISCE, Community Response).</p>	HSE Voluntary service providers	●	<p>Staff trained as per core training and qualifications for posts held as appropriate. Continuous professional development in place for healthcare workers in engaged in health promotion.</p> <p>Depending on role, staff required to have various qualifications e.g. youth & community studies, SAOR, harm reduction, motivational interviewing, assessment & care planning, CBT.</p> <p>Not achieved/not known</p> <p>Not in all areas but CHO5 co-funds a peer educator as part of South East Recovery College.</p>
22	Plan and implement a campaign to raise awareness amongst those who may previously have been diagnosed with hepatitis C or who may have been at risk of infection in order to redirect them to medical services if this is what they choose.	HSE	●	National hepatitis C treatment programme established in 2015 — has promoted treatment and encouraged testing through media awareness, publications etc www.hse.ie/hepc . HSE supports World Hepatitis Day annually in July & encourages testing, links to care etc. HSE addiction services and other service providers continually use both opportunistic and on individual patient basis. National hepatitis C screening guidelines published in 2017 make recommendations for testing/screening at a range of healthcare services. Screening, testing treatment and awareness carried out throughout services.

Screening and laboratory testing for hepatitis C

23	<p>Provide ready access for GPs and other community healthcare providers to diagnostic facilities.</p> <p>Optimise transport of samples to the laboratories by the provision of a responsive courier service.</p>	<p>HSE – Access to Diagnostics (GP/Community) Initiative Governing Group</p>	●	<p>GPs can send all phlebotomy to NVRL for testing.</p>
24	<p>The IPS to implement the recommendations in parts one and two of the report <i>“Hepatitis B, Hepatitis C and HIV in Irish Prisoners: Prevalence and Risk”</i> with regard to infectious disease control.</p> <p>Provide every prisoner on committal with a hepatitis C risk assessment, including details of previous virological tests, and offer screening for blood-borne viruses, including hepatitis C, if required.</p> <p>Monitor uptake of testing.</p> <p>Ensure appropriate follow-up is provided.</p>	<p>Irish Prison Service</p>	●	<p>The IPS is working with our HSE colleagues to manage the risk and provide treatment for all Blood Borne Viruses (BBVs) in the prison population. Expert clinical inputs are brought into the prisons from infectious disease colleagues from the HSE. This is undertaken via in reach services and prisoners also attending routine clinical appointment in the infection disease clinics in local hospitals. To date the IPS and HSE have undertaken mass screening initiatives for HIV and Hep C, followed by a robust treatment and follow up programme. Further similar initiatives are planned for 2018/19, followed by a routine screening programme for all new committals to prison. The prison environment offers an ideal opportunity for the IPS & HSE to target a highly probable population for screening and treatment, thus furthering the national agenda of management of BBV's.</p> <p>This is being built into a revised committal assessment as per above.</p> <p>Audit of the uptake of testing will be facilitated via the Prisoner Healthcare Management System (Multi-disciplinary electronic patient record in the IPS).</p> <p>Follow up treatment and surveillance is based exclusively on best clinical practice, and this is done in conjunction with HSE specialists.</p>
25	<p>The NVRL, on request, to release results of previous tests to medical practitioners with the patient's consent.</p>	<p>NVRL</p>	●	<p>NVRL releases information when requested. In 2017 81 requests (with patients consent) received.</p>
26	<p>Establish guidelines with regard to hepatitis C screening of individuals from endemic countries / new entrants to the Irish healthcare system.</p>	<p>HPSC Scientific Advisory Committee</p>	●	<p>Guidelines for screening of migrants for all infectious diseases were published by HPSC in 2015. Available at: http://www.hpsc.ie/A-Z/SpecificPopulations/Migrants/</p> <p>Specific national hepatitis C screening guidelines (for all population groups) were developed by HPSC-led Guideline Development Group and published in 2017. Available at: http://health.gov.ie/national-patient-safety-office/ncec/national-clinical-guidelines/prevention/</p>

27	Continue targeted antenatal screening for those with risk factors for hepatitis C infection. Regular review of the evidence with regard to universal antenatal screening	Maternity Hospitals General Practitioners	●	National hepatitis C screening guidelines 2017 made specific recommendations for screening of pregnant women. http://health.gov.ie/national-patient-safety-office/ncec/national-clinical-guidelines/prevention/ 1.1 Standardised targeted risk based HCV screening of antenatal women is recommended. 1.2 Universal HCV screening of antenatal women is not recommended. 1.3 Universal antenatal HCV screening may be reconsidered in the future if HCV treatment during pregnancy becomes possible. Also, if national policy progresses to a policy of birth cohort or total population screening, antenatal screening offers an opportunistic method to reach this particular population cohort.
28	Offer and promote screening for hepatitis C and other blood-borne diseases to those who attend services such as Needle-Exchange Programmes and other harm reduction services	HSE Drug services	●	National hepatitis C screening guidelines published in 2017 — disseminated to HSE addiction services including needle exchange programmes. HSE PNEX Programmes regularly refer clients for blood borne virus screening including hepatitis C.
Treatment				
29	Establish an expert group to provide guidance on clinical issues. Develop standard protocols for testing, diagnosis, evaluation, referral for treatment, monitoring of treatment and monitoring of patients not on treatment. Monitor and evaluate the implementation of these guidelines.	Expert Group Health Information and Quality Authority (HIQA)	●	The national hepatitis C treatment programme (NHCTP) was established in the HSE in 2015 following recommendations in the Department of Health report “ <i>A public health plan for the pharmaceutical treatment of hepatitis C</i> ” The NHCTP is supported by a Clinical Advisory Group (CAG) whose role is to provide clinical advice /guidance/governance to the programme. The CAG has developed a set of national treatment guidelines for hepatitis C including prioritisation criteria, monitoring and drug regimens. The CAG regularly reviews the treatment guidelines in line with international best practice.
30	Establish a postgraduate diploma in hepatitis C management for physicians and nursing staff.	Accredited third level academic institution Tendering process should be overseen by the expert group.	●	Currently no post graduate diploma in hepatitis C management. However, the Irish College of General Practitioners and other medical professional bodies undertake training days as part of CPD.
31	Provide patients, particularly those with chaotic lifestyles and other social problems, with practical supports to enable them to attend for and adhere to treatment e.g. child-care.	Primary Care Teams.	●	The national hepatitis C treatment programme is developing treatment for hepatitis C in community settings so that it can be linked to where the patient is on a methadone programme & reduces need to go to hospital. Some National Government Organisations provide peer support including accompanying patients to hospital appointments.

32	Address alcohol issues and provide alcohol reduction strategies for those patients infected with hepatitis C who require them.	HSE – Drugs and Alcohol services	●	All patients are screened for alcohol use and advice provided where appropriate.
33	Develop, implement and evaluate a treatment model appropriate to the prison setting on a national basis.	Expert Group in conjunction with the IPS	●	The national hepatitis C treatment programme is developing the integration of hepatitis C treatment into the community including the prison setting. The steering group includes representation from the Irish Prison Service. Treatment is provided to patients in prison via hospital outreach & in-reach programmes.
34	Undertake a formal assessment of the needs of individuals infected with hepatitis C, other than through contaminated blood and blood products.	HSE	●	All patients are assessed on an individual basis. The patients infected with hepatitis C through contaminated blood and blood products are assessed as part of the determination of their overall health and social care needs in line with their entitlement to services under the terms of the Health Amendment Act 1996.
35	Further develop the number of hepatitis C Clinical Nurse Specialist (CNS) posts based on the findings of the needs assessment in recommendation 34.	HSE	●	The national hepatitis C treatment programme has provided support to hospital treatment sites to increase number of hepatitis C CNS posts to manage increased number of patients on treatment.
36	Develop the role of suitably trained general practitioners in facilitating treatment monitoring in the community.	HSE and Irish College of General Practitioners (ICGP)	●	The Irish College of General Practitioners and other medical professional bodies undertake training days as part of CPD.

Source: National hepatitis C strategy 2011 — 2014, Health Service Executive

16 Control of private patient activity in acute public hospitals

- 16.1** Public hospitals treat both public and private patients. While a sizeable majority of the Health Service Executive's (HSE) income to fund hospitals is in the form of a grant from the Exchequer, income is also derived from the collection of private patient charges. The HSE received €305 million in 2017 from such charges. Further private patient income was received directly by HSE-funded section 38 hospitals.¹
- 16.2** A key goal of the HSE is to provide fair, equitable and timely access to quality, safe health services that people need. To achieve this, the HSE must ensure that income generating private activity within a public hospital does not undermine the principle of equitable access.
- 16.3** The contracts under which medical consultants are employed in HSE funded hospitals limit the extent to which they can engage in the provision of private care. Different limits apply, depending on the contract type.
- 16.4** This report considers
- how the HSE controls the level of private activity in public hospitals across the acute system from a national level down to individual consultant level
 - whether the HSE's performance measure meets the key criteria of a good performance measure.²

¹ Under Section 38 of the Health Act 2004, the HSE may enter into an arrangement with a body for the provision of health and personal social services on behalf of the HSE; the employees of such a body are public servants.

² The key criteria of a good performance measure are summarised in Figure 16.9.

National activity

- 16.5** Overall, the HSE seeks to limit private treatment activity in Irish public hospitals to 20%. The HSE uses information contained in the Hospital Inpatient Enquiry (HIPE) system to monitor the level of private activity.
- 16.6** As shown in Figure 16.1, acute public hospitals' activities fall within four broad categories that involve medical consultants.

Figure 16.1 Acute public hospital activity, 2017

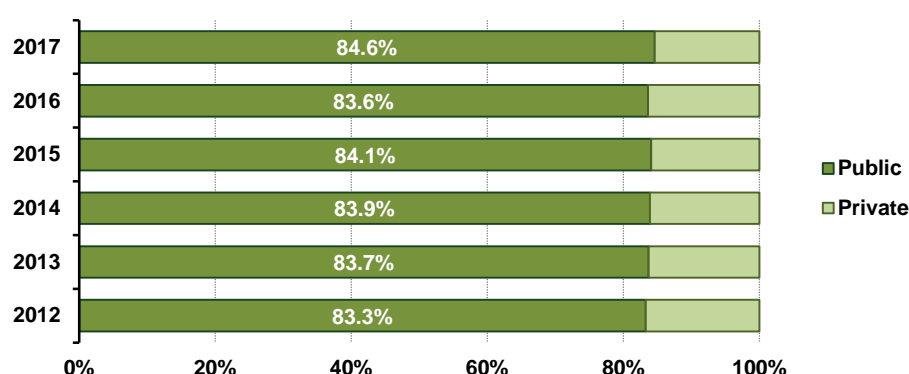
Type	Detail	Number	Activity	Recorded on HIPE
Inpatient	Patient admitted to hospital for treatment or investigation and scheduled to stay for at least one night in hospital.	635,802	Public and private	✓
Day cases	Patient admitted for a medical procedure or surgery in the morning and discharged before the evening.	1,054,659	Public and private	✓
Emergency department attendances	Unplanned visit by a patient for treatment. Such attendances may be upon request from a GP. Attendance in some cases may lead to a patient being admitted to hospital as an inpatient.	1,416,449	Public only ^a	✗
Outpatient attendances	A patient attends a consultant or a member of the consultant's surgical or medical team as a result of a referral. Such attendance takes place in a clinic.	3,303,921 ^b	Public only ^a	✗
Total		6,410,831		

Source: Health Service Executive Performance Report January 2018

Notes: a The consultants' contract provides that consultants shall not charge private fees in respect of patients attending emergency departments or public outpatient services in public hospitals.

b Includes attendances that occurred in a health or primary care centre.

16.7 HIPE was developed to collect information about inpatient and day cases. Information captured in HIPE on public/private status refers to whether the patient was attended by a consultant on a private or public basis. The rate of public activity in acute public hospitals between 2012 and 2017 was around 84% on average (see Figure 16.2).

Figure 16.2 Acute public hospital discharges, 2012 to 2017

Source: HSE's Hospital Inpatient Enquiry System

Well-defined

16.8 The public/private measure is based on weighted units of an episode of treatment counted at the point of discharge from hospital. This is done by calculating the ratio of private to public patients treated where each case is adjusted for complexity, length of stay and a medical consultants contribution to the case.¹ It does not record non-clinical activities or the actual time spent by a medical consultant on the care of an individual patient.

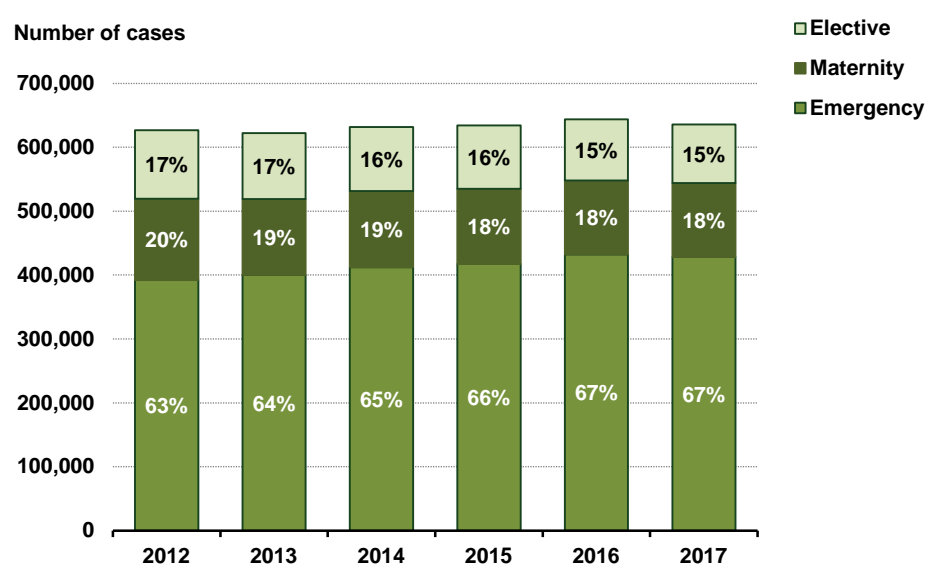
1 Consultant Contract 2008 —
Measurement of Public : Private
Mix.

- 16.9** When the consultants' contract was agreed, all parties to the contract agreed that HIPE would be used to measure public and private activity for inpatient and day cases. There was also an agreement that other systems were to be developed to capture consultant time on outpatient and diagnostic activity. The agreements did not make any provision for time spent in the emergency department.
- 16.10** There are no systems for capturing time spent by a medical consultant on outpatient activities. Each hospital was to make its own arrangements for measuring diagnostic activity, but information on the extent that such systems are in place and are being used to measure consultant activity is not available centrally. It is also not clear how the information available locally on diagnostic activity would be linked with HIPE data to enable conclusions be drawn on the level of a consultant's public and private activity in an acute public hospital.

Attributable

- 16.11** In order for the measure of public and private activity to be a good measure of performance, the activity within an acute public hospital must be capable of being influenced by actions which can be attributed to the HSE. However, the HSE's ability to effect a change in the level of private activity within a public hospital is limited.
- 16.12** Information in HIPE for inpatients between 2012 and 2017 shows that the majority of inpatients were admitted having first attended the emergency department or were maternity cases (see Figure 16.3). In these cases, the HSE has no control over the pattern of public and private patients presenting for treatment, and in all cases, patients are treated in order of clinical priority.

Figure 16.3 Inpatient discharges, 2012 to 2017



Source: Hospital Inpatient Enquiry System

16.13 Inpatients admitted on an elective basis are selected for treatment from a national waiting list in accordance with the HSE's *National Waiting List Management Protocol*. This stipulates that all patients added to the waiting list be assigned a clinical priority — 'routine' or 'urgent'. It further provides that patients be scheduled for treatment in the following order

- priority 1 — patients urgently requiring treatment where treatment has previously been cancelled
- priority 2 — patients urgently requiring treatment
- priority 3 — patients not requiring urgent treatment and proposed treatment previously cancelled
- priority 4 — patients not requiring urgent treatment selected in chronological order.

Verifiable

16.14 Any system that is used to produce performance information should be subject to validation on a regular basis. In 2015, the HSE engaged an external consultant to undertake a review of the quality of HIPE data and to assess whether the quality of the data was sufficient to support the introduction of the activity-based funding model in the acute hospital sector.¹

16.15 The review found that the quality of the current HIPE data was sufficient for activity-based funding in acute hospitals. However, the review found that hospitals in general were under representing true clinical complexity and that there was a need to reduce variation between hospitals. The review noted that improvements in the structure and quality of the medical record are critical to improve the quality of current clinical coding.

Hospital activity

16.16 Prior to 2013, private activity levels within public hospitals were controlled through bed designation — beds in public hospitals were designated as either public or private and private activity limits were based on the ratio of private beds. In most cases, this was around 20%. Bed designation was removed by the Health (Amendment) Act 2013, which in effect removed this limit.

16.17 There are 48 acute hospitals operated or funded by the HSE. There is currently no target level of private activity set for individual hospitals. HIPE data at end 2017 shows that public treatment activity was above 80% in around 70% of hospitals for inpatients (Figure 16.4) and around 65% for day cases (Figure 16.5).

Comparable

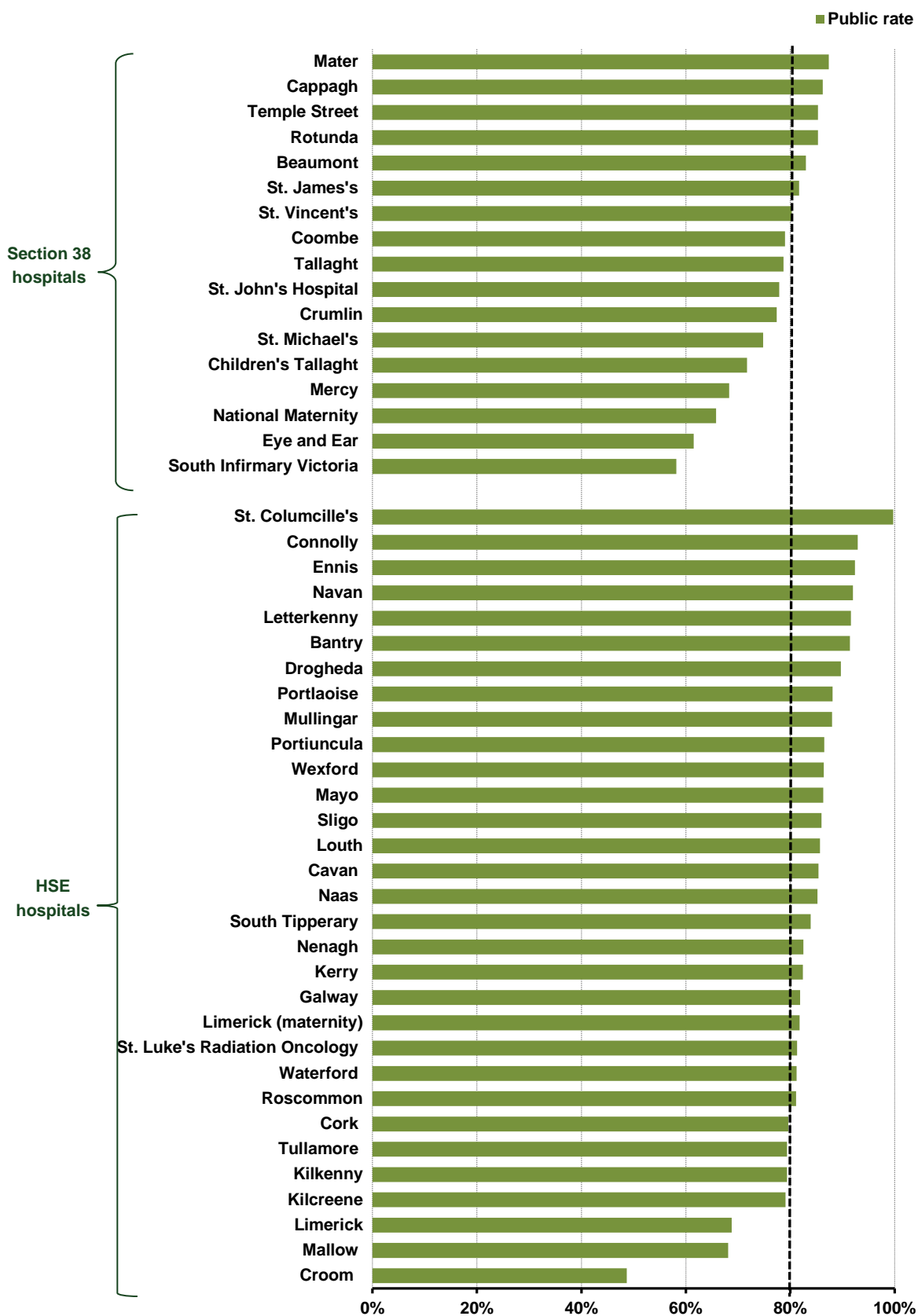
16.18 In order for the HSE to monitor and manage trends in public and private activity levels, the measure should be comparable between current and past periods, and between hospitals. Although the HSE compares a hospital's activity level for the current period to past periods, it does not draw comparisons between individual hospitals.

¹ In January 2016, the HSE introduced activity-based funding in the acute hospital sector. Under activity-based funding, grant allocations are provided to hospitals based on national agreed prices and the number and mix of patients that they treat.

16.19 Hospitals are limited in terms of controlling the pattern of public and private activity presenting for treatment, which may inter alia reflect variable rates of private health insurance among the catchment population. Other factors outside the control of the hospital may also affect public and private activity levels including

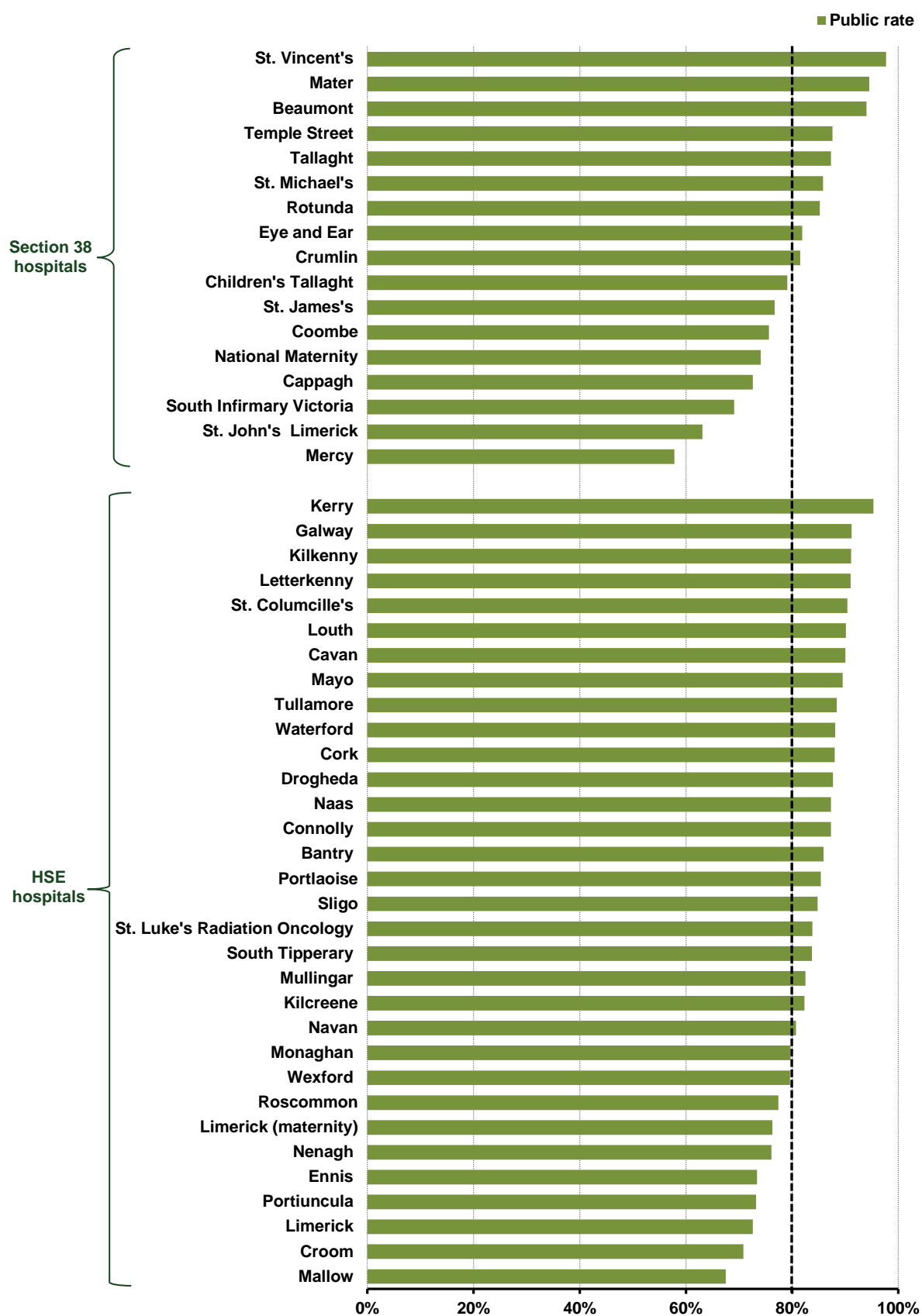
- the specialities of the hospital
- whether it is a larger hospital providing emergency and complex care or it is a smaller hospital with less complex emergency, day case and elective care
- whether comparable services are available in a near-by private hospital
- where there is no private hospital located in the same region as the public hospital — all required private work must be done through the public hospital
- the various consultant contract types within the hospital
- whether consultants in the hospital hold split appointments in that they work over two or more hospital locations — a high ratio of private activity in one location may be offset by a low ratio in another location.

16.20 Even in specialist hospital types, significant variances in the ratio of public treatment emerge. For example, the proportion of public inpatient treatment in maternity hospitals in 2017 varied from 66% in the National Maternity Hospital to 85% in the Rotunda Hospital. Similarly, Croom Orthopaedic Hospital treated 49% public patients in 2017, compared to 86% in Cappagh National Orthopaedic Hospital.

Figure 16.4 Percentage of treatment of inpatients on a public basis by acute public hospitals, in 2017

Source: Health Service Executive HIPE

Note: a Excludes Monaghan General Hospital as it is a day hospital only and does not provide inpatient service.

Figure 16.5 Percentage of treatment of day cases on a public basis by acute public hospitals, in 2017

Medical consultants' activity

16.21 The majority of medical consultants are employed under a contract agreed in 2008 between the HSE, the Department of Health and the medical consultants' representative organisations. The contract provides that the volume of a consultant's private practice may not exceed 20% of their workload in any of their clinical activities, including inpatient, day care and outpatient.

16.22 Medical consultants already employed under previous contract arrangements that transferred to the 2008 contract have private limits up to 30%. Consultants employed under contract terms agreed in 1991 and 1997 have private practice limits based on the bed designation system that existed in hospitals up to 2013. Figure 16.6 provides details on the various medical consultant contract types as at December 2017.

Figure 16.6 Medical consultants' contract types at 31 December 2017

Group	Contract type	Number	Onsite private limit	Allowable off-site private practice	
				Outpatient	Inpatient
2008 contract — new appointments	A	558	n/a	○	○
	B (b)	1,343	20%	○	○
	C	141	20%	●	●
2008 contract — existing consultants	B (a)	519	30%	●	○
	B (*)	302	30%	●	●
Other contracts	1997 (1)	200	BD ^a	●	○
	1997 (2)	162	BD ^a	●	●
	1991 (2)	2	No limit	●	●
Total		3,227			

Source: Health Service Executive

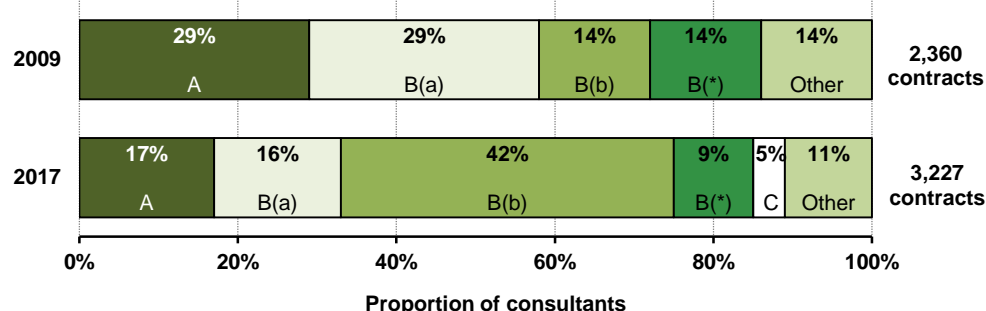
Note: a BD = bed designation. Consultants that can engage in on-site private practice subject to the requirement that a consultant's overall proportion of private patients should not exceed the ratio of designated private beds.

● Yes

○ No

16.23 The number of consultants has increased from around 2,400 in 2009 to just over 3,200 at the end of 2017. However, the proportion of consultants holding a Type A contract has fallen by around 12% over the same period (Figure 16.7).

16.24 The Department of Health noted that the main reason for the decrease in Type A contracts was the non-implementation of the phased salary increases, provided for in the contract to compensate for the absence of private practice rights, along with pay cuts introduced under the Financial Emergency Measures in the Public Interest (FEMPI) Act 2009. This dis-incentivised Type A posts where consultants are remunerated solely by way of salary and are not permitted to engage in private practice of any kind.

Figure 16.7 Movement on contract types between 2009 and 2017

Source: Health Service Executive

16.25 While private practice limits for the majority of medical consultants range between 0% and 30%, the overall national target of 20% is consistent with the current mix of consultant contract types as demonstrated by the weighted hours shown in Figure 16.8.

Figure 16.8 Private treatment limits based on current mix of contract types

Contract type	Number of consultants	Number of hours per consultant ^a	Total number of hours	Private limit	Total number of private hours	Overall private rate
A	558	1,872	1,044,576	0%	—	
B(b)	1,343	1,872	2,514,096	20%	502,819	
C	141	1,872	263,952	20%	52,790	
B (a)	519	1,872	971,568	30%	291,470	
B (*)	302	1,872	565,344	30%	169,603	
Other	364	1,872	681,408	27.5% ^b	187,387	
Total:	3,227		6,040,944		1,204,069	19.9%

Source: Analysis by Office of the Comptroller and Auditor General

Notes: a Assume that all consultants work a 39 hour week with four weeks annual leave.

b For those consultants whose private limit is based on bed designation the limit can range between 10% and 45%. A mid point of 27.5% was assumed for the purpose of this analysis.

Monitoring of consultant contracts

16.26 For the purpose of this examination, information was requested from the HSE on individual consultant public and private activity levels for 2017. The HSE was not in a position to supply this information because it does not monitor or collate information at individual consultant level.

16.27 In 2017, the HSE engaged an external reviewer to examine consultant private activity levels in support of the HSE defence against a legal case brought by hospital consultants. One of the objectives of the review was to estimate the level of non-compliance with contract private practice limits across the sector.

- 16.28** The external reviewer examined a sample of public/private practice ratios for day case and inpatient care, for the years 2010 to 2016, for 413 consultants involved in the legal case. The underlying data was not readily available for review and required the completion of a return by each hospital providing a breakdown of activity for each consultant between public and private for inpatient and day cases. The external reviewer noted that there were significant gaps in the returns provided due to consultants having retired, there being no agreed activity measurement system in place, and information not being available from HIPE such as radiology reports. This limited the extent to which conclusions could be drawn.
- 16.29** The external reviewer concluded that, across the cases where data was available, around one third of consultants were not compliant with their required private limits. However, the representativeness of the findings is uncertain given the numbers of cases examined by the reviewer and the data challenges faced.

Recent developments

- 16.30** In July 2017, the Secretary General of the Department of Health wrote to the Director General of the HSE citing concerns that consultants may be exceeding their permitted level of private practice within the public hospital system and may be exceeding their off-site private practice rights or engaging in off-site private practice while being employed under a contract that does not permit any off-site private practice.
- 16.31** In April 2018, revised monitoring arrangements were agreed between the Department of Health and the HSE. The arrangements are characterised by assurance/compliance statements from individual consultants to the hospital, an annual report from the hospital to the hospital group and written assurance from the hospital group to the HSE's National Director of Acute Hospitals attesting to compliance with private practice limits. Details of the revised arrangements are set out at Annex 16A.

Conclusions

- 16.32** Acute public hospitals in Ireland carry out both public and private activity. Most of the funding for public hospitals is provided by way of an Exchequer grant. The balance is met from the collection of private patient fee income. In 2017, HSE private patient income was around €305 million.
- 16.33** In order to preserve a set level of acute hospital capacity for public patients, the HSE seeks at a national level to limit private activity to 20%. Up to 2013, the ratio of public to private beds in a public hospital provided a basis for limiting private treatment activity. Since the removal of bed designation, individual hospitals currently have no set limit on private activity. The majority of individual consultants' contractual private practice levels can range between 0% and 30%.
- 16.34** In practice, the HSE, hospitals and individual consultants have limited control over the private activity levels as the majority of patients admitted to hospital are maternity admissions or admitted from the hospitals' emergency departments, which must be admitted and treated in order of clinical priority.
- 16.35** The HSE monitors activity levels within acute public hospitals using the HIPE system. However, as shown in Figure 16.9, there are significant weaknesses in the use of this measure as a key performance metric across the system.

- 16.36** Although an external review in 2015 found the quality of HIPE data sufficient for activity based funding in acute hospitals, it noted that hospitals were in general under representing true clinical complexity. The HSE does not draw comparisons on activity levels between hospitals or individual consultants in order to monitor trends in activity over time.

Figure 16.9 Acute hospital private treatment — usefulness as a performance measure

		National level	Hospital level	Consultant level
	<i>Private practice limit</i>	<i>≤ 20%</i>	<i>None</i>	<i>0%-30%^a</i>
Criteria				
Relevant	Measure addresses achievement of a core performance objective	✓	✓	✓
Attributable	Agent has the ability to influence level of activity within a public hospital	✗	✗	✗
Avoids perverse incentives	Use of the measure is unlikely to lead to a perverse outcome (such as public patients not having equitable access to public hospitals)	✓	✓	✓
Well-defined	Measure is easily understood and consistent, and measures what is intended Data represents all public and private clinical activity involving medical consultants	✗	✗	✗
Comparable	Measure should be capable of being compared e.g. to past periods or between similar agents	✓	✗	✗
Timely	Measure produced frequently and quickly enough to track progress and for it to be useful	✓	✓	✗
Verifiable	The process by which public/private activity is recorded can be validated	✓	✓	✓

Source: Office of the Comptroller and Auditor General

Note: a For those consultants whose private limit is based on bed designation, the limit can range between 10% and 45%.

Annex 16A Department of Health and Health Service Executive Executive Assurance Measures

Figure 16A.1 Proposed assurance measures to address consultant non compliance

Assurance measure	Detail
<i>Department of Health</i>	
Bed designation circular	Circular to be issued to re-affirm that, notwithstanding the legislative change within the Health Amendment Act (2013) in relation to designation, the pre-determined hospital ratios continue to have affect for those consultants that hold 1997 contracts.
<i>Health Service Executive</i>	
Annual compliance statement	Consultants to complete an annual statement of compliance as part of the HSE's controls assurance process. The process to be overseen by the Hospital groups and may be subject to periodic audit.
Annual report	<p>Annual report from each Hospital to each Hospital Group CEO confirming that</p> <ul style="list-style-type: none"> compliance with contract terms relating to private practice, including provisions for on-site and off-site private practice reports are provided to each consultant monthly on public/private practice there are formal arrangements with clinical directors to review individual consultant performance in terms of compliance with contracted hours and private practice limits work plans are subject to periodic review (at least annually) and when such reviews take place there are appropriate processes in place to determine public/private mix for non-admitting consultants interventions/actions.
Monthly performance meetings	<p>Monthly performance meetings between hospitals and hospital groups to confirm that the following is being addressed.</p> <ul style="list-style-type: none"> All hospitals continue to have working arrangements in place to allow them review individual consultant private practice. Review hospital reports on consultant public/private practice. Review interventions/actions taken in relation to individual's deemed non compliant. Confirm that scheduled work plan reviews have taken place and any actions arising.
Written assurance	Hospital Groups to provide written assurance to National Director of Acute Hospitals confirming that appropriate actions have been taken to address the areas of individual consultant non compliance in terms of hours worked, off site practice and public/private mix.
Internal audit	HSE internal audit to offer its views on the framework and process and, in particular, whether audit against this framework would allow compliance to be established.
Target reviews	Target reviews of compliance in certain hospitals to ensure that the assurance process is operating at Hospital and Hospital Group level.
Audit Committee	HSE Audit Committee to include consultant contract compliance in its work programme and, in particular, consider compliance as part of its review of the annual internal control assurance process.

Source: Department of Health and Health Service Executive

Revenue

17 Revenue's progress in tackling tobacco smuggling

17.1 Excise duties on tobacco products raised an average of €1.1 billion a year for the Exchequer between 2010 and 2017.

17.2 Ireland is among the states with the highest cigarette prices in Europe and the highest rates of tobacco taxation (see Figure 17.1). As a result, smuggling of tobacco products for resale in Ireland represents a significant risk to tax receipts.

Figure 17.1 Cigarette prices across Europe^{a, b}



Source: Japan Tobacco International. Analysis by Office of the Comptroller and Auditor General.

Notes: a Retail selling price (premium) for 20 ready made cigarettes in euros as at quarter 4, 2017.

b The retail selling price in the Canary Islands is €3.10.

- 17.3** A 2009 examination of controls aimed at counteracting smuggling of tobacco products found that in order to address tobacco smuggling effectively, Revenue needs to
- estimate the extent of illicit tobacco sales
 - target activities within an articulated strategy based on the best analysis of the nature of fraud
 - implement an operational response based on such a strategy
 - monitor performance.¹

This examination reviews Revenue's progress in these four areas.

Estimating the extent of illicit activity

- 17.4** Total cigarette consumption in Ireland in 2017 was estimated to be around 4.3 billion cigarettes.² The nature of the illicit market in tobacco products means that it is challenging to accurately measure the tax losses which result. The measurement of such losses is usually referred to as the tobacco tax gap. The World Bank has published five methods to measure illegal circumvention of tobacco taxes.³ These are
- observe the producers and ask the experts for smuggling data
 - observe smokers directly and ask them about their methods of obtaining tobacco
 - monitor and analyse data on the export and import of tobacco
 - compare the sale of tobacco with estimated consumption of tobacco by using household surveys
 - compare the sale of tobacco with estimated consumption of tobacco by using a mathematical formula and economic inference.
- 17.5** The World Bank states that when time and resources allow, it is best to use several different methods in order to cross-validate estimates. The only method used annually by Revenue falls into the second method presented i.e. *observe smokers directly and ask them about their methods of obtaining tobacco*. On this basis, it estimates that 13% of cigarettes consumed in Ireland in 2017 were illegal. The associated notional loss of revenue is around €229 million. Revenue points out that this notional loss is based on the assumption that the illegal cigarettes consumed would displace the equivalent full tax paid quantity of cigarettes, which is unlikely to be the case. However, this notional loss does provide a benchmark. Revenue states that it also uses elements of the first and fifth methods to further increase its understanding of the illicit tobacco market.
- 17.6** The examination in 2009 recommended that Revenue should estimate the level of illegal tobacco importation and report the results in an open, transparent manner. It also recommended that Revenue consider supplementing its estimating approach and that estimation of illicit tobacco products, other than cigarettes should be considered.
- 17.7** Revenue, in conjunction with the National Tobacco Control Office (NTCO), commissions surveys which estimates the size of the illicit market in tobacco products using tax gap 'type' analysis and publishes its estimates annually. Since 2013, an annual survey on illegal 'roll-your-own' tobacco has also been commissioned. Revenue does not publish the methodology for either survey, unlike some other tax authorities.⁴

¹ Chapter 15, *Comptroller and Auditor General's Report on the accounts of the Public Services 2009*.

² *Illegal tobacco products research surveys 2017*, Ipsos MRBI (April 2018) — commissioned by Revenue and the National Office for Tobacco Control.

³ *Understand, measure and combat tobacco smuggling*, World Bank Economics of Tobacco toolkit (2001).

⁴ The UK's tax authority, HMRC, publish tobacco tax gap methodology. The Australian Taxation Office also publishes its tobacco tax gap methodology.

- 17.8** The illicit market share for tobacco products is not a direct measure of operational performance by Revenue, but it potentially serves as a long-term indicator of the impact of Revenue's actions on the size of the illicit tobacco market in Ireland. Factors such as price differentials across national borders, exchange rates and economic conditions can affect the level of tobacco smuggling in a year but it can be difficult to measure the impact of these factors on the tax gap.

How the illicit tobacco market is measured by Revenue

- 17.9** Revenue, in conjunction with the HSE's NTCO, commissions a company to conduct independent market research among smokers on the source of their tobacco products in order to estimate the volume and incidence of non-duty paid cigarettes and the incidence of 'roll-your-own' tobacco being consumed in Ireland. From this survey, an estimate of the amount of tax revenue lost is produced. This survey has been conducted since 2009, using the same methodology and by the same company.¹ Repetition of the survey allows for longitudinal analysis and comparison across years. For this reason, Revenue does not engage in a competitive tendering process for the procurement of this service.²

- 17.10** Two distinct groups of the population are sampled for the survey, both over the age of 18. The first group consists of smokers only and is used to conduct both the illegal cigarette survey and the illegal 'roll-your-own' survey. The second group consists of the Central and Eastern European (CEE) population and includes both smokers and non-smokers. Samples are selected from both groups and interviews are conducted face to face in the respondent's home. Respondents are asked to provide an empty cigarette packet or tobacco pouch, which Revenue analyses to determine their legality. In addition to illegal packs, legal non-Irish duty paid packs are also identified and an estimate is provided separately. Population estimates are combined with smoking prevalence and consumption rates to provide an estimate of the total cigarette consumption in Ireland. For the illegal cigarettes research, Irish smoker data is weighted to profiles obtained from the Healthy Ireland research. For other nationalities, data is weighted to Central Statistics Office data. For the 'roll-your-own' research, data is weighted to profiles obtained from the NTCO Smoking Prevalence research.

¹ The first 'roll-your-own' tobacco survey was commissioned by Revenue in 2013 and each year since then.

² Revenue discloses this contract on its Circular 40/02 return as it has been awarded without a competitive process and is over the €25,000 threshold.

³ The HSE's quarterly smoking tracker surveys 4,000 people and found that smokers tend to be younger and be of a lower socioeconomic status.

- 17.11** For the purposes of this examination, a statistical consultant was engaged to conduct a detailed review of the methodology of the tobacco surveys commissioned by Revenue. A number of possible improvements to the methodology were noted.

- Random surveying works well when the traits one wants to examine are prevalent in the entire population. Smokers tend to be younger and be of a lower socioeconomic status, so it is unclear if the sample takes account of how the smoking population deviates from the general population.³ Due to these tendencies, systematic bias could be introduced into the overall results and have implications on the final results.
- Consideration could be given to the use of more transparent coding criteria to classify products as contraband, counterfeit or illicit whites (see Figure 17.2) and in the case of illegal packs, record the reasons which led to this classification.

Figure 17.2 Categories of illicit tobacco products on the EU black market

- **Contraband** — genuine tobacco products purchased in a lower-tax country, exceeding import limits or purchased for export but illegally re-sold on higher priced markets.
- **Counterfeit** — illegally manufactured tobacco products, falsely branded and sold by a party other than the brand owner.
- **'Cheap whites'** — brands purchased outside of the EU and brought into the EU to be sold. Taxes and customs are not paid and usually there is no legal distribution network for these brands.

- Revenue should consider increasing the sample size for the 'roll-your-own' survey. For 2015 and 2016, the observed level of illegal tobacco was 9%. On this basis, using a 95% confidence interval, illegal tobacco use could be somewhere between 5% and 13% i.e. a margin of error of almost 50% of the estimate. Revenue states that it had considered increasing the sample size of this survey but notes that there are associated cost implications.
- Summarising the overall level of illicit tobacco using a single figure can lead to it being misinterpreted and there is merit in the use of lower and upper estimates, using a confidence interval.

17.12 Overall, the consultant noted that there was merit in the methodology used, and due to its consistency, it allows for longitudinal analysis. The regular use of additional approaches, be they other surveys or desk analysis, would lead to a more robust overall research methodology, with greater external validity and reliability.

17.13 The General Data Protection Regulation, which came into force in May 2018, raises issues which Revenue may wish to consider in relation to the way in which the surveys it commissions, are conducted in the future. The Regulation sets out that the purposes for which personal data collected will be processed must be provided to the data subject at the time of collection.¹ In past surveys, respondents were not informed of the exact purpose of the tobacco surveys.

17.14 Figure 17.3 outlines the results of Revenue's surveys of the illicit cigarette and 'roll-your-own' tobacco markets in Ireland.²

Other estimates of illicit tobacco market share

17.15 There are other published estimates of the size of the illicit tobacco market in Ireland. The most comprehensive of these is Project Sun, which is a survey conducted across EU member states, Norway and Switzerland by KPMG, that estimates the scale and development of the illicit cigarette market. The study uses an 'empty pack' survey to estimate the share of domestic (duty paid), non-domestic (non-duty paid) and counterfeit and contraband packs in each of the markets.³

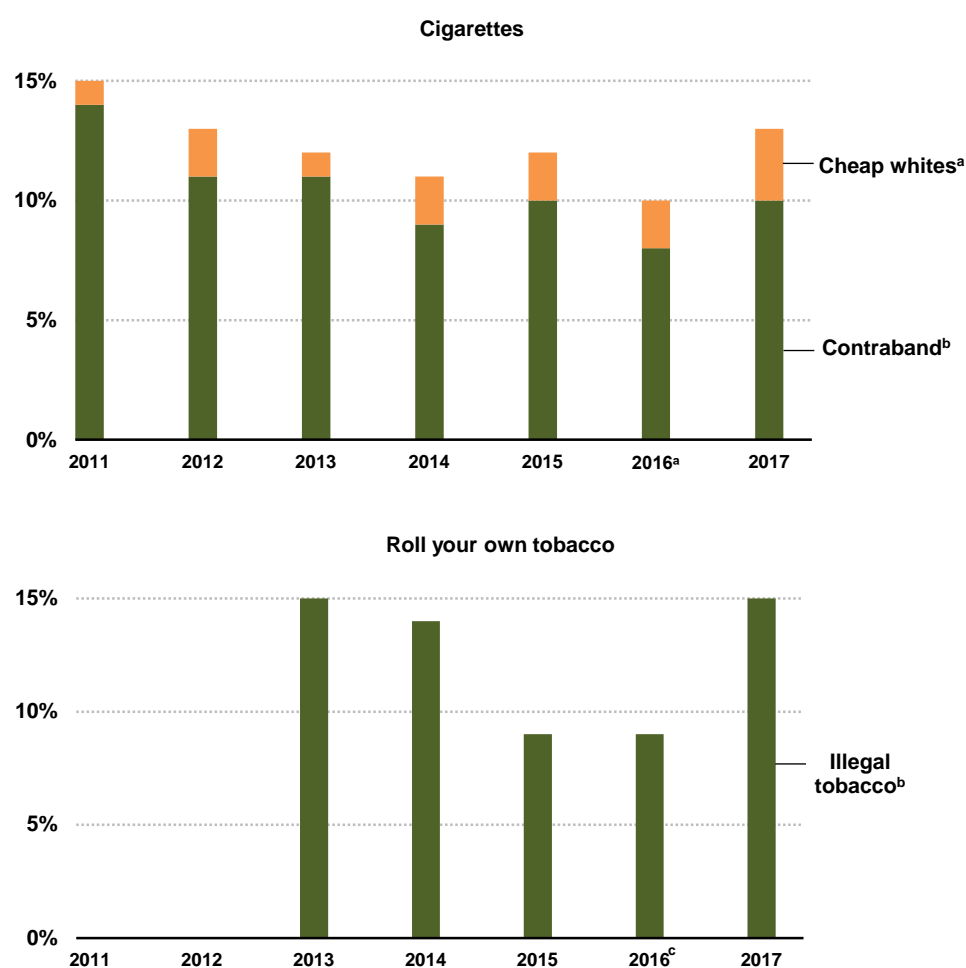
17.16 Project Sun reported that Ireland had the third highest rate of counterfeit and contraband cigarettes in the EU in 2016 at 17.5%. 7% of all illegal packs detected were counterfeit. Revenue's published estimate for 2016 was that 10% of cigarette packs presented by the smokers surveyed were illegal, with no counterfeit packs noted.

1 Article 13 1 (c) of the General Data Protection Regulation (2016/679).

2 The surveys also report on market share attributed to importation of legal tobacco products without payment of duty in Ireland i.e. cross border purchases.

3 Project Sun is a report from KPMG commissioned by the Royal United Services Institute for Defence and Security Studies (RUSI), based on an empty pack survey. 20,000 empty packs were collected in Ireland in 2016 in 22 towns and cities. Previous to 2016, Project Sun was commissioned by British American Tobacco plc, Imperial Tobacco Limited, JT International SA and Philip Morris International Management SA.

Figure 17.3 Cigarette survey, 2011 to 2017 and roll your own tobacco surveys, 2013 to 2017



Source: Illegal tobacco products research surveys 2011 to 2017 conducted by Ipsos MRBI on behalf of Revenue and the National Tobacco Control Office

- Notes:
- a Illicit whites are often referred to as 'cheap whites'.
 - b In 2015 and 2012, less than 1% of illegal cigarettes were found to be counterfeit (included in the contraband category above). In 2011, 1% were found to be counterfeit.
 - c The surveys conducted each year also report the market share attributed to legal non-Irish duty paid products. In 2016, 8% of cigarette packs and 3% of roll your own tobacco packs held by smokers surveyed were legal non-Irish duty paid.

17.17 The Irish Tobacco Manufacturers' Advisory Committee (ITMAC) produces an annual estimate of the size of the illicit tobacco market in Ireland. For 2016, ITMAC reports that 18% of cigarettes and 22% of 'roll-your-own' tobacco are non-Irish duty paid.

Strategy based on the best analysis of the nature of fraud

- 17.18** The illicit tobacco trade is a global problem and is an important source of revenue for international organised crime.¹ Awareness of international trends is helpful in setting strategic direction. Revenue's national action plan for tobacco, which is currently in draft form, has a focus on increased international cooperation, including intelligence sharing.
- 17.19** The EU reported in 2017 that the average size of individual seizures has reduced over recent years with the frequency of smaller quantities being smuggled increasing. Contraband from international tobacco manufacturers is much less prominent with cheap whites and counterfeits dominating in large-scale seizures. The EU also reported an increase in the discovery of illicit tobacco factories.¹
- 17.20** Until recently, 'cheap whites' accounted for the majority of cigarettes seized in Ireland. In March 2018, in a significant development, a cigarette factory producing counterfeit cigarettes was discovered in County Louth. This was the first such factory uncovered in the State (see case study below).

Figure 17.4 Case Study — Discovery of a counterfeit cigarette factory in County Louth

In March 2018, a Revenue-led operation resulted in the discovery of a cigarette factory producing counterfeit cigarettes in Jenkinstown, County Louth. The operation was a result of the Joint Agency Task Force (see Annex 17A).

Revenue officers seized 23.5 million counterfeit cigarettes. These cigarettes were falsely branded and ready for distribution. In addition, 71 tonnes of tobacco was seized, with the potential to produce a further 71 million cigarettes. Ancillary products such as cigarette boxes, paper, filters and machinery were also seized.

Machinery seized was capable of producing approximately 250,000 illicit cigarettes per hour. Machinery necessary for pre-processing, processing and packaging was also present along with living quarters for staff. There is evidence that cigarettes produced in this factory have been previously seized in the UK.

The tobacco seized was valued at €47.8 million by Revenue, with an estimated potential loss to the Exchequer of €37.5 million. Eleven people present at the site were arrested and charged by An Garda Síochána. Investigations are on-going nationally and internationally. To date, one person has been convicted arising from the discovery of this cigarette factory.

- 17.21** Revenue published its first stand-alone strategy on combating the illicit tobacco trade covering the period 2011 to 2013. A follow on stand alone strategy has not been produced. Revenue considers that since 2014, the approach taken is to integrate the focus on tobacco with a wider focus on combating all forms of illegal trade and shadow economy activity. Revenue stated that its overall corporate statement of strategy has included a focus and commitment to tackling illicit activity including tobacco smuggling and that the commitments were given operational priority each year in divisional business plans. Revenue is currently finalising a national action plan for tobacco and states it is designed to maximise the coordination of actions Revenue-wide and deliver the best impact for the effort involved.

¹ Report from the Commission to the Council and the European Parliament: *Progress report on the implementation of the Commission communication: Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products – a comprehensive EU strategy* (12 May 2017).

Operational response

International context

- 17.22** Recognising the global nature of the illicit tobacco trade, Revenue accesses international resources and expertise, which is crucial in tackling tobacco smuggling. Revenue also collaborates with authorities overseas to tackle tobacco smuggling.
- 17.23** Annex 17A contains an outline of Revenue's key relationships with the European and international community in the area of illicit tobacco products. Figure 17.5 details a case, where there was international co-operation.

Figure 17.5 Case Study — International co-operation

In October 2014, Revenue received intelligence from the European Anti-Fraud Agency (OLAF) regarding an attempt to smuggle 9.8 million illicit cigarettes from the former Yugoslavian Republic of Macedonia to Ireland via Slovenia. Following this intelligence, the shipment was inspected by Slovenian customs authorities upon its arrival into the Port of Koper, Slovenia. The cigarettes did not have an excise stamp affixed and as the Port of Koper is a 'free port', the consignment remained there.

The documentation accompanying the consignment identified the consignee to be based in County Wicklow and the consignor to be based in Macedonia. Documentation from OLAF demonstrated that bank transfers had taken place from the company based in County Wicklow to the company based in Macedonia.

Revenue carried out investigations at the request of OLAF and a report of the findings was sent by Revenue to OLAF. The investigation also uncovered payments to an individual suspected of a separate crime. Revenue has given this information to An Garda Síochána.

Scanning of consignments

- 17.24** The identification of suspect consignments by means of risk profiling, intelligence gathering, international information sharing, detector dog teams, and x-ray scanning technology is an integral part of Revenue's operational response to counteract tobacco smuggling. While the movement of containerised cargo can be used to facilitate smuggling and illicit trade, legitimate business and the freight industry are heavily reliant on its efficient passage. Therefore, the scanning of consignments requires careful targeting by Revenue to avoid unduly delaying legitimate freight moving through ports and to focus limited scanning resources where they are needed most.
- 17.25** Revenue planned to conduct a study in 2011 to compare detection rates achieved to those rates achieved in other countries.¹ The result of this study was requested from Revenue as part of this examination. Revenue stated that it made contact with counterparts in a number of jurisdictions but comparable information was not available to allow a detailed comparison. While Revenue provided the examination team with the total number of scans conducted by each of the three main scanners held by Revenue, this data relates to all activities and not solely tobacco. Detection rates were not available.

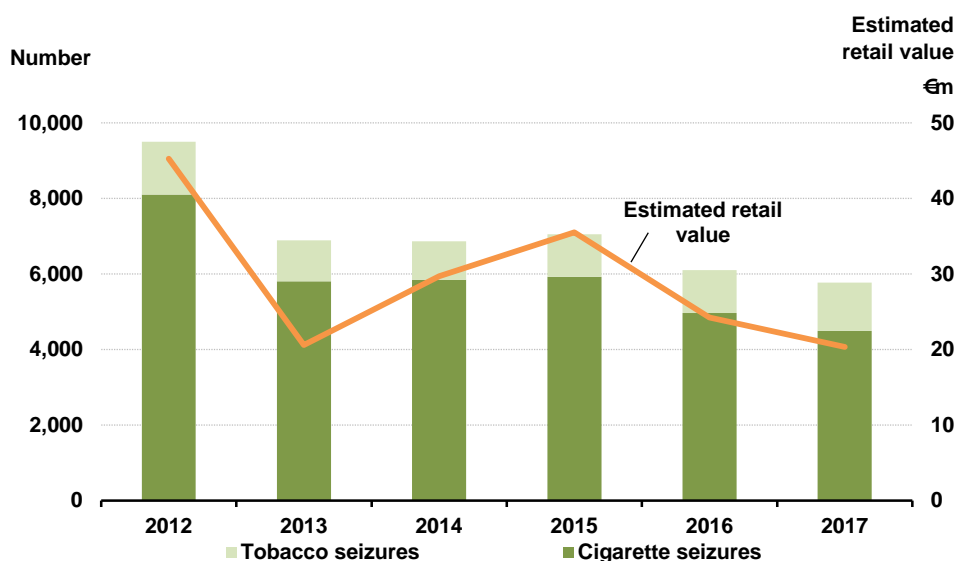
¹ Comptroller and Auditor General's Accounts of the Public Services 2009, Chapter 15: *Counteracting Smuggling of Tobacco Products*.

Tobacco seizures

- 17.26** Seizures of cigarettes and tobacco are key outcomes of Revenue's programme of enforcement action relating to tobacco smuggling. In 2017, cigarettes and other tobacco products valued at over €20 million were seized. This represented a potential loss to the Exchequer of more than €16 million in taxes and duties. Figure 17.6 sets out the total number and estimated retail value of seizures over the period 2012 to 2017.

Figure 17.6 Tobacco seizures^a

Both the number and value of seizures fell between 2012 and 2017....



Source: Revenue Commissioners

Note: a Number of seizures refers to the number of Revenue operations in which seizures were made and not the quantity of product seized.

- 17.27** In 2017, the estimated notional loss of revenue as a result of the illicit cigarette market is €229 million. In the same period, potential loss to the Exchequer identified as a result of cigarette seizures is approximately €15.5 million. This indicates a detection rate by Revenue of approximately 7%.
- 17.28** Revenue notes that this method of deriving a detection rate assumes that seized product is exclusively destined for the Irish market and takes no account of seized product in other countries that may have been destined for Ireland.

Other seizures related to tobacco smuggling

- 17.29** Revenue has the power to seize cash where it is suspected to be the proceeds of, or intended for use in, criminal activity. Vehicles may also be seized where they have been used to convey illicit products. Over the period 2013 to March 2018, a total of €556,243 was seized by Revenue in 34 cases.¹ In addition, 265 vehicles and four ships were seized between 2013 and 2017.
- 17.30** Figure 17.7 sets out the circumstances surrounding a ship seized by Revenue in 2014 on foot of a seizure of 32 million illegal cigarettes. The ship is still in Revenue's possession.

¹ There may be other seizures related to illicit tobacco but where evidence is insufficient to allow Revenue to determine the type of criminal activity linked to the seizure.

Figure 17.7 Case Study — The MV Shingle

In June 2014, customs officers and armed Gardaí intercepted a shipment of more than 32 million cigarettes and 4,000 kilograms of water pipe tobacco at Drogheda Port in County Louth. The ship travelled from Slovenia, via Portugal before its arrival at Drogheda. The Revenue operation followed months of work, including international intelligence gathering across several jurisdictions. The consignment represented a potential loss to the Exchequer of almost €13 million.

The ship was transferred by Revenue to Dublin Port the next day, along with the shipment of illegal cigarettes and tobacco.

The MV Shingle – Dublin Port, May 2018

Source: Office of the Comptroller and Auditor General

Revenue could not dispose of the MV Shingle until the completion of the legal proceedings related to the seizure. Proceedings, including time allowed for the appeals process, were completed in June 2017 and the High Court made an order of forfeiture of the ship to the State.

Initially Revenue explored plans to sell the ship but following surveys as to its condition and consideration of the fact that asbestos was present, it was decided that it should be sent to a specialist recycling facility for disposal. A marine surveyor engaged by Revenue reported in March 2015 that the vessel could be considered nothing but a liability in its present condition and location and that if arrangements are not made to deal with the ship within a reasonable time span, there is the potential of substantial additional costs being incurred.

To end August 2018, costs of approximately €410,000 had been incurred by Revenue related to holding the vessel, the majority of which are lay-up costs charged by Dublin Port Company. Recycling costs estimated by the surveyor engaged by Revenue are significant in light of the costs already incurred by Revenue.

Prosecutions

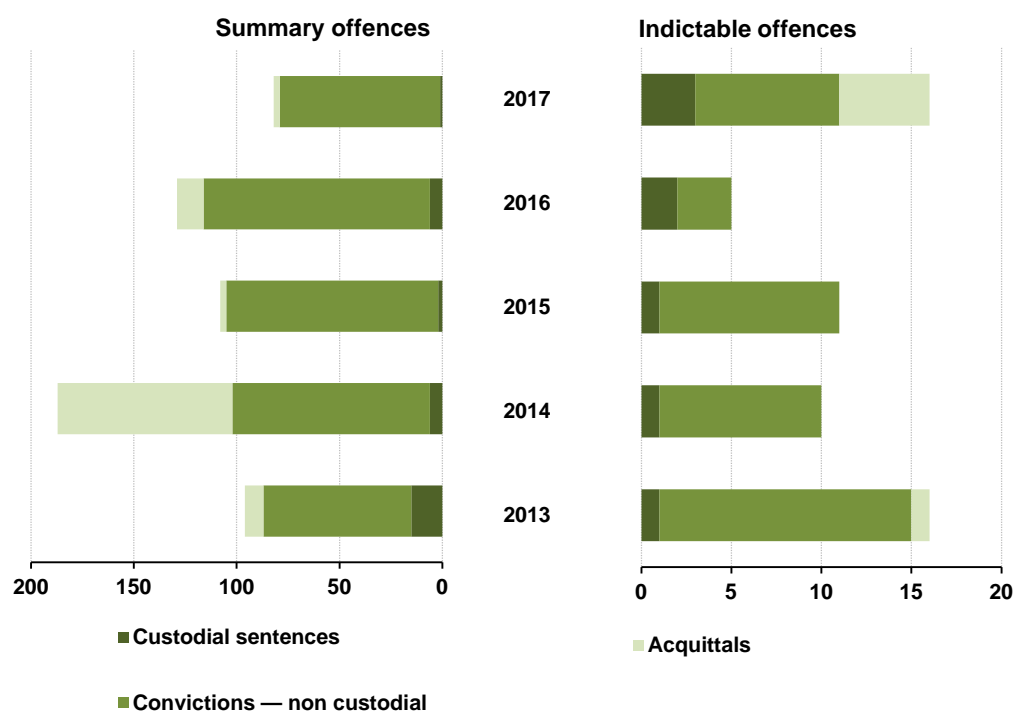
17.31 Revenue considers the number of tobacco related prosecutions taken to be an important indicator of performance. Prosecutions serve as both a punishment and as a visible deterrent. There are two types of offences — summary and indictable.

- Summary offences are dealt with in the District Court without a jury. The average annual value of fines imposed over the period was €215,000. The longest custodial sentence imposed over the period was six months.
- Indictable offences must be tried before a judge and jury. The average annual value of fines imposed over the period was €3,200. The longest custodial sentence imposed over the period was three years with the last 18 months suspended.

17.32 Results of prosecutions by Revenue in relation to tobacco offences for the period 2013 to 2017 are set out in Figure 17.8.

Figure 17.8 Summary and indictable offences

Fewer summary prosecutions taken in 2017, but a higher rate of conviction than in previous years and more indictable prosecutions taken in 2017 but a lower rate of conviction than in previous years....



Source: Revenue Commissioners

Performance measurement

- 17.33** Revenue views the number of convictions obtained for tobacco-related offences as a significant performance indicator. Other performance indicators used are the volume of products seized and the incidence of illicit product on the market. The independent research among smokers commissioned by Revenue is used to measure the incidence of illicit tobacco products year-on-year. Revenue has stated that the Revenue Board and senior management monitor these performance measures.
- 17.34** While seizure volumes are a measure of success, ease of detection can fluctuate with changes in the illicit market. A fall in the volume of seizures may potentially indicate a decrease in illicit products on the market but it may also be indicative of a decrease in resources applied for the purpose of detection by revenue bodies. This is also the case in relation to the number of convictions for which many other factors can impact which are outside of Revenue's control.
- 17.35** Revenue does not estimate revenue loss prevented by the disruption of criminal gangs in the illicit tobacco trade. Revenue's practice, when significant quantities of tobacco products are seized, is to provide an estimate of the potential loss to the Exchequer represented by that seizure. It also has no formal mechanism to account for seizures made abroad with its assistance.

Targets

- 17.36** Each of Revenue's regions sets specific targets for seizures, referrals for prosecution and escalation to investigation as part of its business planning process each year. These targets are not published.
- 17.37** For 2017, two of the four Revenue regions exceeded some of their tobacco-related targets. However none of the regions achieved all their targets. One of the four regions did not set targets for seizures or investigations. High level tobacco-related data is included in a performance report which is reviewed by the Board every month. Performance against targets is not included in the performance report.

Resources allocated to tackling tobacco smuggling

- 17.38** In its 2011 to 2013 tobacco strategy, Revenue stated that it would measure the cost as well as the effectiveness of resources allocated to countering the threat from tobacco smuggling, with the objective of ensuring optimum deployment and maximum effectiveness. Revenue has now stated that as a fully integrated tax and customs administration, it is not possible to disaggregate the resources deployed at any given time on action against tobacco smuggling and so this cost has not been isolated. Revenue states that it adopts a whole case management approach. To date, Revenue has not calculated the cost of its operations in tackling the illicit tobacco market.

Conclusions and recommendations

Revenue's estimate of the market share of illicit tobacco products

- 17.39** The illicit tobacco survey methodology in place has merit. However, Revenue's reliance on a single annual method undermines the overall robustness of the estimated level of illicit tobacco in the Irish market. Publication of its methodology would enhance transparency.

Recommendation 17.1

Revenue should consider publishing its survey methodology.

Accounting Officer's response

Agreed.

Revenue will arrange for publication of details of the survey methodology when we are publishing future survey results.

Strategic targeting of operations

- 17.40** Revenue's estimate of the volume of illegal cigarettes and tobacco gives an indication of trends in demand. This is useful for setting specific objectives to reduce the level of tobacco duty evasion. A high level stand-alone strategy linked to operational actions would assist Revenue in ensuring activities are coordinated effectively so as to provide assurance that scarce resources are appropriately targeted.
- 17.41** Currently, no such stand-alone strategy is in place. Revenue stated that its strategy to counteract tobacco smuggling is incorporated into its overall corporate statement of strategy. However, it is evident from a review of the statement of strategy that a specific focus solely on tobacco is not clearly articulated. Since the previous stand-alone strategy ended at the end of 2013, there is an increasing international trend towards counterfeit cigarettes and discovery of illicit tobacco factories.

Recommendation 17.2

Revenue should put a formal stand-alone strategy in place that sets out its objectives linked to an operational plan, detailing actions to be taken. This stand-alone strategy should reflect the changing nature of tobacco smuggling. The objectives and actions should be regularly monitored, reviewed and progress reported to Revenue's senior management.

Accounting Officer's response

Part-agreed.

Revenue's focus is on combatting all forms of illegal trade and shadow economy activity. In Revenue's experience, those involved in the illicit tobacco trade do not confine themselves to that particular scope of activity. An integrated focus by Revenue on all forms of illegal trade is more appropriate. However, in the context of our integrated approach, we will finalise our national action plan for tobacco.

Scanning of consignments

- 17.42** There are gaps in the management information available to Revenue. It does not record how many scans per year relate to tobacco and it does not calculate the detection rate per scan.

Recommendation 17.3

In order to fully assess both the performance of its scanners and the selection process of consignments scanned, Revenue should record scans conducted by the type of illegal product detected, or suspected. Revenue should also conduct analysis which would provide detection rates. This would serve as a useful and readily available performance measure.

Accounting Officer's response

Agreed.

Revenue collects data on the total number of scans conducted. However, a pilot is underway in Dublin Port of a detection recording system that has the potential to provide a link between the seizure of any commodity and the range of assets deployed to achieve the seizure. The potential of this pilot, as a means to deliver scanner-related, commodity-specific, information will be fully considered.

The MV Shingle

- 17.43** Seizure of this ship has resulted in costs to date of approximately €410,000. Costs are still being incurred, although Revenue has been in a position since July 2017 to dispose of the vessel.

Recommendation 17.4

Revenue should ensure that decisions which have significant cost implications are taken and actioned promptly and without undue delay.

Formal analysis of costs and benefits associated with different potential courses of action is a key aid in decision making. Revenue should ensure that this type of comprehensive analysis accompanies disposal decisions related to major items of equipment. All options considered should be documented with rationale clearly recorded to support the final decision taken.

Accounting Officer's response

Agreed.

The disposal of the MV Shingle has proven problematic and presented more challenges than are normal in the disposal of seized goods. However, Revenue continues to make a determined effort to dispose of this ship in the most cost-effective manner, has documented the process so far and will fully document the final decision. We will continue to ensure that appropriate analysis is undertaken in any case where the disposal of major items arises.

Performance measurement

- 17.44** Revenue's detection rate of illegal cigarettes is estimated to be approximately 7% for 2017. This is based on the estimated notional loss of revenue as a result of the illicit cigarette market, which is published as part of the illegal tobacco products research survey commissioned by Revenue and the NTCO and the potential loss to the Exchequer as a result of Revenue's cigarette seizures.
- 17.45** Revenue's success in reducing the amount of illicit tobacco products in the Irish market can only be comprehensively measured by estimating the level of evasion over time, analysing the nature of the evasion and targeting actions accordingly. Where targets for seizures and prosecutions are set, these targets should be monitored and reported upon.
- 17.46** Seizures which take place abroad with assistance from Revenue have performance implications and in some instances involve significant Revenue resources. Currently, there is no formal mechanism for Revenue to account for seizures made abroad with its assistance.

Recommendation 17.5

Revenue should investigate the practicality and usefulness of introducing a mechanism to measure instances where its intelligence or assistance has contributed to seizures abroad.

Accounting Officer's response

Agreed.

Revenue already receives feedback or information in some instances where intelligence or assistance provided to other EU member states, third countries or international organisations leads or contributes to the seizure of illegal tobacco products. We will consider the feasibility and utility of introducing a mechanism as recommended. It will need to be factored into the overall consideration of the value of the measurement that its compilation would be significantly reliant on input from and cooperation of international partners.

Annex 17A

Figure 17A.1 Revenue's International relationships — illicit tobacco

European Union Agency for Law Enforcement Cooperation (EUROPOL)

Europol has ten priority areas. Excise fraud is one of three priority areas in which Ireland has agreed to participate. Member states are expected to contribute by leading, co-leading or participating on a number of operational action points under each priority area. Revenue has committed to participate in two operational action plans in the tobacco area. During the period 2013 to 2017, the action plan for tobacco focused on 'hub to hub' movement of tobacco products. As a result of a specified action day in 2017, 1.6 million illicit cigarettes were seized from a warehouse in Dublin.

Customs Cooperation Working Party (CCWP)

The CCWP is responsible for the coordination of customs cooperation between member states and continuously improving cooperation between customs authorities and between customs authorities and police. The group adopts action plans, projects and proposals for Joint Customs Operations (JCO). For 2016/17, Revenue participated in five action points.

World Customs Organisation (WCO)

Ireland has been a full member of the WCO since its establishment in 1952. Revenue's primary involvement with the WCO involves reporting tobacco seizures and participating in operations coordinated by the WCO. In early 2018, Revenue participated in an operation. The operation focused on shipments of illicit tobacco products which originated or were transhipped from Free Trade Zones. As part of the operation, Revenue seized 2 million cigarettes.

Joint Agency Task Force (JATF)

The JATF was established under the Belfast and Fresh Start Agreements and comprises Revenue, An Garda Síochána, the Criminal Assets Bureau, HMRC, PSNI, the UK National Crime Agency and the UK Border Agency (Northern Ireland). The JATF reports on its activities to the three Governments at London, Belfast and Dublin.

Cross Border Excise Fraud Group

Revenue is represented on the Cross Border Excise Fraud Group which comprises all relevant agencies on both sides of the border. The group generally meets twice a year to discuss, plan and execute cross border operations to tackle the illicit tobacco trade. Illicit alcohol and fuel laundering are also within the group's remit.

World Health Organisation Framework Convention on Tobacco Control

The World Health Organisation Framework Convention on Tobacco Control was ratified by Ireland towards the end of 2005. The Protocol to Eliminate the Illicit Trade in Tobacco Products was adopted in November 2012 and was signed by Ireland in 2013. The Protocol requires parties to take measures to control the supply chain of tobacco products effectively and to cooperate internationally on a wide range of matters such as information sharing and extradition. Revenue currently liaises with the Department of Health, who is leading discussion in relation to ramifications of the Protocol from an Irish perspective.

European Anti-Fraud Office (OLAF)

OLAF's role is to protect the EU's financial interests. OLAF has a significant role in combating tobacco smuggling due to the magnitude of financial losses which result. OLAF assists and supports law enforcement authorities in the EU (including Ireland) with operational cases, coordinate major investigations between member states and third countries, and provide assistance and support for joint international customs operations. In addition, OLAF negotiates with third countries on behalf of member states in relation to tobacco smuggling from third countries into the EU.

Source: Revenue Commissioners

18 Management of high wealth individuals' tax liabilities

- 18.1** High wealth individuals (HWIs) are individuals at the top of the wealth or income scale. While criteria vary from country to country, a HWI is generally considered to have assets of between \$1 million and \$50 million, while an ultra-high net worth individual has assets worth over \$50 million.¹
- 18.2** Revenue manages HWIs separately within a dedicated unit in its Large Cases Division (LCD).² The Division's principal roles are to carry out customer service and compliance functions in respect of the State's largest corporate businesses and HWIs.
- 18.3** As at June 2018, approximately 480 HWIs were being managed within the Division, along with approximately 140 trusts, partnerships, certain companies and other legal entities. Non-residents with substantial economic interests in Ireland are also dealt with in the Division.
- 18.4** Companies which a designated HWI owns, part-owns, has a shareholding in or is a director of, are managed within the relevant geographical Revenue district or LCD corporate district, as appropriate. Family members of a HWI with lower incomes may also be monitored by the HWI Unit and trust and partnerships related to the individuals managed within the districts. A number of estates of deceased HWIs and a number of bankruptcy/liquidation cases are also managed in the Unit. Almost all relevant taxes and duties are managed within the Unit. Local Property Tax is the exception (although LPT liability may be included in an audit if relevant).
- 18.5** This examination reviews
- the tax risks posed by HWIs
 - the framework used by Revenue to manage HWIs
 - the types of credits and reliefs utilised by HWIs and their resulting tax liabilities
 - how Revenue organises and manages its anti-avoidance work and interventions vis-a-vis HWIs
 - how Revenue measures performance.

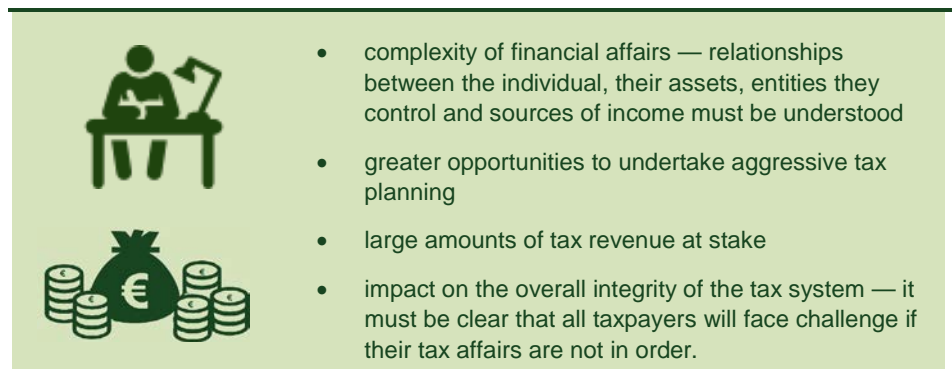
¹ *Global Wealth Report 2017*, Credit Suisse Research Institute (November 2017).

² The Large Cases Division was established within Revenue in 2003, following a review by a steering group appointed by the Minister for Finance. The steering group recommended the establishment of a large customers division to manage Revenue's largest corporate and individual taxpayers more effectively.

The tax risks posed by high wealth individuals

- 18.6** While HWIs may have many business interests, a key difference between large businesses and HWIs for tax purposes is the limitation in publicly available information. Tax is generally assessed on income rather than wealth and information relating to assets is not required for income tax returns. This makes identifying HWIs and assessing associated risks challenging for revenue bodies. Figure 18.1 presents the common issues associated with HWIs which may warrant additional focus by revenue bodies.

Figure 18.1 Features of assessment of HWIs' tax liabilities



Source: *Engaging with High Net Worth Individuals on Tax Compliance*, OECD, 2009

18.7 Significant risks relating to HWIs are

- Almost all HWIs use professional tax advisers and may be more likely to have opportunities to engage in the use of bespoke tax avoidance schemes.
- HWIs typically have a higher international mobility than other taxpayers. HWIs are more likely to have economic interests and assets in more than one jurisdiction, which may make compliance more difficult.
- HWIs often pay a high ratio of Capital Gains Tax (CGT) relative to the other taxes they pay. CGT relates to a wide range of asset transactions, which pose risks such as incorrect deductions. Artificial capital losses are a prominent feature in many tax avoidance schemes.

OECD framework

18.8 In 2008 and 2009, the Organisation for Economic Co-operation and Development (OECD) examined the management of HWIs and recommended that firm action combined with good compliance activity and good service can significantly improve compliance. The OECD's recommendations to tax administrations included¹

- gaining a greater understanding of the risks posed by the HWI segment by looking at aggressive tax planning schemes
- building an effective capacity to manage tax risks — this should be done by establishing appropriate structures and focusing resources into dedicated units which are adequately staffed by experienced officials
- exploring how the concept of co-operative compliance could be applied to the HWI segment — dedicated points of contact for taxpayers are needed as well as emphasis on transparency and disclosure that goes beyond what is statutorily required.

¹ *Engaging with High Net Worth Individuals on Tax Compliance*, OECD (2009).

18.9 One-third of tax administrations surveyed by the OECD in relation to 2015 reported having units or programmes dedicated to the management of the tax affairs of HWIs. While most such units are generally focused on audit of HWIs affairs, two-thirds also include a taxpayer service component. For example, the Netherlands has adapted a range of principles from the co-operative compliance approach taken in the management of large businesses.¹ The tax authority in the UK has also taken a co-operative approach to the management of HWIs.

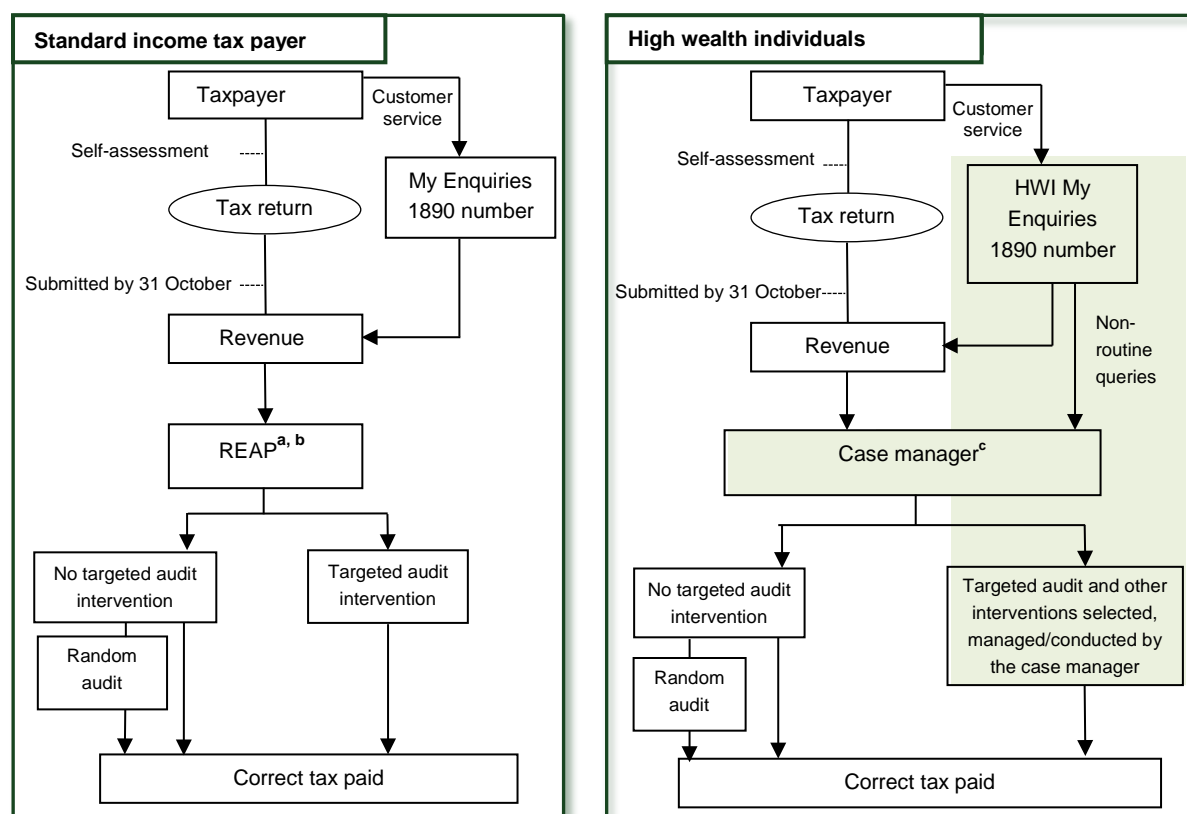
¹ *Tax Administration 2017: Comparative information on OECD and other advanced and emerging economies*, OECD (2017).

² There is a dedicated HWI customer service unit. Its functions include the delivery of customer service in respect of the HWI Unit. This includes the management and processing of work items generated as a result of the annual filing of returns by HWIs as well as the identification of instances of non-filing.

Revenue's management of high wealth individuals

18.10 HWIs have been managed by a dedicated unit within LCD since its establishment in 2003. While Revenue has not adopted a co-operative approach in relation to HWIs, a case manager is assigned to each HWI within the Unit. The case manager is responsible for profiling, risk assessment and compliance activities for HWIs within their case base. While customer service queries in some cases may ultimately be dealt with by the case manager, the case manager is not a first 'point of contact'.² HWIs or their agents may not be aware that a case manager is assigned to them or who they are. Revenue's Anti-Avoidance Unit operates within the HWI Unit, allowing for the specialised focus highlighted by the OECD. Figure 18.2 sets out Revenue's relationship with a standard taxpayer compared to a HWI.

Figure 18.2 Revenue's management of a standard taxpayer compared to a high wealth individual



Source: Revenue Commissioners

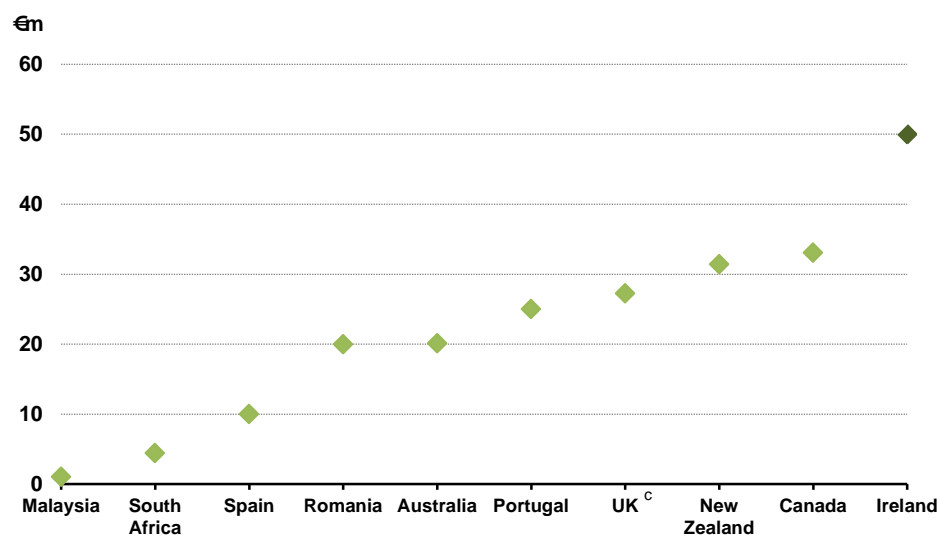
- Notes:
- a REAP is a computerised risk profiling system in use since 2008. It rates taxpayers, relative to one another, using Revenue's other systems as well as information from third parties such as the Health Service Executive, the Department of Housing, Planning, Community and Local Government and the Taxi Regulator.
 - b Revenue's national imperatives also feed into the selection of taxpayers for audit. National imperatives are national compliance projects, focusing on specific sectors such as medical consultants and contractors.
 - c Case manager assigned to each HWI who conducts profiling and risk assessment. REAP rules are used by HWI case managers to assist in the risk assessment process.

Revenue's high wealth individual criteria

- 18.11** Thresholds for identifying HWIs are important to ensure that appropriate focus is placed on taxpayers who pose the greatest risk. It is equally important that taxpayers don't avoid required specialised focus because the relevant thresholds are too high.
- 18.12** Tax administrations generally use assets and/or wealth as their main criteria for determining a HWI, while some also include income criteria. Revenue's criterion to be considered a HWI and come within the management of the HWI Unit is individuals with net assets of over €50 million. This is a high threshold compared to other jurisdictions (see Figure 18.3). Since the establishment of the HWI Unit within LCD in 2003, the criterion was reviewed in both 2007 and 2015, resulting in no change.¹

Figure 18.3 High wealth individuals thresholds — OECD survey for the year 2013^{a,b}

The HWI threshold in Ireland is significantly higher than in other countries....



¹ During the 2015 review, seven '2nd tier districts' were established, which operate in the four Revenue operational regions, managing a set of taxpayers who have complex tax affairs but which do not meet HWI or LCD criteria.

Source: *Tax Administrations 2015: Comparative information on OECD and other advanced and emerging economies*, OECD, 2015

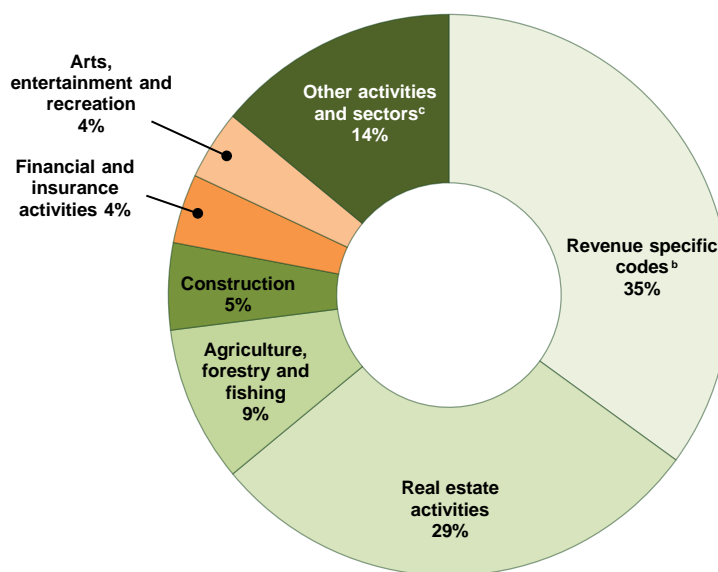
- Notes:
- a Thresholds converted into euro using the European Central Bank conversion rate as at 31 December 2015.
 - b Further information on each country's criteria is contained at Annex 18A.
 - c The threshold at which HMRC in the UK considers someone a high net worth individual was lowered during 2016–2017 to a net worth of more than €10 million.

Sectoral analysis of high wealth individuals

- 18.13** HWIs are typically characterised by the complexity of their affairs so it is not surprising that individuals with high wealth tend to operate within a number of economic sectors. Where a taxpayer carried out multiple trades or operates in multiple sectors, Revenue assigns a sectoral code that reflects the primary or most significant activity conducted. The current sectoral code recorded by Revenue for each HWI is reflected in Figure 18.4.¹

Figure 18.4 Sectoral analysis of high wealth individuals as at June 2018^a

A third of HWIs' activities fall within the real estate sector....



Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

- Notes:
- a Analysis conducted on HWIs. Associated companies, trusts, partnerships ect. are not included.
 - b 'Revenue specific codes' generally apply to the following: one-off events such as disposals; spouses and children of the HWI who are in receipt of employment income; proceeds from a disposal or a gift; and HWIs with PAYE or Schedule E directors income.
 - c Other activities and sectors comprises accommodation and food service activities; activities of households as employers; administrative and support service activities; human health and social work activities; professional, scientific and technical activities; transportation and storage; wholesale and retail trade, repair of motor vehicles and motorcycles; information and communication; manufacturing; and other services activities.

¹ Sectoral codes used by Revenue are NACE codes. NACE is a statistical classification of economic activities developed in the EU.

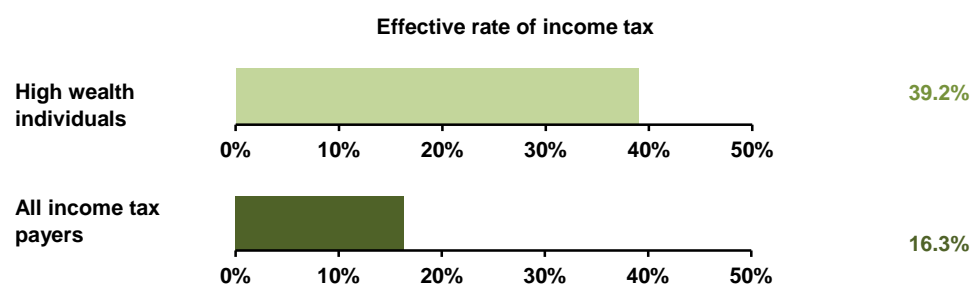
Income tax — 2015

18.14 In 2015, total net tax of €13.8 billion was due in relation to all income tax payers, of which €473 million (3.4%) was due in relation to 334 HWIs.^{1, 2} This excludes Capital Gains Tax (CGT) and Capital Acquisitions Tax (CAT). In 2015, HWIs paid 9.3% of all CGT receipts, accounting for approximately €64.4 million and 2% of all CAT paid, accounting for approximately €8 million. HWIs' tax liabilities cover a range of tax categories. Figure 18.5 presents the average effective rate paid by all income tax taxpayers and that paid by HWIs as well as the average amount of tax due for each group.

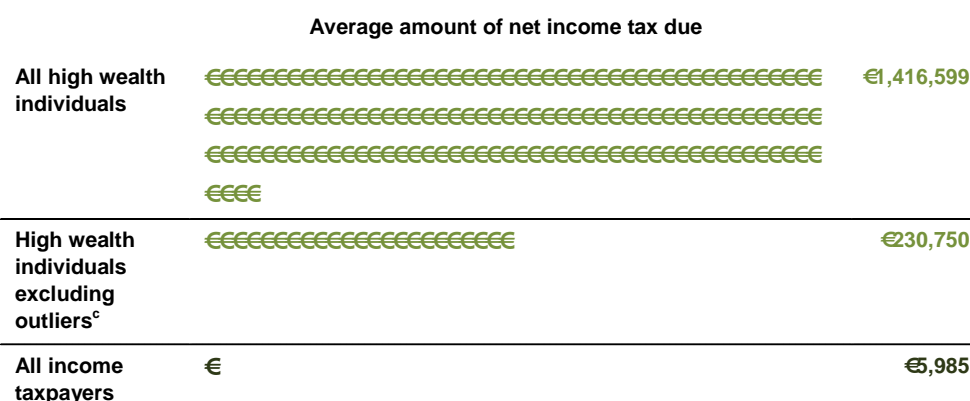
18.15 The number of taxpayers who file income tax returns (334 for 2015) is lower than the numbers managed in the Unit for a number of reasons. Some bankruptcy and estate cases are managed within the Unit; and some HWIs are only managed in respect of CGT or CAT. Also, the number of taxpayers includes jointly assessed couples that count as one taxpayer unit. In addition, some HWIs may have substantial economic interests (such as holiday homes) in the State but may not have a requirement to file an income tax return.

Figure 18.5 Average amounts and effective rates of net income tax, 2015^{a, b}

The effective tax rate for HWIs is more than double the rate for all income tax taxpayers....



The average income tax due from HWIs is many multiples higher....



€ = €10,000 (rounded)

1 The most recent data provided by Revenue as at 28 June 2018 relates to 2015.

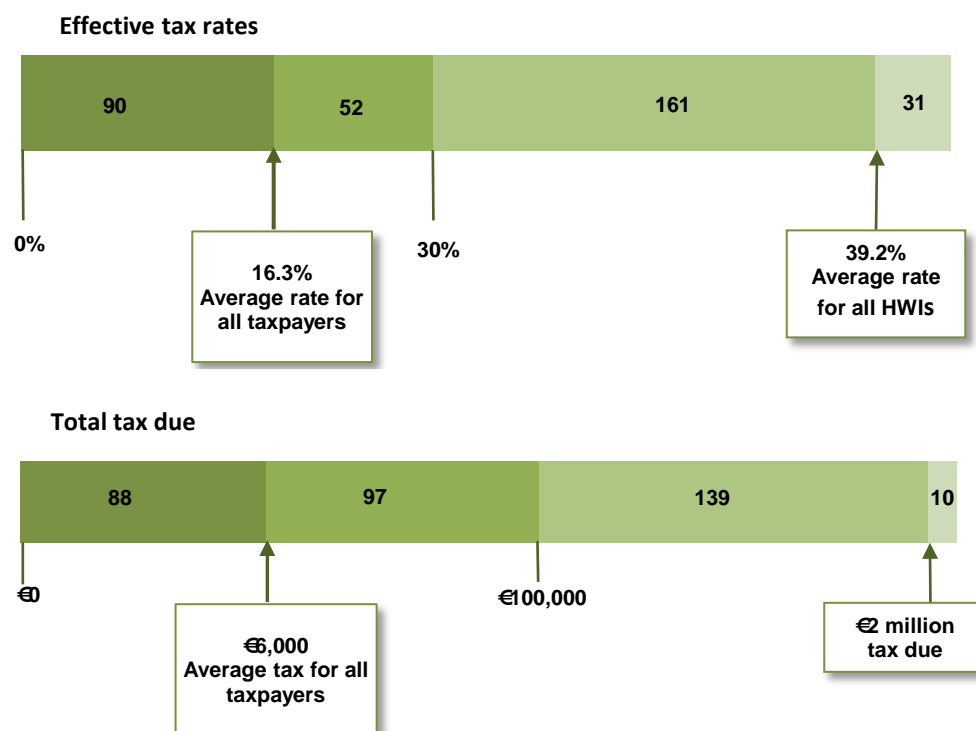
2 This included a number of HWIs who paid no tax but in some cases, paid either PRSI, USC, domicile levy or a combination of these.

Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Notes: a HWIs accounted for 1.4% of the total gross income of income tax payers in 2015 but accounted for 3.4% of the net tax due.
b Taxpayers include jointly assessed couples as one taxpayer unit.
c The top 9 HWIs have been removed as they are outliers. 17 other HWIs have been removed as they paid no tax due to being non-resident in Ireland. 7 of these 17 HWIs had no discernible activity in Ireland in 2015.

- 18.16** The averages shown in Figure 18.5 mask significant variations between HWIs. The distribution of the effective rate of tax and the total net tax due for the 334 HWIs as shown in Figure 18.6 below.

Figure 18.6 Distribution of effective tax rates and total net tax due^a



Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Note: a A total of €129.8 million was paid in relation to USC and a total of €23.8 million in relation to PRSI, along with the €473 million in income tax.

¹ The income threshold specified in the high income earners restriction is €125,000 (see paragraphs 18.24 and 18.25).

² Average weekly industrial earnings in 2015 were €686. Source: CSO

- 18.17** The relatively low amounts of tax due by a large number of HWIs is a reflection of the amount of taxable income and the use of credits and reliefs. Total income tax due from HWIs in 2015 was highly concentrated in a small number of taxpayers with 85% of the income tax due from just ten taxpayers.

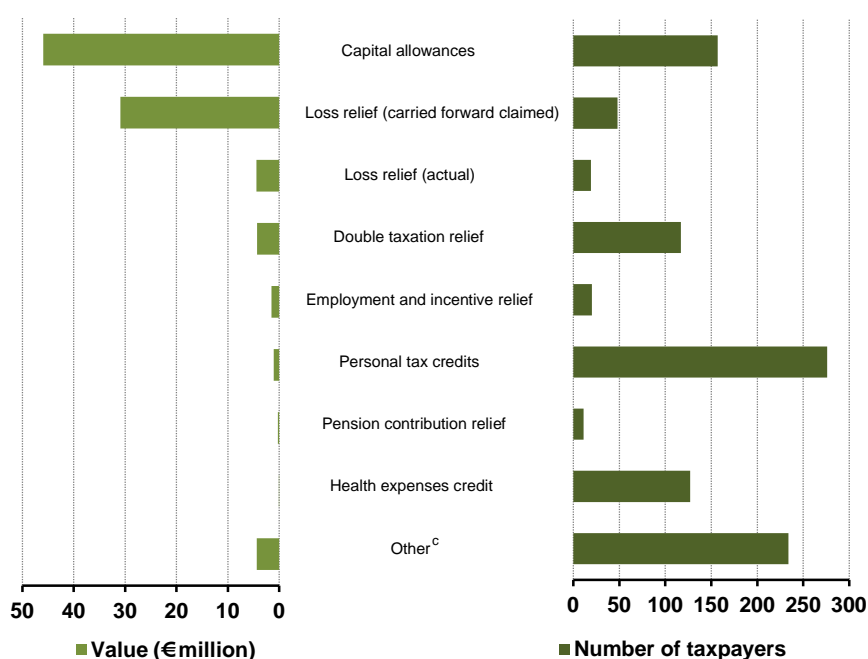
- 18.18** Looking at taxable income, 140 HWIs (42%) had taxable income of less than €125,000.¹ Of these, 83 (25%) had taxable income of less than the average industrial wage.²

Credits and reliefs

- 18.19** The tax code includes a number of tax expenditures in the form of tax reliefs and tax credits which, if applicable, have the effect of reducing the tax liability of an individual. In 2015, a total of €93 million was claimed in tax credits and reliefs by HWIs. Figure 18.7 shows further details.
- 18.20** The 'other' category in Figure 18.7 includes a number of allowances and reliefs used by less than ten HWIs, that resulted in benefits to taxpayers averaging €167,000.¹
- 18.21** While in many cases high earners are well placed to utilise a wide variety of credits and reliefs, they may also be liable to pay additional tax by virtue of their high income in the form of the domicile levy and high income earners restriction.

Figure 18.7 Tax credits and reliefs most widely used by high wealth individuals by cost and number, 2015^{a, b}

Capital allowances together with loss reliefs account for 87% of the cost of tax credits and reliefs....



Source: Revenue Commissioners

- Notes:
- a Taxpayer can have claims in more than one category. Taxpayers include jointly assessed couples as one taxpayer unit.
 - b Personal tax credits includes age and PAYE tax credits. A number of taxpayers had claims in a more than one of these categories.
 - c 'Other' includes approximately €1.5 million in respect of 108 taxpayers in receipt of a credit for interest which had previously been deducted at source by financial institutions under the Deposit Interest Retention Tax scheme.

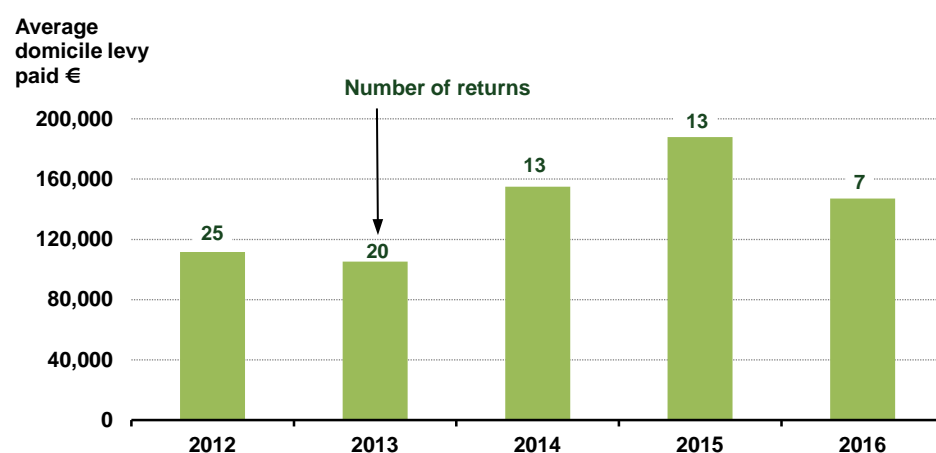
¹ These are maintenance allowance; significant buildings and garden relief; venture capital relief; and transborder relief.

Domicile levy

18.22 A levy of €200,000 per annum applies to individuals who are Irish domiciled and whose Irish income tax in a year is less than €200,000 but who have worldwide income in excess of €1 million and Irish property greater in value than €5 million. Irish income tax paid can be offset against the levy.¹ Domicile levy was managed nationally within LCD until 2016. It is now managed within Revenue's regional districts.

18.23 In practice, the levy has applied to very few individuals, and the amount collected has been offset to varying degrees by other tax payments (see Figure 18.8).

Figure 18.8 Domicile levy, 2012 to 2016^a



¹ The domicile levy was introduced by the Finance Act 2010 to be paid by individuals who were domiciled in and citizens of Ireland. This was changed in 2012 to no longer require citizenship.

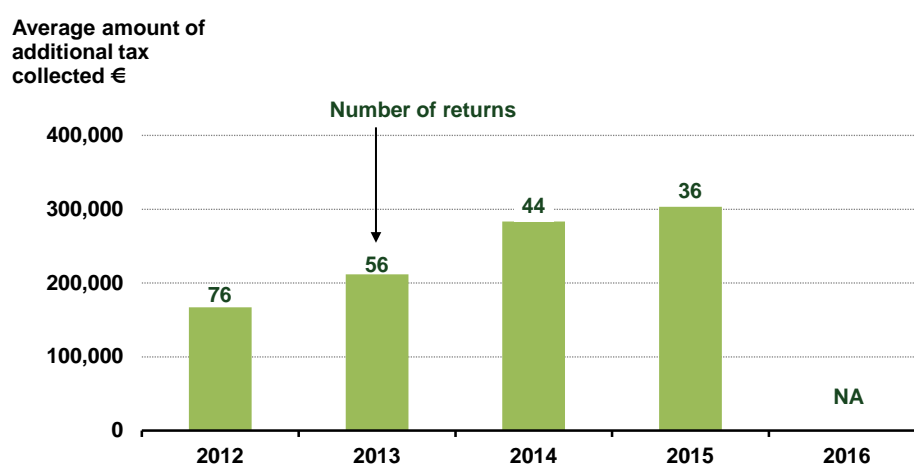
Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Note: a Over the period 2010 to 2014, an average of 47% of domicile levy returns were on foot of a Revenue intervention.

High income earner restriction (HIER)

- 18.24** The HIER restricts the use of tax reliefs and exemptions in the case of taxpayers whose adjusted income is equal to or greater than €125,000.¹ This applies where total reliefs claimed are more than €80,000 and the aggregate of specified reliefs used are greater than 20% of adjusted income.²
- 18.25** Over the period 2012 to 2015, the average amount of additional tax collected as a result the HIER has been increasing, but the number of earners paying has decreased (see Figure 18.9). HWIs accounted for an average 6% of the total number of taxpayers to whom HIER applied, but paid 21% of the total amount of additional income tax collected.

Figure 18.9 High income earners restriction - HWIs, 2012 to 2015^{a, b}



Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

- Notes:
- a Specified reliefs include sectoral and area based property tax reliefs, certain exemptions relating to artist income and patent royalties, certain investment incentive reliefs and relief on interest paid on loans used to acquire an interest in a company or partnership.
 - b 2016 data will not be available until late 2018.

¹ Adjusted income for a tax year is the sum of an individual's taxable income, before the restriction is applied, plus the aggregate amount of specified tax reliefs used in the year, less ring-fenced income (that is, income which is normally liable to tax at specific rates regardless of the amounts involved or the individual's marginal rate of tax, e.g. interest from which DIRT is deducted).

² The HIER came into effect from 1 January 2007.

³ REAP is a computerised risk profiling system in use since 2008. It rates taxpayers, relative to one another, using Revenue's other systems as well as information from third parties.

Risk assessment

- 18.26** Traditionally, risk assessment in relation to HWIs consisted of screening all HWIs' tax returns manually to identify significant or unusual items. This generated a large volume of work resulting in delays in conducting screenings, and dealing with follow-on queries. In 2016, Revenue introduced a pilot risk assessment programme to help identify taxpayers that require intervention. The pilot programme started with risk assessments for 2012 and 2013. This approach utilises risk assessment tools such as REAP, along with case manager expertise and third party information, rather than manually screening returns.³ The results of the pilot programme were considered to be successful and it is now being rolled out.
- 18.27** Local intelligence, certain transactions, taxpayer disclosures and Revenue's national imperatives are other key elements of the risk assessment process for HWIs.

Anti-avoidance

- 18.28** Tax avoidance refers to the use of tax reliefs and allowances in a way in which they were not intended to be used. Tax avoidance often stems from marketed tax avoidance schemes. Such schemes can be sold to one or more individuals and typically involve contrived, artificial transactions that serve little or no purpose other than to produce a tax advantage for the taxpayer.
- 18.29** Revenue's anti-avoidance work tends to result in litigation — for example, all assessments raised by Revenue in 2016 relating to suspected avoidance schemes were challenged by the taxpayers. Often, taxpayers in the market for tax avoidance products expect to be challenged by Revenue and are prepared to appeal such challenges. Litigation is time consuming for Revenue and also presents difficulties in terms of planning as the duration of court proceedings can be difficult to determine.
- 18.30** In Revenue, the HWI Unit takes a lead role nationally in devising, managing and implementing Revenue's anti-avoidance strategy. Not all of the Unit's anti-avoidance work relates to HWIs. For example, in the course of 2016, 40 avoidance cases were settled, of which four related to HWIs managed within the Unit. Revenue's regional offices also have a role in both identifying aggressive avoidance transactions and challenging them, in conjunction with the HWI Unit.¹

Revenue's response to avoidance

- 18.31** The OECD outlined in 2009 that an in-depth understanding of the tax avoidance market is necessary before tax administrations can reduce or eliminate avoidance activity. Knowledge of the factors which drive demand for avoidance products, as well as understanding the marketplace for such products is critical.
- 18.32** The OECD has recognised the importance of a tax authority's HWI Unit working closely together with its anti-avoidance Unit, where one exists. Revenue's HWI and anti-avoidance work are managed in the same unit in line with this international good practice. Information gathered on HWIs, especially through direct interaction with HWIs and their advisers is indispensable in understanding and challenging tax avoidance.
- 18.33** The identification of HWIs for inclusion within the Unit is an on-going process. As information on wealth or net assets is not returned to Revenue, HWIs must be identified from a range of sources and intelligence, including media reports.
- 18.34** Revenue's National Anti-Avoidance Network provides a forum for detailed technical analysis of avoidance cases and provides support to regions in dealing with anti-avoidance issues and cases.²
- 18.35** In 2017, Revenue developed a document which outlines its approach to anti-avoidance compliance interventions and the complexities involved. Annex 18B summarises the key aspects of this document. Annex 18C provides examples of a number of tax avoidance schemes identified by Revenue.

¹ At the end of quarter 1, 2018, there were 420 cases where technical assistance was being provided to Revenue's regional offices.

² The network comprises representatives from the three anti-avoidance districts, representatives from Revenue Legislation Services and representatives from Revenue's Planning Division. Revenue Legislation Services are responsible for making a case to the Department of Finance for changes to tax legislation, if considered necessary.

Revenue's legislative tools to challenge tax avoidance

Anti-avoidance rules

18.36 Revenue has two options for challenging tax avoidance.

- General anti-avoidance rule (GAAR) — the GAAR is intended to defeat tax avoidance schemes which have little or no commercial purpose, and which are primarily entered into to obtain a tax advantage. If this is the case, then the taxpayer is not entitled to claim the tax advantage when submitting their tax return. There is no time limit on when Revenue can challenge or withdraw a tax advantage that is contrary to the GAAR.
- Specific anti-avoidance rules (SAAR) — there are many targeted SAARs throughout tax legislation. These are typically used by Revenue to tackle more specific or limited types of transactions than those to which the GAAR applies. When a person seeks to obtain the benefit of any tax advantage which is withdrawn by one of the SAARs, a tax avoidance surcharge of up to 30% can apply.

18.37 A taxpayer can take steps to avoid incurring a tax avoidance surcharge.

- A taxpayer can make a qualifying avoidance disclosure (QAD) to Revenue if he/she had entered into a tax avoidance scheme and later decides to settle their tax affairs. It can be submitted any time after a tax return is filed but must be before a case is heard by the Tax Appeals Commission. This may result in a reduction in the 30% tax avoidance surcharge, and details will not be published on the tax defaulters list.
- A protective notification can be filed by a taxpayer who is concerned that a scheme they entered may be challenged by Revenue under the GAAR. A protective notification means that the tax avoidance surcharge will not apply if Revenue successfully challenges the scheme under the GAAR. Also, interest will not apply until 30 days after Revenue's assessment.

Mandatory disclosure regime

18.38 The mandatory disclosure regime came into effect in 2011 and places an obligation on promoters, marketers and users of 'disclosable transactions' to notify Revenue about the transaction. A disclosable transaction is one that may result in a person receiving a tax advantage that is or is expected to be, one of the main benefits of the scheme.¹ In most cases, the onus is on the promoter to disclose the transactions.² Revenue issues a transaction number specific to the scheme once a mandatory disclosure has been made. This does not mean that Revenue approves of the scheme, or that it is not a tax avoidance scheme.

¹ In addition, if the scheme matches any one of the specified descriptions set out in legislation, it will be regarded as a disclosable transaction.

² The onus is on the taxpayer to disclose in the following cases — when the promoter is outside Ireland, when the promoter is unable to make a disclosure due to professional privilege or when there is no promoter.

18.39 To date, 11 mandatory disclosures in respect of 494 taxpayers have been received by Revenue, seven of which were received in 2011. Revenue states that the 494 cases are either being examined or challenged. Revenue has not to date identified any schemes through its tax avoidance work which it considers should have been disclosed through the mandatory disclosure regime and were not.

Appeals

- 18.40** Tax appeals are generally heard in the first instance by the Tax Appeals Commission. Determinations made by the Tax Appeals Commission can be appealed to the Courts. Figure 18.10 sets out the final determinations made over the period 2013 to 2017 on appeals relating to HWI and anti-avoidance cases. Over the period, Revenue determinations were upheld in 68% of appeals.

Figure 18.10 Final determinations on HWI and anti-avoidance related appeals, 2013 to 2017

	Final determination		Outcome	
	Tax Appeals Commission ^a	Courts	For Taxpayer	For Revenue
2013^b	2	—	1	1 ^d
2014^b	17	—	1	16
2015^{b,c}	5	3	4	4
2016^c	—	1	1	—
2017	4	5	5	4

Source: Revenue Commissioners

- Notes:
- a In March 2016, the Tax Appeals Commission succeeded the previous Office of the Appeals Commissioners.
 - b In addition, three cases showing a determination before 2013 closed during 2013 to 2015 on the basis of a taxpayer withdrawing an appeal.
 - c One appeal determined in 2015 had 964 follower cases associated with it. One appeal determined in 2016 had 1,100 follower cases associated with it.
 - d Individual cases can be found for both the taxpayer and Revenue on different points. This occurred in one case in 2013.

Interventions

- 18.41** The main aim of Revenue's HWI compliance programme is to promote voluntary compliance and deter non-compliance. There are four main types of compliance interventions — aspect query, profile interview, audit and investigation (see Annex 18D). The type of intervention selected for use is determined by Revenue taking into account the assessed risk as well as the time and resources available.
- 18.42** Compliance interventions may arise from both the HWI Unit's risk assessment programme and screening of HWIs, and from the Unit's anti-avoidance work.
- 18.43** Figure 18.11 summarises the results of the interventions undertaken in relation to HWIs, and for Revenue intervention more generally.

Figure 18.11 HWI and anti-avoidance compliance yields compared to all Revenue compliance yields, 2015

	All Revenue ^a	HWI
Proportion of interventions with a 'yield'		
Non-audit interventions	15%	16%
Audits	68%	85%
All interventions	16%	19%
Average yield per yielding case		
Non-audit interventions	€4,400	€194,200 ^b
Audits	€76,500	€295,900
All interventions	€8,500	€212,900 ^b

Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Notes: a *Report on the accounts on the public services 2015*, Comptroller and Auditor General, chapter 15.

b This figure excludes the highest yielding intervention which was a significant outlier.

- 18.44** For 2015, the proportions of non-audit and audit interventions with a yield were higher for the HWI Unit compared to all Revenue interventions. The average yield per yielding case for non-audit interventions for HWIs was around 44 times that of all Revenue non-audit interventions. The average yield per yielding case for audit interventions for HWIs was almost four times that of all Revenue audit interventions.
- 18.45** Over the period 2012 to 2016, income tax accounted for just over 50% of the total yields from HWI interventions. Corporation tax accounted for 7% and VAT accounted for 4%. A combination of other taxes such as stamp duty, capital acquisitions tax and capital gains tax accounted for 39%.

Review of interventions

- 18.46** As part of this examination, 29 yielding interventions that closed in 2015 were selected randomly for review.¹ In addition, the highest yielding intervention was also reviewed. The yield from the 30 cases totalled €16.7 million in tax, interest and penalties.² As part of this review, the interest and penalties charged (just over €4 million) were recalculated for the cases selected.
- 18.47** There was a qualifying avoidance disclosure programme (QAD) in place in 2015, and 14 of the 30 interventions reviewed had availed of this provision to settle their tax affairs. This regime was introduced in the Finance Act 2014.³ In order to qualify as a QAD, full tax and interest payable must accompany the disclosure.
- 18.48** One aspect query in 2015 resulted in a yield of more than €10 million. The transactions which gave rise to the losses claimed in this case were complex and the taxpayer claimed that they had incurred professional fees as a result. Revenue formed the view that these fees were reasonable and allowed the taxpayer to deduct the amount in computing the tax due without sight of the invoice and without proof of payment. As a result, the tax collected as part of the final settlement was reduced by €270,000. Revenue was unable to confirm that the professional fees had not been paid for tax avoidance advice in relation to the transactions challenged.
- 18.49** It was noted by the examination team that one taxpayer who availed of the QAD programme had already paid the full amount of tax and interest due, prior to the introduction of the QAD regime. Penalties were outstanding. Revenue invited the taxpayer to make a QAD, which the taxpayer did. This resulted in a refund of 20% of the interest which had already been paid, and the avoidance of penalties and publication.
- 18.50** It was noted in one case reviewed that total interest charged was reduced by 17% due to delays in the progression of its appeal.⁴ Revenue states that while there is no provision for the mitigation of interest, on occasion, it will make allowances for delays in case/appeal progression that cause the taxpayer to be put in an adverse financial position.

¹ In the case of one taxpayer, two interventions were reviewed.

² In three of the interventions reviewed, the yields were overstated. These errors accounted for 0.2% of the total compliance yield reviewed (€35,953).

³ Section 87(1)(b)(i) of the Finance Act 2014 allows a taxpayer, who entered into a tax avoidance transaction on or before 23 October 2014, to settle with Revenue by paying the tax or duty due and payable and a 20% reduction in the amount of interest otherwise due.

⁴ The 17% reduction in this case was calculated before the 20% reduction set out under the QAD regime.

⁵ Bank statements, debt profiles, and proposed schedules of repayment are amongst the items usually requested.

Non-standard phased payment arrangements

- 18.51** Cases of non-standard phased payment arrangements can be facilitated by Revenue on a concessionary basis. Revenue's guidelines set out the evidence required before such arrangements are approved.⁵ The guidelines also state that in some cases, phased payment/instalment arrangements may fall outside of Revenue guidelines. However, the guidelines do not explicitly state in what circumstances this should be granted.
- 18.52** In the case of one taxpayer reviewed, an exception was made and a phased arrangement for the payment of interest was granted on the basis of limited documentation. 26 other taxpayers involved in the same tax avoidance scheme were granted the same arrangements without the specified evidence. Revenue considered these cases to be exceptional given the need for the QAD declaration to be made before the end of June 2015. Regard was had to the fact that there was a limited availability of finance in the economic climate at that time and therefore the QAD should be interpreted reasonably. This treatment was approved at Assistant Secretary level.
- 18.53** Revenue states that a large number of applications were received close to the QAD deadline and therefore it was considered reasonable to accept basic documentation. Revenue considers the entry into an approved phased payment arrangement as constituting full payment for the purposes of QADs.

Performance measures

- 18.54** Traditionally, compliance yield compared year-on-year is the key measure used by revenue bodies to assess the financial impact of their work in tackling non-compliance. The LCD sets targets for the number of audit and non-audit interventions which it intends to close each year. Revenue does not consider that it is appropriate to set targets for yields.
- 18.55** The HWI Unit achieved its targets for aspect queries and appraisals for 2017. However, it did not meet its targets for audits and profile interviews. Revenue considers the progression of cases to be the main performance measure and noted that case progression is actively managed in the Unit on an ongoing basis.
- 18.56** Revenue informed the examination team that it uses a number of other measures in assessing its performance in its management of HWIs and its anti-avoidance work such as
- the number of new avoidance schemes identified in a year
 - the number of engagements with other operational areas in Revenue in promoting anti-avoidance work and the quality of these engagements (knowledge in Revenue's regions is also considered)
 - the quality of the work of the Unit and ensuring that it operates within Revenue's governance and quality control systems
 - networking both within and outside of Revenue
 - ensuring customer service standards are satisfied e.g. repayment claims dealt with on time
 - the number of meetings held with agents
 - the number of technical legislative issues identified and referred to the Revenue's legal services for examination
 - success or otherwise in implementing special projects or establishing new work.
- 18.57** Revenue does not set targets for these performance measures, and does not consider that it would be beneficial to do so, because targets could be met without necessarily providing any organisational or divisional benefit.

Conclusions and recommendations

Threshold value

- 18.58** The threshold used by Revenue to define HWIs — net assets greater than €50 million — is high by international standards. As a result, just 480 HWIs are currently being managed on a focused, integrated basis in the Unit.

Recommendation 18.1

Revenue should review this threshold in order to ensure it remains appropriate.

Accounting Officer's response

Agreed.

Revenue agrees with the recommendation and will be expanding the number of HWIs managed in its HWI and anti-avoidance units. It has already been decided that the Large Cases Division be split into two divisions: one focussing on corporates and the other focusing on HWIs, anti-avoidance and pensions. Assistant Secretaries to head up the new Divisions have already been appointed.

Tax collection

- 18.59** On average, HWIs pay a higher effective rate of tax on their income than the average taxpayer, with an average effective rate for 2015 of 39.2%, compared to 16.3% for the entire population of income tax taxpayers. However, there are significant variations within the HWI population. While an effective tax rate of between 30% and 40% dominates, 90 HWIs have an effective tax rate lower than the average income tax taxpayer.
- 18.60** Total income tax due from HWIs in 2015 was highly concentrated in a small number of taxpayers with 85% of the income tax due from just ten taxpayers.
- 18.61** Despite the fact that HWIs have net assets of at least €50 million each, 42% report taxable income below the high income earner restriction threshold of €125,000 and 25% report taxable income below the average annual industrial wage.
- 18.62** There are a small number of tax reliefs which give annual benefits of an average of €167,000 to very few taxpayers.
- 18.63** The mandatory disclosure regime places an obligation on promoters, marketers and users of 'disclosable transactions' to notify Revenue about the transaction. Revenue has received 11 mandatory disclosures since the scheme came into effect in 2011, with seven of these received in 2011. Revenue states that it has not identified any schemes through its tax avoidance work, which it considers should have been disclosed through the regime and were not.

Compliance interventions

- 18.64** The Finance Act 2014 set out that payment of any tax and interest payable in respect of the matter contained in a qualifying avoidance disclosure must accompany the disclosure. Revenue considers the entry into an approved phased payment arrangement as constituting full payment for the purposes of the qualifying avoidance disclosures regime. As a result of this review, 27 cases were identified in which Revenue did not follow its own procedures regarding agreements for phased payments arrangements. Revenue's guidelines allow in some cases for phased payment/instalment arrangements to fall outside of the guidelines. The guidelines do not state in which circumstances these arrangements should be granted.

Recommendation 18.2

In the interests of equity, Revenue should ensure that a consistent approach in line with approved procedures is taken in all interventions. In the case of phased payment arrangements, Revenue's procedures should explicitly state the circumstances which warrant departure from standard procedures.

Accounting Officer's response

Agreed.

Revenue operates within a framework of quality intervention standards which prioritises consistency of treatment in carrying out compliance interventions across all Revenue divisions. However, this includes recognition that Revenue guidelines that are designed for most circumstances, may on an exceptional basis, not be applicable in the context of all the facts and circumstances of a specific case.

Performance measures

- 18.65** The regular measurement of outcomes achieved against set targets allows the effectiveness and efficiency of objectives and goals to be evaluated. Not all of the performance measures used by Revenue for the HWI Unit appear measureable. Furthermore for those that are measureable, with the exception of the number of compliance interventions, Revenue does not set targets.

Recommendation 18.3

Revenue should consider designing a set of performance measures which are capable of measurement, achievable and relevant to the strategic aims of the HWI Unit.

Accounting Officer's response

Agreed.

Revenue has set up a new Division focused on HWIs, anti-avoidance and pensions. The HWI and anti-avoidance Units currently measure their work by setting intervention targets and monitoring and tracking the progress of interventions which are all risk based. In the context of developing the new Division, Revenue will take account of the recommendations as regards performance measures and how best to reflect the performance in the management of HWI cases.

Annex 18A

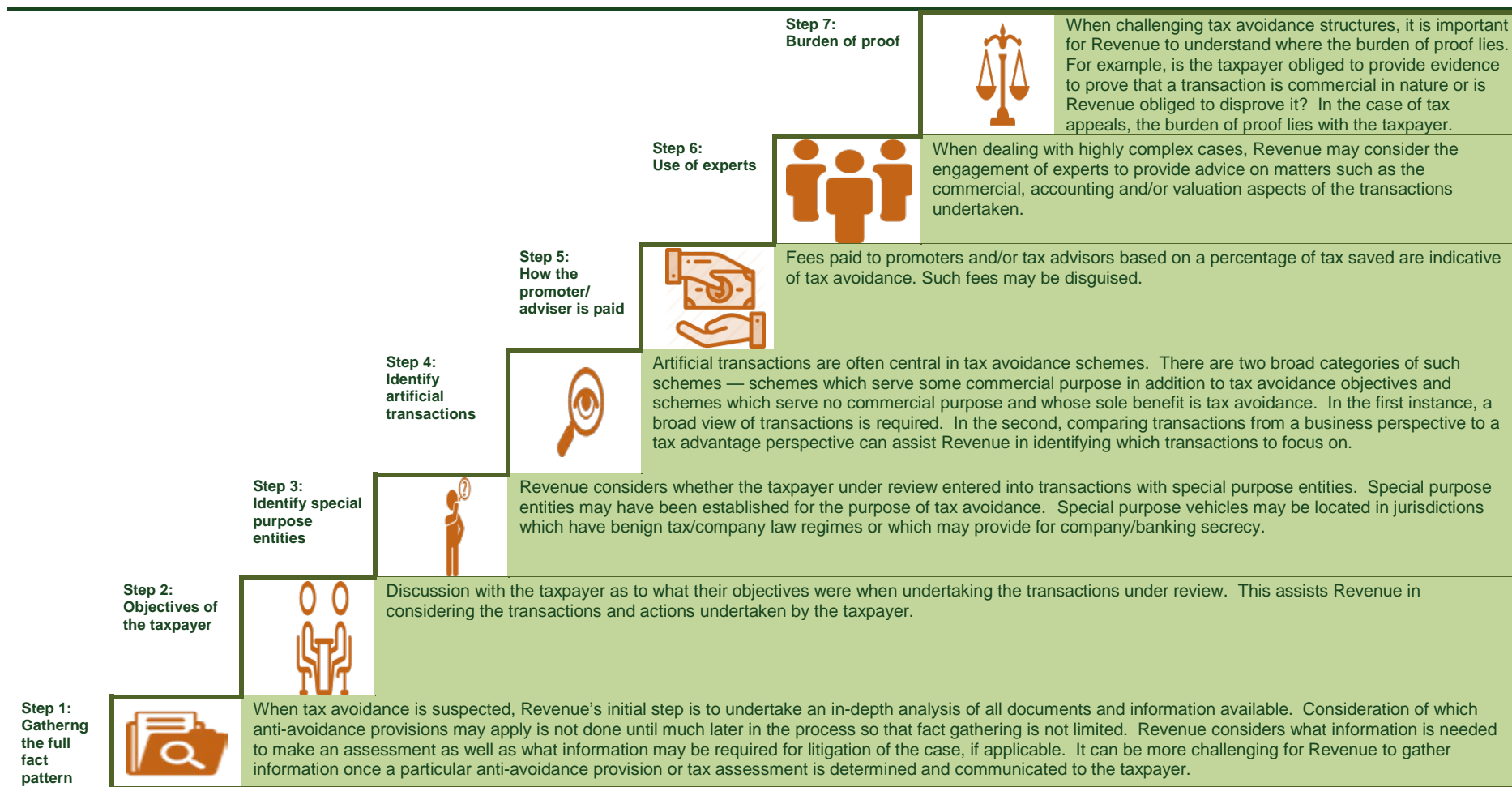
Figure 18A.1 High Net Worth Individual (HNWI) criterion and thresholds — OECD survey for the year 2013

Country	Criteria applied to identify HNWI
Australia	Residents (and any associates) who effectively control over AUD 30 million in net wealth
Canada	Individuals who alone or with related parties control net worth over CAD 50 million
New Zealand	Assets over NZD 50 million (most have over 30 entities associated with them)
Portugal	Income over €5 million and wealth over €25 million
Spain	Income of over €1 million or personal assets of over €10 million
UK	Assets over Stg £20 million
United States	Individuals with tens of millions of USD of assets or income
Malaysia	Income over MYR 1 million, assets over MYR 5 million or both together over MYR 5 million (MYR 5 million is approximately €1 million)
Romania	Individuals who control over €20 million in wealth or annual reported income over €3 million
South Africa	Gross income over ZAR 7 million and/or unencumbered assets over ZAR 75 million (ZAR 75 million is approximately €5 million)

Source: *Tax Administrations 2015: Comparative information on OECD and other advanced and emerging economies*, OECD, 2015

Annex 18B

Figure 18B.1 Revenue's structured approach to anti-avoidance compliance interventions



Source: Revenue Commissioners

Annex 18C

Figure 18C.1 Examples of tax avoidance schemes as at January 2018

Type of scheme	Number of cases and tax at risk	Progress
Cash extraction scheme involving the transfer of share rights	110 cases with tax at risk of €40.8m.	€11.9m from 43 settled cases and payments on account of €1.7m from 9 cases.
Cash extraction scheme involving settlements on trusts	Notices of opinion issued in 6 cases.	Liability established and settlements agreed in a number of cases.
Share-for-share exchange, non-filing structure and capital reduction	Each case to be considered on its merits.	Ongoing
Foreign exchange contract for difference and gilt forward contract CGT loss scheme	Circa 25 taxpayers with total losses of €550m with a potential reduction in CGT of approximately €110m.	Ongoing
Income Tax losses	Tax at risk of up to €37m.	Ongoing
Capital Gains Tax loss scheme	Specific compliance programme to target in excess of 10 taxpayers in this scheme. Tax at risk in the region of €1.2m.	A number of taxpayers have settled their liability.
Employment benefit trust scheme (A)	A number of cases likely to be referred to the Appeals Commissioners.	Interventions ongoing.
Employment benefit trust scheme (B)	In excess of 15 taxpayers targeted in a specific compliance programme in part 2. Tax at risk in the region of €2m.	Interventions ongoing.
Artificial trading loss scheme	70 taxpayers. Tax at risk of €3.5m.	Most taxpayers withdrew appeals following first Tax Appeal Commission hearing.
Capital loss scheme	In excess of 30 taxpayers. Tax at risk €33.7m with potential further tax risk arising from tax losses of €3.4m.	9 cases heard so far in favour of Revenue by Tax Appeals Commission — 3 settled and 6 appealed to Circuit Court.
Section 248 schemes	In excess of 50 taxpayers. Tax at risk of €16.5m.	15 taxpayers withdrew appeals prior to Tax Appeals Commission hearings.

Source: Revenue Commissioners

Annex 18D

Figure 18D.1 Types of compliance interventions

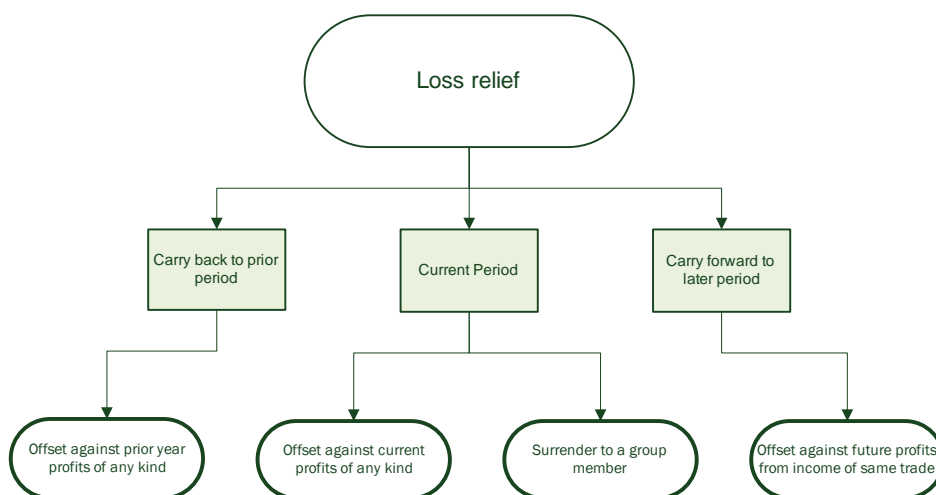
Type of intervention	Description
Aspect query	A short, targeted intervention to check a particular risk. It can be carried out by telephone, secure email, letter or visit and escalated to a profile interview or audit, if necessary.
Profile interview	Revenue write to a taxpayer identifying the relevant risk areas. A date is scheduled for a profile interview at which the risks highlighted will be discussed. A profile interview can be escalated to an audit or investigation if warranted.
Audit	An examination of an individual's or a company's books, records and compliance with tax obligations in order to establish the correct level of liability. It may also involve collection of tax arrears.
Investigation	Where Revenue believes, from an examination of the information available, that serious tax or duty evasion may have occurred or a Revenue offence may have been committed, a Revenue investigation is carried out. It may lead to criminal prosecution.

Source: Revenue Commissioners

19 Corporation tax losses

- 19.1** Companies are liable for corporation tax in respect of all profits arising from income or gains.¹ Where a company reports a trading loss in an accounting period, that loss can be used to obtain relief from the payment of corporation tax in a variety of ways (see Figure 19.1). In general, trading losses may be carried forward and offset against income from the same trade in future accounting periods without restriction.²

Figure 19.1 Trading loss relief



Source: Office of the Comptroller and Auditor General

¹ Trading profit is taxed at a rate of 12.5%. Non-trading profit such as rental and investment income is taxed at a rate of 25%. Profit from capital gains is chargeable to corporation tax at a rate of 33%. Trade losses can be used on a value basis against non-trading income or gains.

² A restriction on the use of trading losses carried forward from preceding accounting periods by the financial institutions participating in NAMA was imposed from 2010 to 2014.

- 19.2** In addition, a company can reduce its tax payable by claiming capital allowances on capital expenditure it incurs on certain types of business assets and premises including plant and machinery, etc. Capital allowances are generally calculated on a straight-line basis on the net cost of the business asset or premises. Unused capital allowances in the year are carried forward as trading losses to the next year.

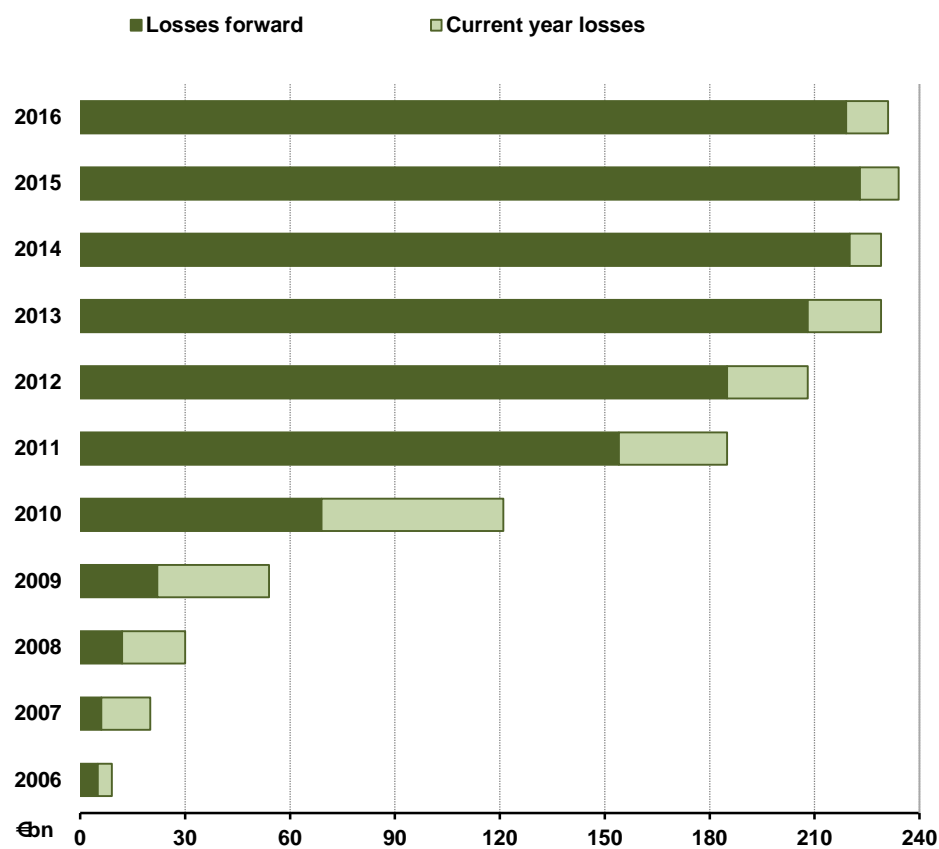
- 19.3** This examination reviews

- recent trends in corporation tax losses
- trends in the use of corporation tax losses by the companies with the largest losses
- how Revenue uses available data on corporation tax losses for planning and forecasting.

Corporation tax losses available for offset

- 19.4** In 2016, a total of €231 billion of losses and unused capital allowances was available for offset against profits (see Figure 19.2). This compares to 2006 when an estimated €9 billion was available. To put this into context, the €231 billion corporation tax losses available in 2016 is the equivalent of €29 billion in possible future reduced corporation tax receipts for the Exchequer.¹ In 2016, the total net tax receipts was €48 billion.
- 19.5** Revenue began capturing direct information on the value of cumulative losses available to offset against future profits in 2011. For the years prior to 2011, Revenue calculated the amount of unused losses available to carry forward to future years using available information and estimates of the level of losses utilised in relation to group relief.
- 19.6** The significant increase in losses carried forward between 2008 and 2011, and the continuous increase in each subsequent year up to 2015, with a marginal decrease in 2016, is reflective of the economic downturn. Revenue states that about 90% of the losses forward in 2016 belong to companies that had been claiming losses forward for five years or more.² Under current legislation, there is no prescribed order of priority of use for the different components of the trading loss.³ Losses carried forward from a number of periods are indistinguishable.

Figure 19.2 Trading losses available 2006 to 2016^a



¹ If companies that are in liquidation are excluded, this figure would be €24 billion.

² *An analysis of 2016 corporation tax returns and 2017 payments*, Revenue Commissioners, April 2018.

³ Tax Consolidation Act 1997, section 396 (1).

Source: Revenue Commissioners

Note: a Revenue estimates around €40 billion of losses brought forward in 2016 relate to companies that were in liquidation or otherwise unlikely to be in a position to ever use these losses.

19.7 Revenue's systems do not identify unused capital allowances carried forward separately from losses carried forward. Revenue states that there is no basis in tax law for distinction between the part of a trading loss that is attributable to capital allowances and the part that is not; for taxation purposes it is treated as one composite trading loss.

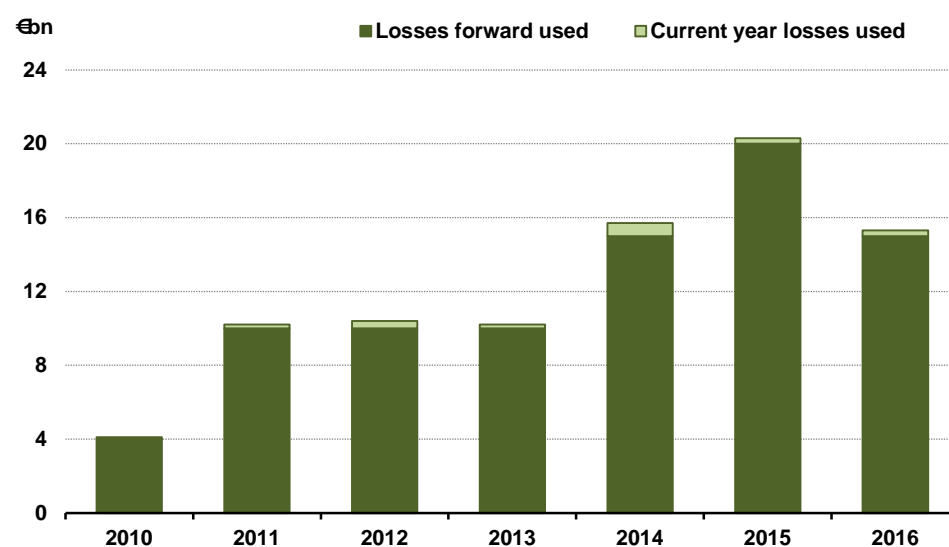
19.8 This lack of detail in Revenue data was highlighted in a report recently published by the Committee of Public Accounts.¹ The Committee has recommended that Revenue put in place procedures to analyse losses carried forward in order to identify those relating to trading losses and those relating to unused capital allowances.

Corporation tax losses used

19.9 The amount of the losses carried forward and the current year losses actually used in each year by companies is set out in Figure 19.3.

19.10 Legislation provides that trading losses forward must be used against the first available profits of the same trade. However, it does not prescribe in which order prior year losses must be used by a taxpayer. Consequently, there is no analysis of losses forward by year incurred.

Figure 19.3 Trends in total trading losses used 2010 to 2016^{a, b}



¹ *Examination of matters in relation to receipts from corporation tax*, Committee of Public Accounts, June 2018.

Source: Revenue Commissioners

Notes: a Revenue cannot provide information for amounts used prior to 2010.

b Excludes the use of losses through group relief and value basis. Value basis means that trading losses can be offset against non-trade income including chargeable gains.

Sectoral analysis

19.11 In 2016, a total of €296.3 billion was available for offset against profit (2015: €285.2 billion). This comprised of

- losses brought forward of €219.6 billion
- current year losses of €11.7 billion
- current year capital allowances amounting to €65 billion.

19.12 Details of the losses and capital allowances available, used and unused in 2016 by sector are set out in Figure 19.4.

19.13 Revenue has stated that evidence from recent years suggests that usage of capital allowances is faster than usage of losses forward, and therefore their inclusion here may underestimate the number of years left for losses. Due to the fact that unused capital allowances are not identified separately, it is not possible to strip out unused capital allowances.

Figure 19.4 Estimate of losses and capital allowances available, utilised and unused at year-end 2016

Sector	Losses and capital allowances available 2016 ^a	Used in 2016 ^b		Unused at end 2016	Number of years left ^c	Number of companies
	€bn	€bn	%	€bn		
Financial and insurance activities	117.8	9.2	8%	108.6	11.8	2,844
Administrative and support service activities	59.1	17.9	30%	41.2	2.3	4,357
Manufacturing	43.6	35.3	81%	8.3	0.24	4,432
Information and communication	17.6	5.7	32%	11.9	2.1	5,101
Construction	13.2	0.7	5%	12.5	17.9	9,778
Wholesale and retail trade	10.0	1.9	19%	8.1	4.3	10,653
Transportation and storage	9.8	1.2	12%	8.6	7.2	2,006
Other	25.2	4.3	17%	20.9	4.9	21,142
Total	296.3	76.2	26%	220.1		60,313

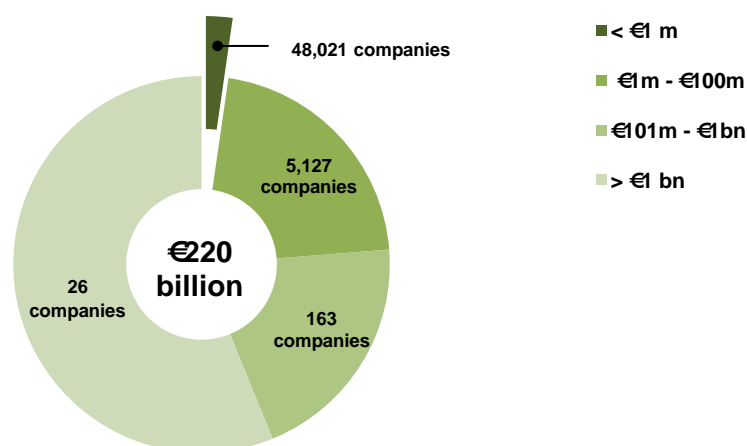
Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

- Notes:
- a Revenue estimates around €40 billion of losses brought forward in 2016 relate to companies that were in liquidation or otherwise unlikely to be in a position to ever use these losses.
 - b Excludes the use of losses through group relief and value basis.
 - c Estimate is based on the assumption that no new losses will be incurred, the usage rates for trading losses and capital allowances are the same and existing losses are used at the same rate as in 2016.

Numbers of companies carrying losses

- 19.14** Over 60,000 companies had losses available and 26,000 companies used corporation tax losses in their 2016 tax returns. Figure 19.5 sets out the concentration of corporation tax losses carried forward in 2016. Over half (56%) of the €220 billion losses carried forward was available to just 26 companies, an average of approximately €4.7 billion. In comparison, just over 48,000 companies had losses available totalling €5 billion, an average of approximately €104,000.

Figure 19.5 Concentration of corporation tax losses brought forward, 2016^a



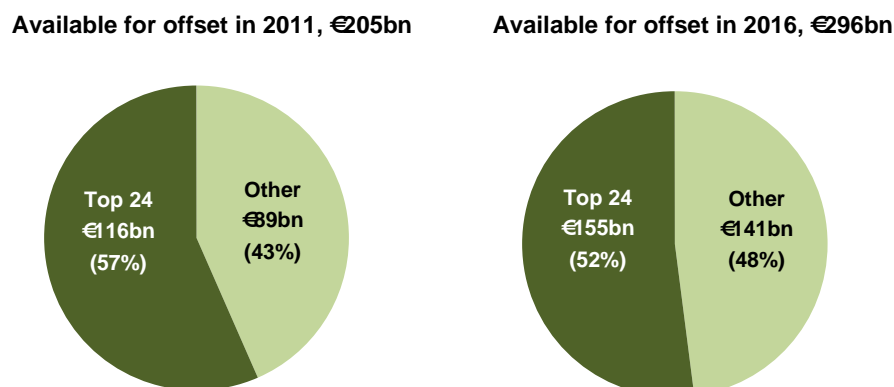
Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

Note: a Companies banded by value of corporation tax losses brought forward.

Analysis of companies with a high level of corporation tax losses

- 19.15** It was previously reported that a large proportion of the €205 billion of losses available for offset against corporation tax in 2011 was accounted for by a relatively small number of taxpayers — 24 cases accounted for €116 billion or 57% of the 2011 total.¹ This compares to €155 billion or 52% in 2016 (see Figure 19.6).

¹ Comptroller and Auditor General, *Report on the Accounts of the Public Services 2012*, chapter 26.

Figure 19.6 Losses and capital allowances available for offset, 2011 and 2016

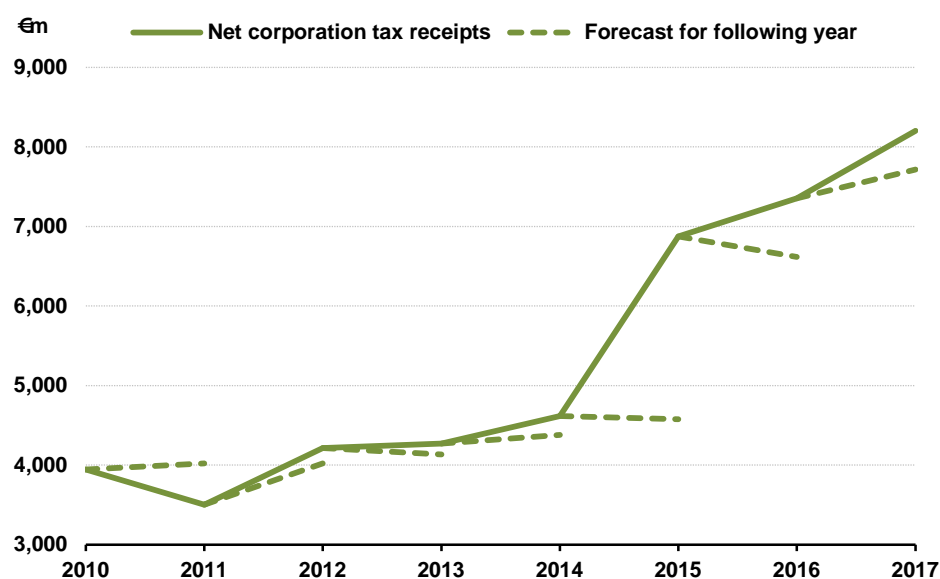
Source: Revenue Commissioners. Analysis by the Office of the Comptroller and Auditor General.

- 19.16** As part of this examination, we compared the 24 companies with the largest losses in 2011 with those in 2016.
- 19.17** 17 of the companies with the largest losses in 2011 are still in the top 24 for 2016, (by which time two had merged). Of the seven companies no longer in the top 24 in 2016, two companies are profitable with no remaining losses, two companies are profitable and using losses, two companies filed nil returns and one company had no trade profits.
- 19.18** Eight companies with the largest losses in 2016 did not feature in the 2011 listing. Although some of those companies are not generating trading losses, their level of capital allowances available against profit means they feature in the top 24 companies using loss relief and capital allowances.

Planning and forecasting

- 19.19** Accurate forecasting of tax revenue is a key part of overall public sector budgeting. The Department of Finance has responsibility for the calculation and publication of tax forecasts each year, which is done with assistance from Revenue.¹ Corporation tax receipts are by nature difficult to forecast, especially in economies such as Ireland, with both a concentration of tax receipts from a small number of taxpayers and a reliance on multinational companies. For 2016, corporation tax losses used accounted for €2 billion of a reduction in tax receipts to the Exchequer. Accumulated losses have a potential cost of tax foregone of €29 billion. Therefore, the future use of losses is a key component of forecasting.
- 19.20** Corporation tax losses are not forecast separately. Revenue states that estimates for future years are based on receipts of previous years on a net basis, with losses an intrinsic part of the tax base for corporation tax. Therefore, it does not consider it necessary to forecast them separately. If significant new losses were to be incurred in the tax base, Revenue expects to capture this through the usual channels and then to adjust estimates accordingly. Figure 19.7 sets out corporation tax forecasts compared to net receipts for the period 2010 to 2017. Significant variations are evident over this period.

¹ The Department of Finance uses gross operating surplus (taken from the National Accounts) together with information derived from Revenue to forecast corporation tax receipts.

Figure 19.7 Corporation tax receipts compared to forecasts, 2010 to 2017^a

Source: Revenue Commissioners and Department of Finance

Note: a Comparison of net corporation tax receipts recorded when received by Revenue to tax profiles from the Department of Finance based on receipts in the exchequer account.

- 19.21** Revenue's view is that forecasting of tax receipts on a net receipt basis (so including the impact of losses) remains the most appropriate approach. It considers that while forecasting of corporation tax has been challenging in recent years, increases in losses and capital allowances are only one of many factors impacting on this process.

Monitoring

- 19.22** An OECD report indicates that special reporting obligations on losses, mandatory disclosure rules, advance ruling mechanisms and co-operative compliance programmes have proven useful in relation to aggressive tax planning schemes on losses.¹ Revenue has a mandatory disclosure regime in place for all taxpayers and a co-operative compliance programme in place for large businesses.
- 19.23** Companies with large losses are monitored by case managers in Revenue's Large Cases Division. The existence of losses is identified through the examination of the corporation tax returns and supporting documents. These documents are considered when analysing risk. Consistent losses can be an indicator of risk of the existence of transfer pricing. Corporation tax losses are considered, amongst other factors, when case managers are assessing the tax risk presented by a case. The way in which losses are being used may also impact on the risk profile of a company.

Conclusions

- 19.24** Significant amounts of accumulated losses have built up since 2008. The current level of €231 billion represents possible future tax receipts reductions of €29 billion.
- 19.25** While some sectors such as manufacturing are now using up these losses, the financial and insurance sector still has a significant overhang. Based on 2016 usage rates, it will take at least 12 years for the accumulated losses in this sector to be used up (assuming no new losses).

¹ OECD, *Corporate Loss Utilisation through Aggressive Tax Planning*, 2011.

- 19.26** There is a high degree of concentration in companies that have accumulated losses, and significant persistence in companies with large accumulated losses.

Capital allowance data

- 19.27** Revenue captures key data regarding corporation tax losses in the corporation tax return. However the losses forward data does not identify separately the capital allowances carried forward, even if the loss forward consists solely of capital allowances. As Revenue has identified possible differences in the rate of usage of capital allowances and of trading losses, such information may be useful for tax forecasting.

Forecasting

- 19.28** The Department of Finance, with assistance from Revenue, carries out forecasting of corporation tax on a net basis, the results of which have a relatively high error rate. Corporation tax losses are not forecast separately. Revenue states that the potential impact of the corporation tax losses informs the estimate of the corporation tax receipts. Separate forecasting of gross receipts and the usage of losses forward may offer potential for improved forecast accuracy.

20 PRSI contributions by the self-employed

20.1 Pay Related Social Insurance (PRSI) contributions are payable in respect of earnings of almost all persons of working age.¹ PRSI contributions are paid into the Social Insurance Fund, which funds a range of social insurance benefits and pensions.² In 2016, almost €9.2 billion was collected in PRSI receipts.

20.2 There are different classes of PRSI contributions with differing rates. In general, PRSI contribution classes are decided by the nature of a person's employment. A person's PRSI classification is important because it affects the rate of PRSI which they pay on their salary or income and the social insurance benefits and/or pensions to which they may become entitled. Therefore, a key risk to PRSI receipts is the incorrect classification of liable persons.

20.3 The Department of Employment Affairs and Social Protection (the Department) has responsibility for the PRSI system and is the final arbiter in all insurability matters. The Revenue Commissioners (Revenue) collect PRSI on behalf of the Department under an agency agreement.³

20.4 This examination reviews

- PRSI classification and recent trends in PRSI contributions
- the procedures adopted by the Department to gain assurance that PRSI classifications set by employers and self-employed individuals are appropriate
- the adequacy of the arrangements in place between the Department and Revenue in relation to the collection and reconciliation of PRSI receipts.

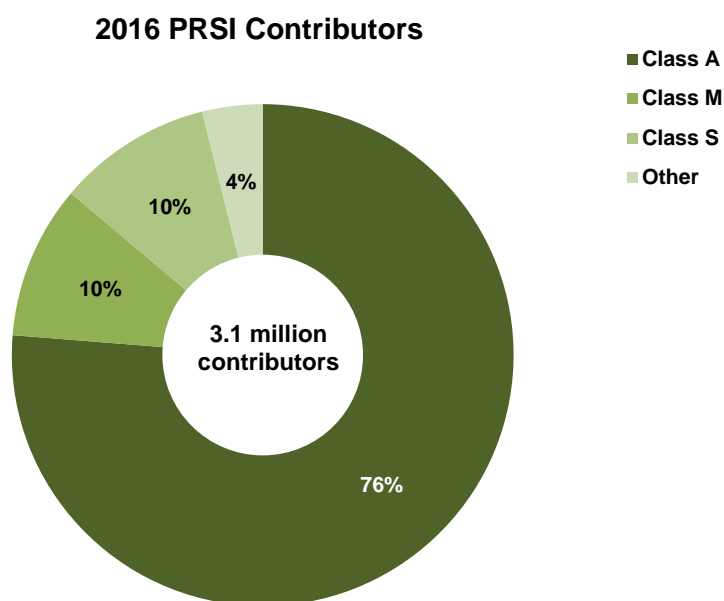
1 Unearned income may also be liable for PRSI.

2 Entitlement to benefits is conditional upon claimants having a certain number of contributions paid or credited in a specified period of time.

3 The Department pays Revenue an annual agency fee in relation to expenses incurred by Revenue in the collection of PRSI. The fee is a charge on the Social Insurance Fund.

PRSI classifications

20.5 There are eleven different classes of PRSI (see Annex 20A). PRSI classification follows a self-assessment approach. Each person/employer determines the PRSI class that applies. PRSI classes A, S and M make up 96% of the number of contributors of PRSI in 2016 (see Figure 20.1).

Figure 20.1 PRSI contributors by class, 2016^{a, b, c}

Source: Department of Employment Affairs and Social Protection

Notes: a 2016 data is provisional.

b Individuals can be classified for PRSI in more than one class. The number of contributors above is by predominant class for each individual.

c 'Other' comprises PRSI classes B, C, D, E, H, J, K, P and voluntary contributors.




20.6 The category of class M has a nil contribution liability and relates in the main to earnings of employees under 16 or 66 and over, and persons in receipt of an occupational pension. Occupational injuries benefit is the only benefit that class M contributors may qualify for.

20.7 While the rate of employee contribution is the same for both classes A and S (at 4%), there is no employer contribution for class S. The current employer contribution for class A is 10.85% and employers are liable to pay this on the reckonable pay of their employees.¹ Approximately 74% of PRSI receipts are paid by employers.

¹ The National Training Fund Levy (0.8%) is included and collected alongside employer PRSI for classes A and H. Where an employee's weekly earnings are less than €376, the employer contribution rate is 8.6% including the National Training Fund levy.

20.8 The difference in employer contribution rates may create an economic incentive for an individual to be treated as self-employed. Figure 20.2 presents a summary of the tax and PRSI implications of a hypothetical PAYE employee, self-employed individual and individual operating through a company structure (Annex 20B contains the full analysis). It should be noted that while persons who are self-employed are liable to a lower rate of contribution, this is coupled with an entitlement to a narrower range of social insurance benefits (see Annex 20A).

Figure 20.2 Summary – Illustration of the effect of employment status on tax and PRSI due

	PAYE worker 	Self-employed individual 	Operating through a company structure 
Income	€100,000	€100,000	€100,000
Tax due	€29,790	€26,070	€26,779
PRSI due — employee	€4,000	€3,578	€3,200
— employer	€10,850	–	–
Total receipts	€44,640	€29,648	€29,979

Source: Analysis by Office of the Comptroller and Auditor General

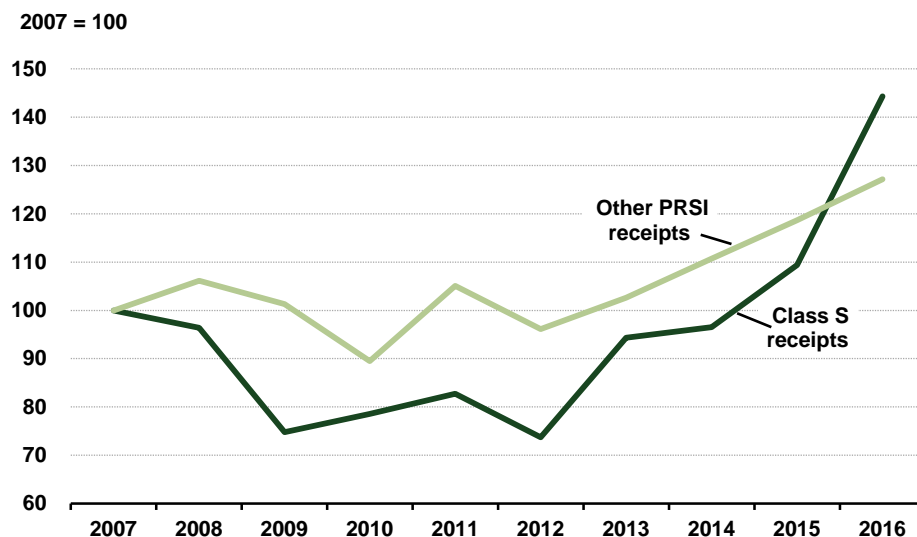
PRSI receipts

- 20.9** Revenue collects PRSI receipts on behalf of the Department. In the main, income received by employees is referred to by Revenue and for tax purposes as 'Schedule E' income. Employers make regular returns to Revenue setting out the relevant deduction made to an employee's income for employee contribution towards PRSI and the employer's contribution towards PRSI. Class A falls into this category.
- 20.10** In the case of income relating to self-employment, the term 'Schedule D' income is mainly used. PRSI at class S is applied to this income. Class S contributors include
- sole traders, people in partnerships, contractors and sub-contractors
 - people with income from investments, rents or maintenance payments
 - employees who are also self-employed
 - certain company directors, and others, who pay tax through the PAYE system
 - certain artists and childminders who are exempt from income tax.

Recent trends in PRSI receipts

20.11 Figure 20.3 (below) illustrates the trends in class S PRSI and other PRSI receipts transferred into the Social Insurance Fund for the period 2007 to 2016.

Figure 20.3 Index of class S PRSI receipts and other PRSI receipts, 2007 to 2016

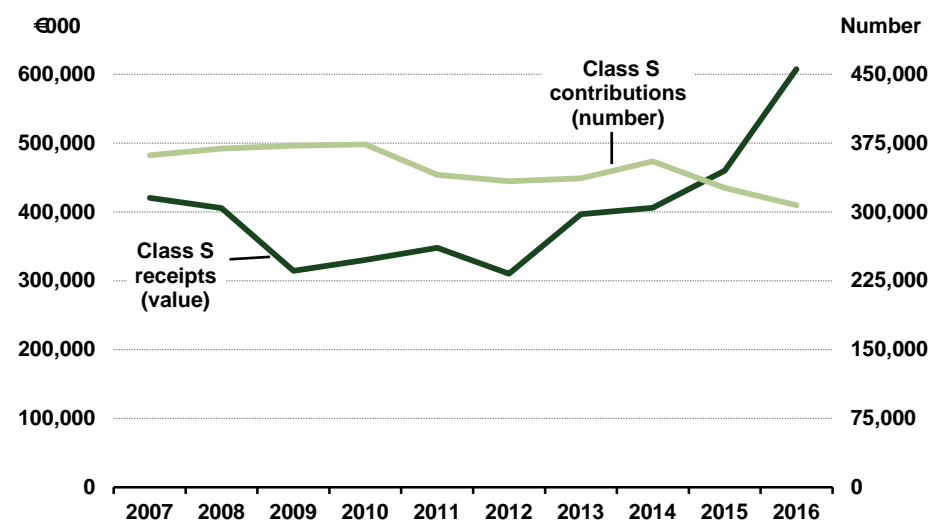


Source: Department of Employment Affairs and Social Protection

Note: a Class S PRSI as set out above includes class P PRSI, which in 2015 comprised 10 contributors.

20.12 While class S contributors account for 10% of all contributors in 2016, the associated receipts account for just under 7% of all PRSI receipts collected in 2016 (see Figure 20.4 below).

Figure 20.4 Class S receipts and number of contributors, 2007 to 2016



Source: Department of Employment Affairs and Social Protection

Note: a The Department produces statistics on PRSI receipts by employee, employer and self-employed. Self-employed PRSI receipts are assumed to be class S receipts. The Department does not analyse PRSI receipts by class.

Procedures to gain assurance that classifications are appropriate

- 20.13** Employers are responsible for ensuring that their workers are correctly classified for PRSI when they commence employment. Similarly, individuals that self-assess as self-employed are responsible for ensuring they are correctly classified for PRSI purposes. The Scope Section of the Department will provide a determination on the correct classification, if requested.¹
- 20.14** Employment relationships can be divided into two types, which potentially affect how they are treated for PRSI purposes
- a **contract of service**² — where a person works as an employee
 - a **contract for services** — where no contract of services exists and where usually there is an agreement between a self-employed individual and a business to carry out an assignment or project.
- 20.15** Social welfare legislation gives statutory power to Deciding Officers of the Department to determine insurability for social insurance purposes. In situations where the Department must make a determination as to whether an individual is self-employed, it relies on available evidence and case law. A code of practice based on case law sets out additional guidance.

Irish law precedents

- 20.16** The terms 'employed' and 'self-employed' are not defined in Irish law. Four main tests which have evolved from case law are used by the Department in establishing the difference between a contract of service and a contract for services.³
- the **control test** — is the person under the control of another person who directs as to how, when and where the work is to be carried out?
 - the **integration test** — has the worker become 'part and parcel' of the organisation?
 - the **test of mutuality of obligation** — is there a mutual obligation between the parties to provide or accept the work offered?
 - the **test of economic reality** — this test incorporates all of the above to establish whether the worker is in 'business on his/her own account'.

Code of Practice

- 20.17** The *Code of Practice for Determining Employment and Self-Employment Status of Individuals* was drawn up by a Government appointed expert group in 2001.⁴ The group was set up due to a growing concern that there may be an increasing prevalence of individuals classified as self-employed when indicators exist that employee status may be more appropriate. The criteria set out in the Code for determining self-employment are contained in Annex 20C.
- 20.18** Each case is decided on its own merits. The Department decides whether the employment is insurable under the Social Welfare Acts or not, and if so, which PRSI classification applies and who the employer is.

¹ The functions of the Scope Section are to make determinations and provide information on the insurability of employment in accordance with the law.

² The term 'contract of service' has not been statutorily defined. It is in effect a concept of common law, based on principles formulated in court decisions.

³ Social Welfare Appeals Office, *Annual Report 2015*.

⁴ The Code was updated in 2007 by the Hidden Economy Monitoring Group.

Classification of company directors for PRSI

20.19 Directors of registered limited liability companies who perform duties solely as a director and receive payment of fees are considered to be self-employed for social insurance purposes. However, it is not unusual for a company director to also perform executive duties in the company and to receive remuneration which is independent of fees received for the directorship, and may be treated as income received as an employee for social insurance purposes. Determining whether income should be treated as self-employed income or employee income is dependent on the degree of ownership and the nature of the work.

20.20 A director who is employed in a company under a contract of service (whether written or oral, expressed or implied) should be treated as self-employed for PRSI purposes where he/she is able to control 50% or more of the ordinary share capital of that company, or is the 'beneficial owner' of that company.¹

Types of self-employment arrangements

20.21 The changing nature of employment and labour markets in recent years has led to an emergence of new forms of service relationships. Some types of employment arrangements may be open to exploitation for the purposes of avoiding tax and PRSI liabilities while also reducing employment rights and responsibilities. These types of arrangements are sometimes referred to as 'disguised employment', 'bogus self-employment' or 'false self-employment'.²

20.22 Intermediary arrangements can be used as a means of disguising employment relationships. There are two main types of intermediary structures.^{3, 4}

- Personal service companies (PSC) — A contract for services is agreed between the employer and an intermediate company (the PSC) which is owned/directed by the worker. Payments for services are made to the PSC and so tax and PRSI deductions are the responsibility of the worker who can decide how much to declare as wages as opposed to profits. In some circumstances, such arrangements can amount to a mechanism that enables both the employer and the worker to avoid tax and PRSI which would be otherwise due.
- Managed service companies (MSC) — This arrangement involves setting up a company, generally structured with a number of workers (who become shareholders of the company) who may or may not be involved in delivering similar services to the same employer. Typically, a third party agent facilitates the administrative functions of the company but is not deemed to be an employment agency. As such, the agent is not regarded as the employer and tax and PRSI deductions are the shareholders' responsibility.

Sectoral trends

20.23 As part of this examination, an analysis of the sectors in which class S contributors operate was requested from both the Department and Revenue. However, a complete set of sectoral data was not readily available for self-employed contributors, as neither the Department nor Revenue maintains a database of class S contributors by sector of activity.⁵

1 Section 16 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013. Prior to this, classification of company directors for PRSI was determined on a case by case basis by the Department.

2 The Prohibition of Bogus Self-Employment Bill was introduced into the Dáil in March 2018. This is a private members bill and is intended to disincentivise employers from entering into bogus contracts for services and to provide workers with a right to redress if they are party to a suspected bogus contract for services. The Protection of Employment (Measures to Counter False Self-Employment) Bill 2018, which is also a private members bill, is currently at committee stage in the Seanad.

3 *The use of intermediary-type structures and self-employment arrangements: Implications for Social Insurance and Tax Revenues* – Departments of Finance and Employment Affairs and Social Protection (January 2018)

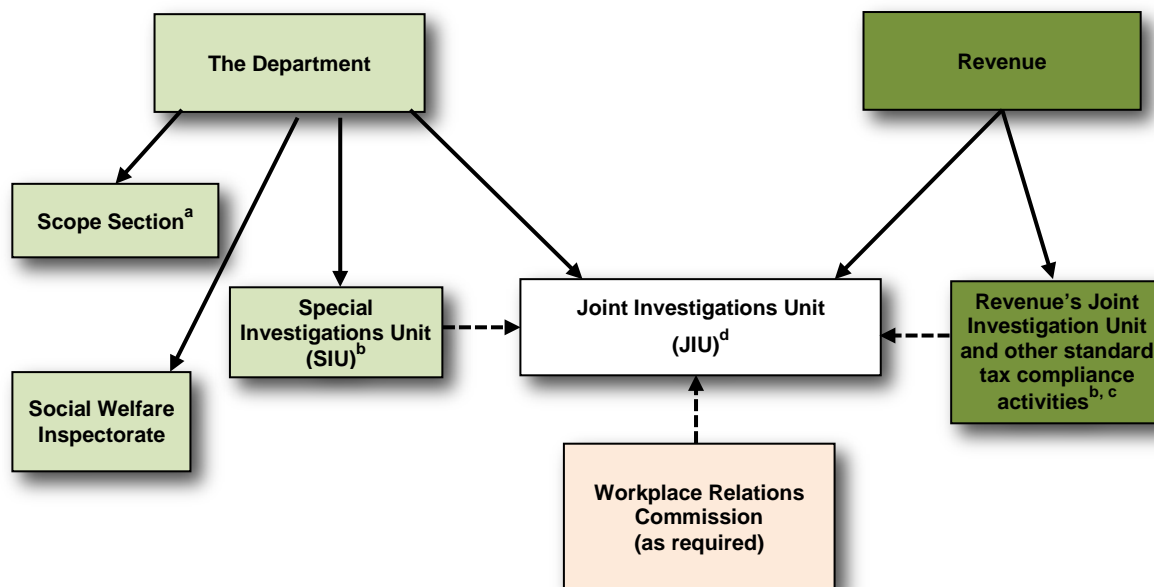
4 In many cases where intermediary structures are used, individuals are legitimately self-employed.

5 Revenue provided the examination team with sectoral data for approximately half of all self-employed PRSI contributors on the basis of taxpayers that had non-PAYE income greater than PAYE income.

Compliance Activity

20.24 Both the Department and Revenue engage in compliance activity in relation to PRSI. Figure 20.5 shows sets out the various units and activities involved.

Figure 20.5 PRSI compliance — units with a role



Source: Office of the Comptroller and Auditor General

- Notes:
- a The Scope Section is dedicated to PRSI determinations. It does not undertake non-PRSI related work.
 - b The Department draws officers from its SIU and Revenue draws staff from its Joint Investigations Unit to work on JIU investigations (investigations involving Revenue, the Department and the WRC, as required).
 - c While Revenue has no role in determining or checking that individuals have been allocated the correct PRSI classification, errors that may come to light during a compliance intervention are addressed.
 - d As set out in the 2008 memorandum of understanding, the Department and Revenue agreed to continue to operate the JIU. Joint investigations activities referred to in this report are activities of this unit.

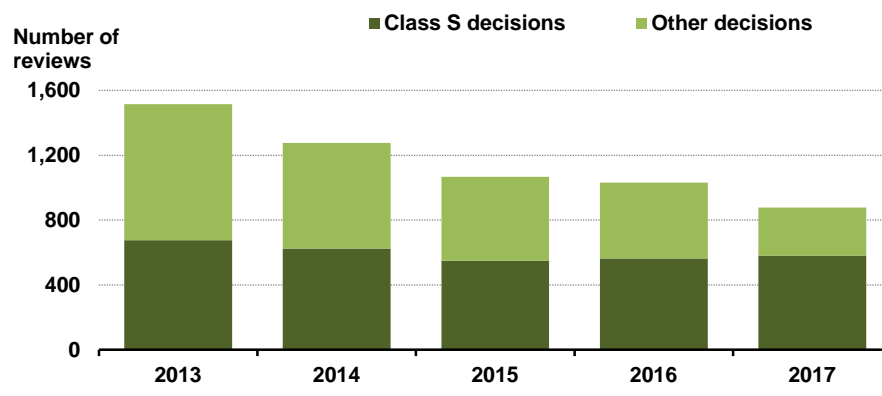
Scope Section

20.25 The Department's Scope Section conducts reviews of classifications when determinations are requested by

- an individual or their employer
- social welfare inspectors who may identify the need for a determination in the course of their work
- Department staff in the course of claims processing
- Revenue.

Figure 20.6 Departmental reviews of PRSI classifications, 2013 to 2017

The total number of determinations issued by the Department declined year-on-year....



Source: Department of Employment Affairs and Social Protection

1 The Social Welfare and Pensions Act 2014 amended 'excepted self-employed contributors' to include the spouse/civil partner of a self-employed contributor who also participates in the business and performs the same or ancillary tasks but is not a business partner, allowing them to be treated as class S.

2 A retrospective partnership is recognised when it is proven to the social welfare inspector that a partnership has existed and the assessable spouse made tax returns as a sole trader farmer/shop keeper and, some years later, both spouses claim that they are in a partnership for many years. The aim of this provision is to build up a PRSI record for each spouse.

3 Class K and class M decisions that incorporate periods up to the end of 2010 are recorded by the Department as K/M to take account of the health levy, which was abolished at the end of 2010.

20.26 The Department states that the decline in determinations was due to a sharp increase in determinations following the introduction of legislation in 2013 which deemed director employees with a 50% shareholding to be class S contributors for social insurability purposes. The number of determinations has now returned to the levels that prevailed prior to the introduction of the legislation.

Results of review

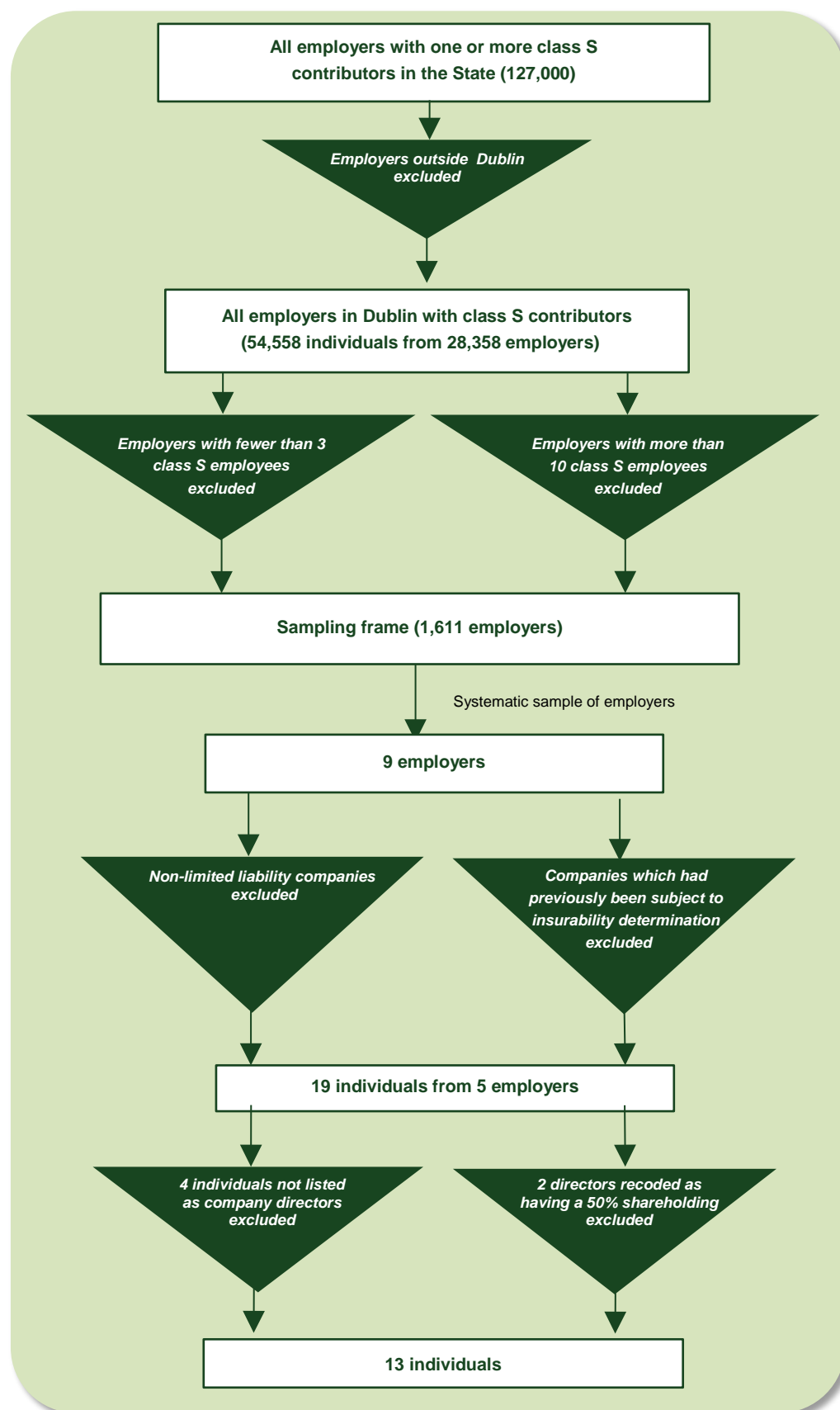
20.27 As part of this examination, a sample of 35 determinations made by the Scope Section in 2017 was randomly selected for review. The files reviewed contained evidence which supported the basis on which the Scope Section had made its determinations.

20.28 The outcome of 34 out of 35 cases was a determination of the individual's classification as class S. The remaining case was determined as class M as the employee was employed by their spouse/civil partner. In 14 of the cases reviewed, class S status was automatically given as a director owned over 50% shares in the company. Two of the other class S cases were excepted self-employed contributors.¹ Seven cases were in respect of retrospective partnerships.² No cases were reclassified from class S self-employed to class A employed. None of the determinations reviewed were appealed.³

20.29 In 24 of the cases reviewed, the employer was issued a refund of previously paid class A PRSI. In the retrospective partnership cases, PRSI which was previously paid for a sole trader was split between partners.

Departmental pilot review of company directors

- 20.30** The Scope Section implemented a pilot review of the social insurance class of company directors in late 2017 with a view to ascertaining the merit of an annual review. A sample of employers with class S contributions was selected for review. Figure 20.7 sets out the case selection process used. The Department has stated that the review was intended to assess the suitability of using random sampling rather than to select a sample representative of the full population.
- 20.31** The Department's basis for excluding employers with one or two class S employees was that these employees were likely to be company directors that own over 50% of the company. Employers with more than ten class S employees were then excluded, on the basis that these include financial institutions that are paying self-employed PRSI contributions on approved retirement funds, along with legal and other specialist companies providing corporate services. Only employers registered in Dublin were included in order to manage the number of employers identified and to facilitate potential involvement by social welfare inspectors.
- 20.32** The case selection process resulted in just 13 individuals' cases being examined. The results of the Scope Section's review were that all those directors reviewed were correctly classified as class S.
- 20.33** A number of administrative difficulties emerged during the review process, such as reliability of recorded contact details, individuals no longer with the same company and the identification of working directors being an arduous process. Given these difficulties and the fact that no misclassification was identified, the Department considers that the Joint Investigations Unit and the normal programme of investigations of the Department's social welfare inspectorate is a more beneficial way to review the classification of company directors.

Figure 20.7 Departmental review of company directors — case selection process

Source: Department of Employment Affairs and Social Protection. Analysis by Office of the Comptroller and Auditor General.

Special and Joint Investigations Units

- 20.34** The Special Investigations Unit (SIU) in the Department is tasked with investigating and reporting on social welfare fraud including PRSI non-compliance. The Unit's emphasis is on direct intervention, high visibility activity and direct engagement. The SIU currently has 110 staff, including 17 members of an Garda Síochána who are seconded to the Unit.
- 20.35** In addition to this, the Department and Revenue collaborate in joint investigation activity through a Joint Investigations Unit (JIU). Staff for this unit are drawn from the Department's SIU, from Revenue's own Joint Investigations Unit, as well as from the Workplace Relations Commission.¹ The JIU provides an integrated, multi-agency approach to the investigation of social welfare fraud, tax non-compliance and breaches of employment law. The Department and Revenue agree the annual work programme, with an emphasis on targeting shadow economy sectors where social welfare fraud, tax non-compliance and employment law breaches are most prevalent. The transport and construction sectors, restaurants and fast food outlets were some of the sectors focused on in 2017.
- 20.36** Revenue's focus in a joint operation is on non-compliance related to taxes, duties and Universal Social Charge (USC) obligations. Where tax and PRSI irregularities are detected by Revenue, an estimate will be raised for both the tax and PRSI due. These estimates may be appealed to the Tax Appeals Commission. The Department is responsible for PRSI non-compliance and determining if PRSI is due even where Revenue raises the estimate. The Department raises estimates in relation to irregularities identified by joint investigation activity which relates solely to PRSI. Such estimates can be appealed through the Social Welfare Appeals Office. The Workplace Relations Commission focuses on identifying and tackling employment law breaches by employers.
- 20.37** In 2017, the construction sector featured prominently in joint investigation activity as well as Revenue's own compliance interventions. As a result of that activity, the construction sector yielded €60.2 million in 2017 for Revenue. Payroll taxes were part of this. In 2017, Revenue led 855 unannounced visits to construction sites that included joint investigations with the Department and the WRC. Outcomes were interviews with 5,017 contractors, sub-contractors and employees. 484 sub-contractors were subsequently reclassified as employees. Also, 749 individuals were subsequently registered as new employees.
- 20.38** Over the period 2013 to 2017, an average of just over 1,100 employer reviews were conducted by the SIU (including the joint investigations activities) and an average of just over 1,700 employer reviews were conducted by the Social Welfare Inspectorate.² The proportion of cases which resulted in savings in relation to the SIU and JIU reviews, ranged from 4% in 2017 to 12% in 2013. The proportion of cases which resulted in savings in relation to the Social Welfare Inspectorate reviews, ranged from 12% in 2017 to 48% in 2013.
- 20.39** As part of this examination, five SIU cases and five JIU cases were reviewed. €188,000 additional tax and PRSI was collected as a result of these investigations. The examination team did not note any issues regarding the investigation process in relation to this sample.

¹ There are 35 personnel in Revenue's Joint Investigations Unit. In total, Revenue has approximately 2,000 staff engaged in compliance activities.

² Social Welfare Inspectors are appointed under Section 250 of the Social Welfare (Consolidation) Act 2005 and are required to investigate and report on claims and carry out inspections of employers to ensure they are complying with the PRSI system.

- 20.40** Issues relating to self-employment can also be identified through means other than the SIU and the JIU. Figure 20.8 provides a case study of self-employment arrangements at RTÉ.

Figure 20.8 Case study — Self-employment arrangements at RTÉ

In 2017, RTÉ engaged a consultant to carry out an independent review of individuals hired on contracts for services. This review followed complaints by unions that some individuals were hired by RTÉ as self-employed freelancers rather than as PAYE workers with a contract of service employment. RTÉ's Director of Human Resources informed the Committee of Public Accounts that the contractual engagements were reviewed from an employment law perspective with reference to Revenue and Workplace Relations Commission guidelines.

Of 433 contracts for services reviewed, 25% were assessed as having attributes akin to employment. The report stated that these contracts require individual review. A further 12% were found to have attributes akin to both employment and self-employment and were also worthy of review. The report recommended that RTÉ introduce a new policy around hiring freelancers, and develop clear guidelines on how and when it engages contractors or employees.

RTÉ informed the Public Accounts Committee in May 2018 that in 2017, 81 of the individuals hired on contracts of service were paid through incorporated limited companies.

Source: www.rte.ie and Committee of Public Accounts debates — 3 May 2018

Co-operation between the Department and Revenue

Memorandum of understanding

- 20.41** Revenue performs agency work on behalf of other government departments and agencies. This includes the collection of PRSI on behalf of the Department. In 2017, PRSI collected by Revenue accounted for 84% of total receipts collected on behalf of other agencies.
- 20.42** There is a memorandum of understanding in operation between the Department and Revenue on co-operation and mutual assistance, which deals with a range of issues including PRSI. The memorandum was updated in 2017. A high level governance group comprising of senior management from the Department and Revenue is also in place. This group first met in December 2009 and is responsible for reviewing the memorandum at the end of each year. The purpose of the group is to deepen the interaction at a strategic level as well as to ensure effective collaboration between both organisations.
- 20.43** The memorandum sets out agreed service standards, including service standards applying to
- the provision of and access to accurate customer information and data between the organisations
 - the timely collection and transfer of PRSI by Revenue on behalf of the Department
 - active joint co-operation in combating fraud.

- 20.44** The Department and Revenue have agreed to ensure that, as far as possible, consistent interpretations on insurability and contract of service issues are made. It is intended that this objective will be facilitated through national and local liaison arrangements.

Collection and reconciliation of PRSI receipts

- 20.45** Revenue makes daily payments to the Department in respect of PRSI receipts collected under Schedule E income.¹ Self-assessed receipts paid under Schedule D (self-employed income) include income tax, USC and PRSI. Revenue makes a single payment each month to the Department in respect of PRSI receipts associated with Schedule D income.² Some payments received by Revenue are in such a form that it is not possible to distinguish immediately between PRSI and income tax elements. A pre-determined split, which is calculated by Revenue's Statistics and Economic Research Branch, is applied to these amounts to determine interim amounts to be paid over to the Department in relation to PRSI. A balancing amount is calculated when final income data becomes available.
- 20.46** Annex 20D contains a diagram which presents an overview of the PRSI collection and reconciliation process. The memorandum of understanding sets out that Revenue will, where possible, provide explanations for abnormal variations in the payments to the Department. However, there is no structured process for the exchange of information between the Department and Revenue on the causes of variations in PRSI receipts from forecasted amounts.
- 20.47** The Department checks PRSI receipts on a monthly basis to its forecasts. When variations are noted, the Estimates Unit in the Department usually phones Revenue to query the cause of the variation. There can be lengthy delays in determining the reason for any variations because tax returns for self-assessed cases are filed almost a year in arrears and analysis of the tax returns is not conducted by Revenue until early the following year.

Strategic initiatives

- 20.48** The Department and the Department of Finance published *The use of intermediary-type structures and self-employment arrangements: Implications for social insurance and tax revenues* in January 2018. Revenue was part of the working group that prepared the report. The purpose of the report was to identify and estimate any potential loss of tax and PRSI resulting from intermediate-type structures and certain self-employment arrangements. The report recommends

- Reducing the differential in social insurance rates thus reducing the financial incentive.
- Clear public information is needed so both workers and employers are aware of the mechanisms available to them. As a result of this recommendation, the Department launched an advertising campaign in May 2018 promoting the services of its Scope Section in issuing determinations on social insurance classifications.
- Exploring the feasibility of treating the worker as a class A contributor, with the employer contribution paid by the end-user of the relevant service, and exploring the feasibility of treating payments made by an end-user either to defined classes of intermediary or to defined classes of individual, to be a payment made to the worker and so liable to tax under Schedule E.³

¹ Schedule E PRSI receipts, include self-employed directors who file and pay PRSI on a similar basis to employed contributors.

² With the exception of November when an interim payment is made soon after the payment date for self-employed tax payments.

³ Administrative difficulties were identified with these options during the consultation period. Notwithstanding this, the group recommended that these options be further explored.

- 20.49** Revenue compliance programmes include a focus on the risks of false self-employment. Revenue primarily address risks relating to false self-employment through the JIU. The construction sector is identified as a significant high risk sector, with risks of both tax and social insurance evasion.¹
- 20.50** The Minister for Finance and for Public Expenditure and Reform established an inter-departmental working group to examine and report on options for the amalgamation of USC and PRSI in February 2018. Its terms of reference include the simplification of the taxation and social insurance systems.

Conclusions and recommendations

- 20.51** There is no employer contribution for class S PRSI contributors. This creates an economic incentive for certain individuals to be improperly treated as self-employed. Despite apparent changes in employment relationships, there has been no significant increase in the proportion of earners in PRSI class S over the past ten years.
- 20.52** The Department undertook a pilot review of company directors and concluded that such a review did not need to be repeated. The approach used to inform this decision involved a very narrow sampling frame. Although not intended to be a fully representative sample, the fact that only 13 individuals were reviewed limits the conclusions which can be drawn from the review.
- 20.53** There is scope for the Department to increase the level of compliance activity. In particular, although the Department's Scope Section issues around 1,000 determinations each year, it does not usually initiate reviews of classifications. Targeted investigations recently undertaken by the SIU and the JIU in the construction sector detected a significant incidence of misclassification.

Recommendation 20.1

The Department should consider the introduction of a random programme of reviews of PRSI classification. Such a programme would provide the Department with a level of assurance as to the accuracy of PRSI classifications, particularly with regard to self-employed contributors, and an estimate of the baseline loss of revenue. Such a programme of reviews may also serve as a deterrent, which is of particular importance given the onus on employers for ensuring that their workers are correctly classified for PRSI when they commence employment.

Accounting Officer's response

Part-agreed.

Following from its awareness campaign on false self-employment which commenced in May 2018, the Department is intensifying its activity in relation to employer inspections by its social welfare inspectorate and SIU staff and it is anticipated that a significantly larger number of employer inspections with a particular emphasis on insurability for PRSI purposes will be carried out in the latter half of 2018 and 2019. These inspections will include ones with a particular focus on identifying false self-employment and should lead to increased numbers of requests for determinations to Scope Section. Random sampling may be carried out within a targeted approach to reviews based on industry sectors and intelligence received e.g. companies reported to Scope Section/ the Department during the awareness campaign and on an ongoing basis. This work will continue into the future with the Department increasing its focus on all aspects of PRSI.

¹ A construction sub-group was established during the preparation of the intermediary-type structures report and existed until the report was finalised.

- 20.54** The Department was unable to provide sectoral data in relation to self-employed PRSI contributors. In addition, a breakdown of PRSI receipts by class was not readily available.

Recommendation 20.2

The Department should consider compiling sectoral data on self-employed contributors and data on receipts by class with a view to conducting analysis of trends. This information will assist in the Department's oversight of this area. It may also assist in targeting the Department's compliance activity as emerging trends are identified.

Accounting Officer's response

Agreed.

The current situation is that industry sector (NACE) data are compiled by Revenue for both employers and the self-employed, but are only provided to the Department for employers.

The Department will engage with Revenue to review the metadata on the self-employed, to ensure that sectoral (NACE) data and other relevant analysis are available to the Department, and to investigate the extent to which analytical best practices may be shared and mutually developed.

A breakdown of PRSI contributors by class is regularly published as part of the Department's Annual Statistical Information Report (Table A8), and the Department plans to publish a breakdown of PRSI receipts by class alongside this in 2019.

- 20.55** While both the Department and Revenue are operating within the parameters of the memorandum of understanding, the memorandum lacks sufficient detail around the PRSI receipts reconciliation process. In particular, no time lines are set out for the provision of explanations regarding variances.

Recommendation 20.3

It is recommended that as part of the annual review of the memorandum of understanding, the memorandum should be revised to incorporate a structured process to resolve queries on variations in PRSI collected, compared to estimated receipts. Such a process should include a liaison structure, a formal mechanism to log queries and timeframes for response. The review should also consider the merits of establishing a mechanism whereby Revenue can share the rationale for its estimate that sets the pre-determined split with the Department. Cooperation and the sharing of information in this area will add rigour to the Department's forecasting process.

Accounting Officer's response

Agreed.

The operation of the memorandum of understanding is reviewed annually by the high level group which includes senior officials from the Department and Revenue. The high level group will discuss a formal liaison structure for logging of queries in relation to variations in PRSI collected. The Department will engage with Revenue to investigate the extent to which modelling and forecasting best practices can be shared and mutually developed. Revenue's PAYE modernisation programme will present opportunities for more timely exchange of data between Revenue and the Department.

Revenue Chairman's response

Part-agreed.

Revenue can provide factual information on collection amounts and dates of collection but we are not in a position to suggest reasons for variances from the collection amounts to the Department's forecasts as we are not involved in the forecasting process. Revenue can agree to have a structured process in place to log queries and provide responses. More broadly, any procedures put in place should also reflect the introduction of PAYE real-time reporting from 1 January 2019, as provided for in Finance Act 2017. This will improve quality and timeliness by giving Revenue significantly improved visibility on PRSI deductions for employed persons, as employers will be reporting these deductions (both employer and employee contributions) at the level of each employee, every time the person is paid. The data will provide information on PRSI deductions much earlier in the process than is currently the case, where the monthly employer return (for monthly remitters) is made by the middle of the following month and consequently, will facilitate more accurate and speedier forecasting by the Department and the Department of Finance.

Annex 20A

Figure 20A.1 PRSI classes — 2018

Class	Applicable rates ^a		Covers
	Individual	Employer	
A	4%	10.85%	Employees under the age of 66 in industrial, commercial and service-type employment who have reckonable pay of €38 or more per week from all employments as well as public servants recruited from 6 April 1995.
B	4%	2.01%	Permanent and pensionable civil servants recruited before 6 April 1995, registered doctors and dentists employed in the civil service and Gardaí recruited prior to 6 April 1995.
C	4%	1.85%	Commissioned officers of the defence forces and members of the army nursing service recruited before 6 April 1995.
D	4%	2.35%	Permanent and pensionable employees in the public service, other than those mentioned in classes B and C recruited before 6 April 1995.
E	—	—	Minister of religion employed by the Church of Ireland representative body.
H	3.9%	10.15%	NCOs and enlisted personnel of the defence forces.
J	Nil	0.5%	People in private sector employments with reckonable pay of less than €38 per week from all employments. However, a small number of employees are insurable at class J, no matter how much they earn, such as employees aged 66 or over or people in subsidiary employment.
K	4%	Nil	Since 2011, certain public office holders pay PRSI at a rate of 4% on all income, where their income is over €5,200 a year. Public office holders with weekly income of €100 or less should be returned at class M.
M	Nil	Nil	People with a nil contribution liability such as employees under 16, people 66 or over (including those previously liable for class S), persons in receipt of occupational pensions or lump-sum termination payments and public office holders with a weekly income of less than €100 a week.
P	—	—	Self-employed people whose main income comes from share fishing.
S	4%	Nil	Self-employed people, including certain company directors, certain people with income from investments and rent, and certain local authority members.

Source: Department of Employment Affairs and Social Protection

Note: a Rate applicable is dependent on the amount of weekly pay. The applicable rates displayed above are the highest rate payable in each case.

Figure 20A.2 Summary of benefits for each insurance class — 31 December 2017

Benefit / Class	A	B, C, D	E	H	J, M	P	S
Jobseeker's benefit	✓			✓		✓ ^b	
Illness benefit	✓		✓	✓		✓ ^b	
Maternity benefit	✓		✓	✓			✓
Paternity benefit	✓		✓	✓			✓
Adoptive benefit	✓		✓	✓			✓
Health and safety benefit	✓		✓	✓			
Invalidity pension	✓		✓	✓			✓
Widow's, widower's or surviving civil partner's (contributory) benefit	✓	✓	✓	✓ ^c			✓
Guardian's payment (contributory)	✓	✓	✓	✓			✓
State pension (contributory)	✓		✓	✓			✓
Treatment benefit	✓		✓	✓ ^c		✓	✓
Occupational injuries benefit	✓	✓ ^a			✓		
Carer's benefit	✓	✓	✓	✓ ^c			
Partial capacity benefit	✓		✓	✓			✓

Source: Department of Employment Affairs and Social Protection

- Notes:
- a There are limited occupational injuries benefits available to those insured under class B and none available to class C.
 - b Jobseeker's Benefit and Illness Benefit is limited for those insured under class P.
 - c Widow's, widower's or surviving civil partner's (contributory) benefit, treatment benefit and carer's benefit are the only benefits paid during service for those insured under class H.

Annex 20B

Figure 20B.1 Illustrations of impact of employment, self-employment and corporate structures on tax and PRSI payable

	Scenario 1	Scenario 2	Scenario 3
	PAYE	Self-employed	Through a company structure
	€	€	€
Income	100,000	100,000	100,000
Allowable expenses	—	10,550	10,550
Salary	—	—	80,000
Total income after expenses	100,000	89,450	9,450
less Corporation tax due @ 12.5%	—	—	1,181
Profit after tax	—	—	8,269
Tax payable at 20% (up to €34,550)	6,910	6,910	6,910
Tax payable at 40% (balance)	26,180	21,960	18,180
Total tax payable	33,090	28,870	25,090
Tax credits:			
Single person tax credit	(1,650)	(1,650)	(1,650)
Employee tax credit	(1,650)		
Earned income tax credit		(1,150)	(1,150)
= tax due on salary	29,790	26,070	22,290
Income tax on distribution of profit @ 40%	—	—	3,308
PRSI			
Employee PRSI at 4%	4,000	3,578	3,200
Employers PRSI at 10.85%	10,850	—	—
Total PRSI due	14,850	3,578	3,200
Total tax and PRSI due	44,640	29,648	29,979

Source: Office of the Comptroller and Auditor General

- Notes:
- a Allowable expenses in the example are running costs of vehicles €3,000, capital allowance (vehicle) €3,750, interest on a business loan €2,000, legal and accountancy fees €1,000, bank charges €300 and phone charges €500.
 - b 2018 tax credits and tax rates used.
 - c In all 3 scenarios, tax thresholds and credits are assumed to be for a single individual.
 - d In scenario 3, the person drawing the salary is assumed to be self-employed. Close company surcharge has not been considered in the illustration. It is assumed that profit after tax is fully distributed.
 - e The company structure is assumed to be in line with a typical PSC/MSC structure.
 - f USC has not been calculated in the above examples.
 - g Allowable expenses in respect of an employee are normally paid directly by the employer. However, where the employer does not pay the expenses directly or reimburse the employee, the employee can claim an income tax deduction.

Annex 20C Criteria to determine whether a person is self-employed

While all of the following factors may not apply to the job, an individual would normally be self-employed if he or she:

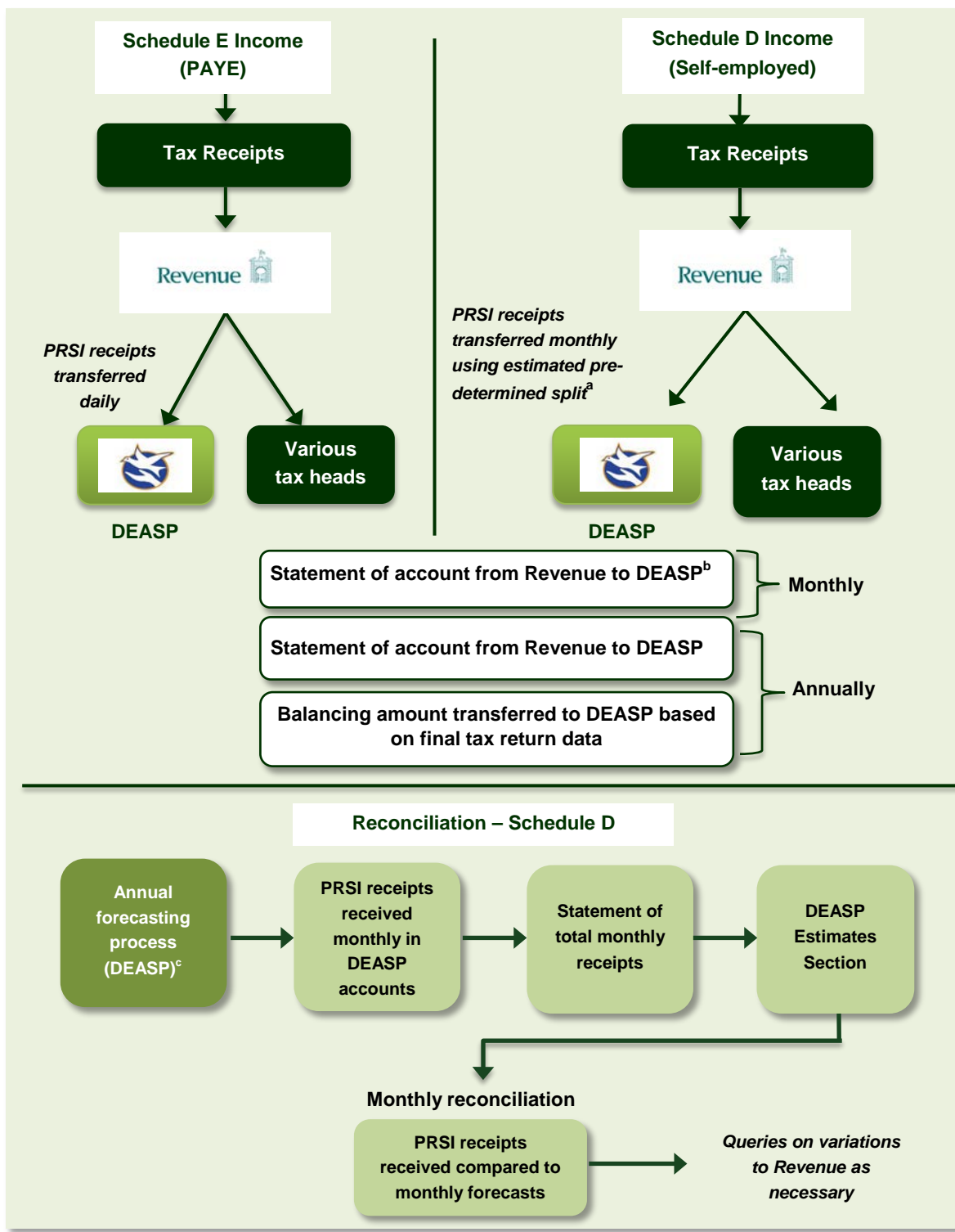
- Owns his or her own business.
- Is exposed to financial risk by having to bear the cost of making good faulty or substandard work carried out under the contract.
- Assumes responsibility for investment and management in the enterprise.
- Has the opportunity to profit from sound management in the scheduling and performance of engagements and tasks.
- Has control over what is done, how it is done, when and where it is done and whether he or she does it personally.
- Is free to hire other people, on his or her terms, to do the work which has been agreed to be undertaken.
- Can provide the same services to more than one person or business at the same time.
- Provides the materials for the job.
- Provides equipment and machinery necessary for the job, other than the small tools of the trade or equipment which in an overall context would not be an indicator of a person in business on their own account.
- Has a fixed place of business where materials, equipment etc. can be stored.
- Costs and agrees a price for the job.
- Provides his or her own insurance cover e.g. public liability cover, etc.
- Controls the hours of work in fulfilling the job obligations.

Additional factors to be considered:

- Generally an individual should satisfy the self-employed guidelines above, otherwise he or she will normally be an employee.
- The fact that an individual has registered for self-assessment or VAT under the principles of self-assessment does not automatically mean that he or she is self-employed.
- An office holder, such as a company director, will be taxed under the PAYE system. However, the terms and conditions may have to be examined by the Scope Section of the Department of Social Protection and Family Affairs to decide on the appropriate PRSI class.
- It should be noted that a person who is a self-employed contractor in one job is not necessarily self-employed in the next job. It is also possible to be employed and self-employed at the same time in different jobs.
- In the construction sector, for health and safety reasons, all individuals are under the direction of the site foreman/overseer. The self-employed individual controls the method to be employed in carrying out the work.

Source: Code of Practice for Determining Employment or Self Employment status of Individuals – Employment Status Group established under the Programme for Prosperity and Fairness and updated in 2007 by the Hidden Economy Monitoring Group.

Annex 20D Overview of the transfer and reconciliation of PRSI receipts



Source: Office of the Comptroller and Auditor General

- Notes:
- a Revenue uses a micro-simulation tax modeller which uses macro-economic data from the Department of Finance, tax return data and other parameters to estimate the percentage split to be applied for the following two years.
 - b DEASP receives a statement of account around three weeks after the end of each month. The monthly statement of account provides an analysis of receipts based on the calendar year in which the receipts are due, which is different to the contribution year, for example, receipts due in January each year relate to the previous December.
 - c DEASP uses macro-economic employment and wage trend data from the Department of Finance, as well as prior year collections to populate a model used to produce a forecast of PRSI receipts for the following two years.

Other Matters

21 Accounts of the National Treasury Management Agency

- 21.1** Section 12 of the National Treasury Management Agency Act 1990 (the 1990 Act) (as amended) requires the National Treasury Management Agency (the NTMA) to keep accounts of all moneys it receives or expends in the form approved by the Minister for Finance (the Minister), and to submit them for audit by the Comptroller and Auditor General. Following completion of the audit, the NTMA must submit the accounts to the Minister, who in turn must present the accounts to the Houses of the Oireachtas.
- 21.2** Separately, section 12 of the 1990 Act requires the Comptroller and Auditor General to report to Dáil Éireann with respect to the correctness of the sums brought to account by the NTMA each year. This is the report for 2017 under that section of the 1990 Act.

Accounts of the NTMA 2017

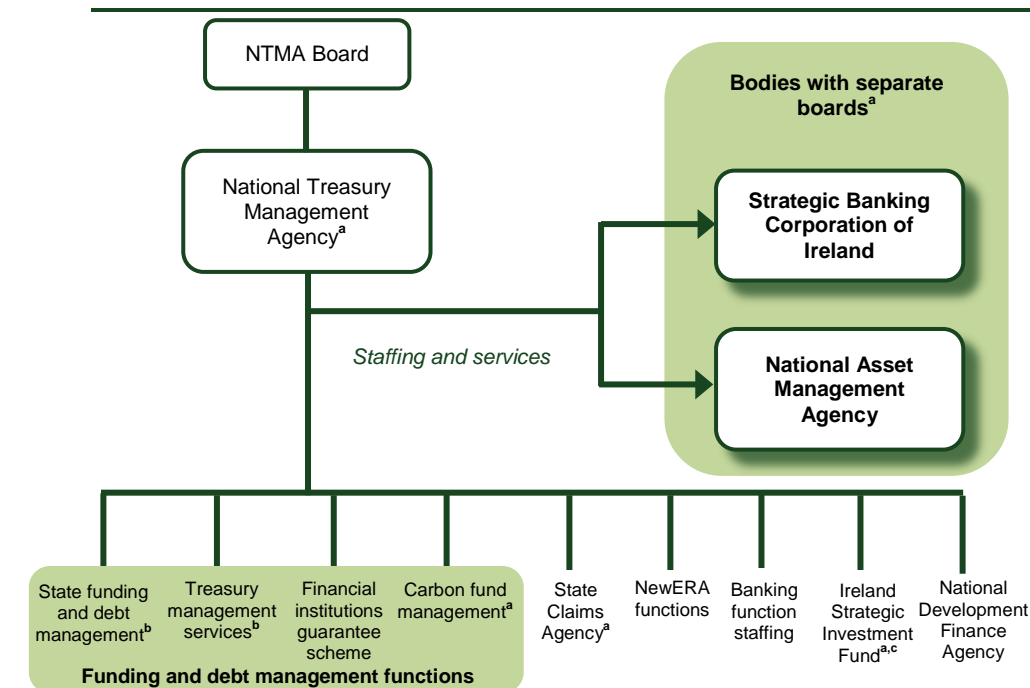
- 21.3** The accounts audited under section 12 of the 1990 Act (as amended) are as follows
- National debt of Ireland
 - NTMA administration account
 - Post Office Savings Bank Fund financial statements
 - State Claims Agency financial statements
 - Ireland Strategic Investment Fund financial statements.
- 21.4** The accounts of the NTMA for 2017 have been audited. My reports on the audits were issued on 31 May 2018. Copies of the accounts, together with my reports on the audits, were presented by the Minister to the Houses of the Oireachtas on 9 July 2018.
- 21.5** I am satisfied that the accounts properly present the transactions of the NTMA for 2017 and its balances at year end.
- 21.6** The NTMA also prepared the financial statements of the Dormant Accounts Fund under the Dormant Accounts Act 2001.¹

¹ The report on the audit of the Dormant Accounts Fund was issued on 31 May 2018.

Structure, costs and staffing of the Agency

- 21.7** The NTMA was originally set up in 1990. It has since evolved into a complex organisation with multiple functions that extend beyond its original and core role in managing Ireland's national debt. The structure of the NTMA is outlined in Figure 21.1.
- 21.8** The NTMA assigns staff to the National Asset Management Agency (NAMA) and the Strategic Banking Corporation of Ireland (SBCI) and also provides them with business and support services and systems on a cost recoupment basis. These costs are outlined in Figure 21.2. Both NAMA and SBCI have their own boards and are separately accountable to Dáil Éireann.
- 21.9** At end 2017, NTMA staff numbers totalled 790.¹ The assignment of staff to the various functions and activities at year-end for 2012 to 2017 is set out in Figure 21.3.

Figure 21.1 Structure of the National Treasury Management Agency



Source: National Treasury Management Agency

Notes: a Separate financial statements are prepared for the activities of each of these functions/entities.

b In the case of State funding, debt management and treasury management services, separate financial statements are prepared for the Dormant Accounts Fund, the Post Office Savings Bank Fund and the national debt.

c The Ireland Strategic Investment Fund (ISIF) took over assets and liabilities of the National Pensions Reserve Fund (NPRF) in 2014. Financial statements for the NPRF will continue to be prepared until all remaining assets are legally transferred to the ISIF. At 31 December 2017, foreign assets valued at €95,000 (2016: €439,000) remained in the NPRF.

¹ This figure indicates the number of contracts of employment, rather than whole time equivalent, which at end 2017 were 784.

Figure 21.2 Cost of operations, 2015 to 2017^a

	2015	2016	2017
	€m	€m	€m
NTMA business units			
Funding and debt management	10.1	11.5	12.5
Ireland Strategic Investment Fund	8.7	10.4	12.5
State Claims Agency	15.7	19.4	20.8
NewERA	6.2	5.3	5.4
Banking Unit (Shareholding and Financial Advisory Division, Department of Finance)	2.4	2.8	4.3
National Development Finance Agency	9.1	9.5	10.1
Supported bodies			
National Asset Management Agency	53.5	46.7	38.1
Strategic Banking Corporation of Ireland	3.6	4.2	5.2
Total	109.3	109.8	108.9

Source: National Treasury Management Agency

Note: a Costs of operations were not attributed to all NTMA business units prior to 2015.

Figure 21.3 NTMA staffing distribution at year-end, 2012 to 2017

	2012	2013	2014	2015	2016	2017
NTMA business units						
Funding and debt management	14	15	19	21	20	24
Ireland Strategic Investment Fund	13	15	33	36	41	44
State Claims Agency	69	77	91	109	128	138
NewERA	12	13	14	19	19	21
Banking Unit (Shareholding and Financial Advisory Division, Department of Finance)	12	14	13	12	13	11
National Development Finance Agency	44	52	63	60	61	67
NTMA corporate functions						
Finance, technology and operations	73	95	112	121	125	138
Legal, compliance, HR and internal audit	21	24	22	33	35	41
Risk	12	15	14	18	20	20
Other	6	6	6	2	2	4
Supported bodies						
National Asset Management Agency	224	331	369	341	302	264
Strategic Banking Corporation of Ireland	—	—	3	9	16	18
Total	500	657	759	781	782	790

Source: National Treasury Management Agency

Head office move to North Wall Quay

- 21.10** In 2017, the Agency entered into an agreement for lease of office accommodation at Block D1, Dublin Landings, North Wall Quay, Dublin 1. Following the fulfilment by the landlord of the relevant conditions of the agreement for lease, the leases were granted to the Agency on 24 May 2018. Occupation is expected to commence in quarter three 2019.
- 21.11** The NTMA has lease agreements of varying duration until 2026 and 2027 in respect of its current office accommodation at Treasury Building, Grand Canal Street, Dublin 2. The NTMA is considering its options for the existing leases.

Funding, debt and treasury management

- 21.12** The NTMA borrows on behalf of the Exchequer and manages Ireland's national debt.¹
- 21.13** The NTMA performs a number of other debt management and treasury functions, including
- treasury operations for NAMA, ISIF, SBCI and Irish Bank Resolution Corporation Limited (in special liquidation) (IBRC)
 - providing a central treasury service for State bodies and local authorities
 - managing the assets of the Dormant Accounts Fund and the Post Office Savings Bank Fund.

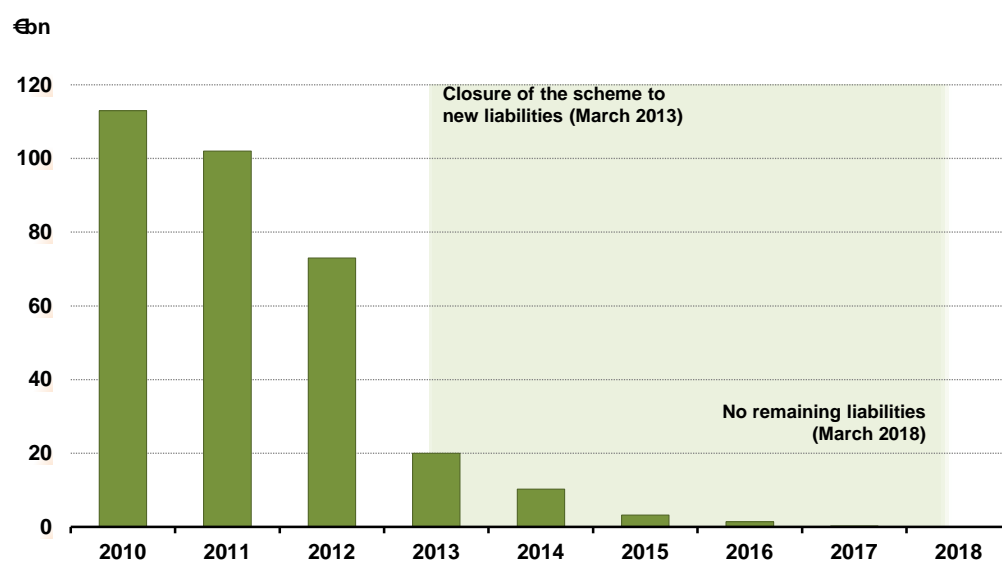
Financial institutions guarantee scheme

- 21.14** Certain eligible liabilities in financial institutions, including deposits and debt securities of up to five years maturity are guaranteed by the Minister under the Credit Institutions (Eligible Liabilities Guarantee) Scheme 2009 (the scheme). The NTMA was appointed as scheme operator by the Minister.²
- 21.15** Each institution with liabilities guaranteed under the scheme is required to pay a fee. The amount received in 2017 was €12 million (2016: €47 million).³ The Accounting Officer of the Department of Finance is accountable for the fees received.
- 21.16** In preparation for Bank of Ireland's (BoI) exit from the scheme, the bank conducted a review of its scheme obligations and payments during which they identified a net underpayment. In August 2016, BoI made an out-of-course payment of €14 million to the Department of Finance for fees due.
- 21.17** In advance of 28 March 2018, being the final end date for all remaining liabilities under the scheme, the NTMA wrote to each of the participating institutions requesting assurance that there were no outstanding issues and that all appropriate fees have been paid.
- 21.18** The scheme closed to all new liabilities with effect from midnight on 28 March 2013. At end 2017, amounts covered by the scheme were around €276 million (see Figure 21.4). As at 29 March 2018, there were no remaining liabilities guaranteed under the scheme, with the exception of residual liabilities resulting from the liquidation of IBRC.

¹ Summary details of the structure of the national debt and trends in Government debt are included in Chapter 1, *Exchequer Financial Outturn for 2017*.

² SI No. 490 of 2009.

³ Fees are recognised on a cash basis and received quarterly in arrears and are paid into the Central Fund of the Exchequer. Fees in respect of 2017 on an accruals basis were €8 million (2016: €42 million).

Figure 21.4 Covered liabilities under the Eligible Liabilities Guarantee Scheme, at year-end 2010 to March 2018

Source: Department of Finance

21.19 Following the liquidation of IBRC in February 2013, a number of claims were made under the scheme. In March 2013, the Minister delegated further functions to the NTMA¹

- verification of claims for payment in respect of a deed of guarantee put in place on 29 November 2010 in relation to certain derivative contracts entered into by IBRC
- payment of amounts due under the deed of guarantee.

21.20 The NTMA, as the scheme operator, continues to process payments under the scheme as claims are submitted and verified. Payments under the scheme to end 2017 totalled just over €1.1 billion (see Figure 21.5).

Figure 21.5 IBRC payments under financial institutions guarantee scheme, 2013 to end 2017

	2013	2014	2015	2016	2017	Total
Payment type	€m	€m	€m	€m	€m	€m
Deposits ^a	63.9	74.6	4.5	4.2	0.1	147.3
Bond holders ^a	933.8	—	—	—	—	933.8
Derivatives ^b	37.5	—	—	—	—	37.5
Expenses ^c	—	—	—	—	7.2	7.2
Total payments	1,035.2	74.6	4.5	4.2	7.3	1,125.8
Recovered from special liquidators						(562.9)
Balance of claims outstanding						562.9

Source: National Treasury Management Agency

Notes: a Payments made under the Credit Institutions (Eligible Liabilities Guarantee) Scheme.

b Payments made under the IBRC deed of guarantee.

c Expenses incurred by the NTMA (as scheme operator).

21.21 The State has lodged claims totalling €1,125.8 million with the joint special liquidators of IBRC¹

- €1,088.3 million claimed by the NTMA in respect of payments to bondholders, and depositors, and expenses (of €7.2 million)²
- €37.5 million claimed by the Department of Finance in respect of derivatives.²

21.22 In 2016 and 2017, the joint special liquidators paid all admitted unsecured creditors of the liquidation 50% of amounts due. The Exchequer received approximately €559.9 million — €541.1 million in respect of the NTMA's claims, and €18.8 million in respect of the Department's claim.

21.23 In December 2017, the NTMA sent a clarification letter to the joint special liquidators, summarising the amounts claimed to date, including expenses incurred as a result of the liquidation. The special liquidators paid €2.96 million in respect of expenses to the NTMA in July 2018.

State Claims Agency

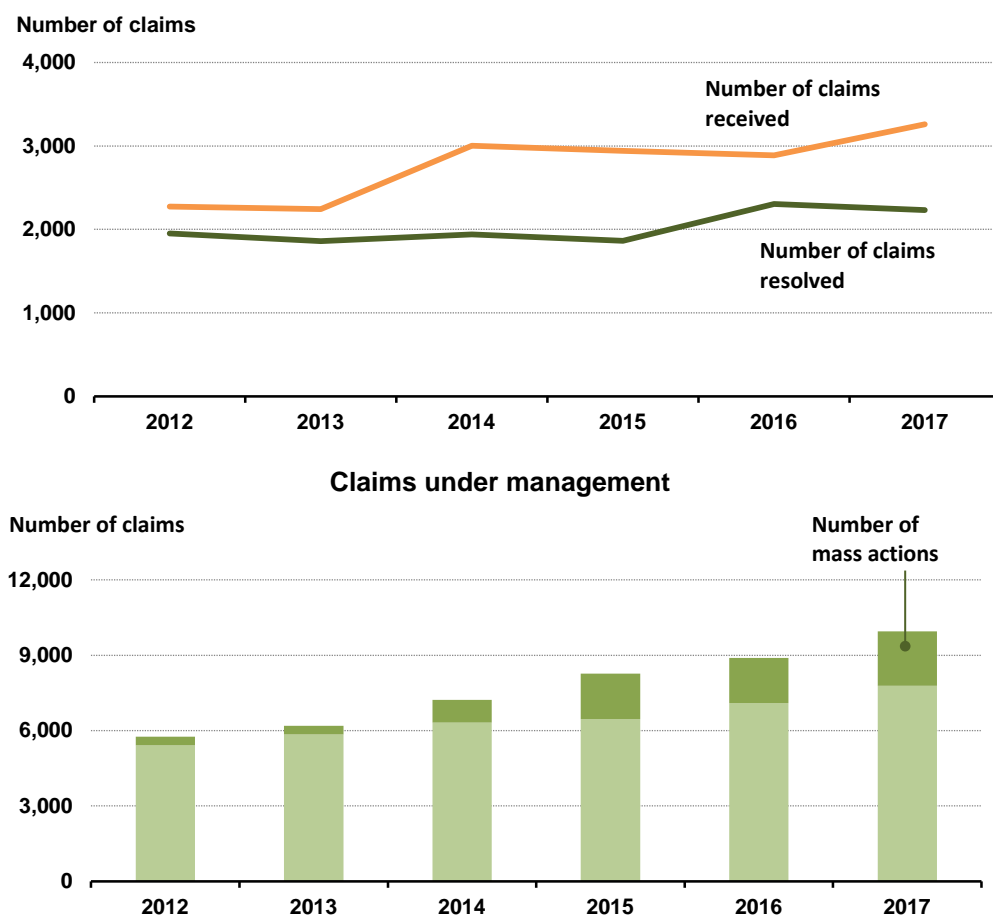
21.24 The NTMA manages personal injury, property damage and clinical negligence compensation claims on behalf of certain 'delegated State authorities'. In addition, it has a risk management role, advising and assisting those State authorities in minimising their claim exposures. It also considers and manages third party cost claims arising from certain tribunals of inquiry and claims for legal costs by parties who have successfully sued the State in respect of personal injury and other non-personal injury related actions. When performing these functions, the NTMA is known as the State Claims Agency (SCA). At 31 December 2017, the SCA's remit covered 146 State authorities.

21.25 Awards and associated claim costs of the SCA in 2017 amounted to a total of €316.8 million (2016: €256.2 million). These costs are recoupable from the relevant State authorities availing of the SCA services. The number of claims under management has increased significantly since 2012. At end 2017, there were 9,956 claims under management including 2,176 claims in mass actions (general and clinical). In 2017, 2,233 claims were resolved, a decrease of 3% over the previous year (see Figure 21.6).

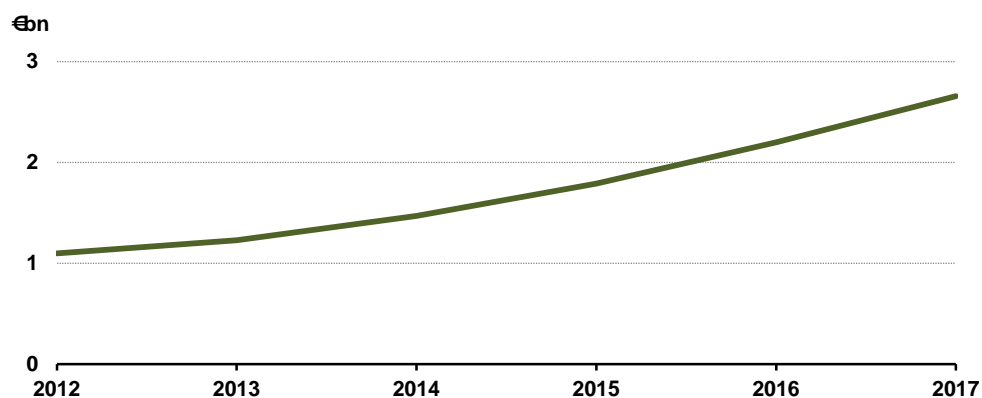
21.26 The estimated cost of settling outstanding claims has been steadily increasing. The liability at end 2017 has been estimated by the SCA at €2.7 billion; more than twice the liability at end 2012 (see Figure 21.7).

1 The amounts claimed from the joint special liquidators may differ from amounts paid under the schemes due to timing and associated costs claimed.

2 Interest is payable from the date of each claim to the date of payment by the joint special liquidators. No interest has been paid to date.

Figure 21.6 Claims received and resolved annually, and claims under management, at year-end, 2012 to 2017

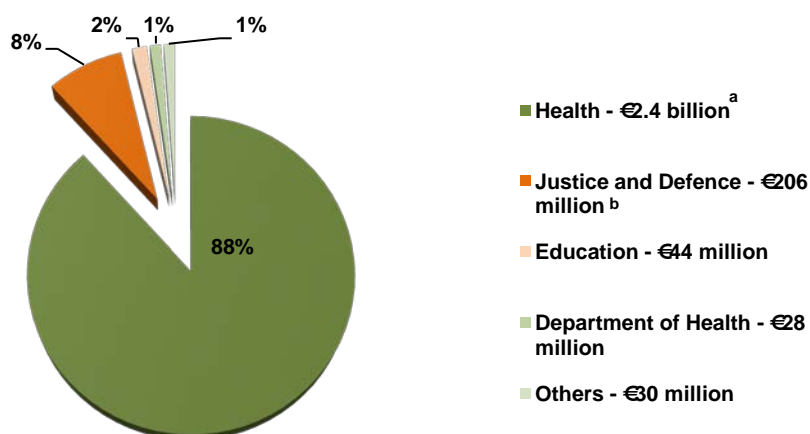
Source: National Treasury Management Agency

Figure 21.7 Estimated cost of settling outstanding claims, at year-end, 2012 to 2017

Source: National Treasury Management Agency

- 21.27** Health sector bodies (including the HSE, Tusla and the Department of Health) accounted for 89% of the estimated outstanding liability at end 2017. Two sectors accounted for a further 10% (see Figure 21.8).

Figure 21.8 Proportion of estimated liabilities for each State authority sector, at end 2017



Source: National Treasury Management Agency

- Notes:
- a Health includes the HSE and claims relating to bodies under its aegis and also to claims relating to Tusla.
 - b Justice and Defence include the Irish Prison Service, An Garda Síochána, Defence Forces and others.

- 21.28** In February 2013, a State legal cost unit was set up within the SCA to deal with third-party costs arising from the Mahon, Moriarty and Smithwick Tribunals of Inquiry.¹ In 2015, the Government extended the responsibilities of this unit to manage all third party legal costs claims against delegated State entities.²

- 21.29** The SCA reviews legal costs claimed by plaintiffs' legal representatives. If agreement on the amounts claimed is not reached, the claims are referred to the Taxing Master of the High Court. In 2017, the SCA settled 440 claims for legal costs. The claims, totalling €107.1 million were settled for €55.4 million (48% reduction in amounts claimed). None of the settled claims were referred to a Taxing Master.

Carbon Fund management

- 21.30** The Carbon Fund was established by the Carbon Fund Act 2007. Under the 2007 Act, the NTMA has responsibility for the purchase, through the Carbon Fund, of carbon credits required to meet Ireland's climate change obligations. The purchase of carbon credits has been suspended since February 2009. At end 2017, the Carbon Fund held assets with an acquisition value of €91 million.

- 21.31** The Carbon Fund is accounted for separately under the 2007 Act, and does not form part of the NTMA's accounts for the purposes of section 12 of the 1990 Act (as amended).³

¹ The NTMA (Amendment) Act 2014 (the 2014 Act) put the SCA legal costs function on a statutory basis.

² SI No. 505 of 2015 NTMA (Delegation of Claims for Costs Management Functions) Order 2015.

³ The report on the audit of the Carbon Fund was issued on 31 May 2018.

NewERA

- 21.32** The New Economy and Recovery Authority (NewERA) functions of the NTMA were established on a statutory basis in December 2014 on commencement of the relevant sections of the 2014 Act.¹
- 21.33** The NewERA functions include the provision of financial and commercial advisory services on a range of issues to a relevant Minister of the Government in respect of a designated body under his/her remit.² Also, where any Minister holds shares or assets in a body that is not designated for NewERA purposes, or has general responsibility for, or has any function in relation to such a body, NewERA may also provide similar services to the Minister.
- 21.34** Expenditure incurred by the NTMA on NewERA activities in 2017 was around €5.4 million and is separately disclosed in the NTMA's administration account. This expenditure mainly represents the operating costs of the NTMA in providing financial and commercial advice to relevant Ministers, including on 70 submissions made by commercial State bodies within its core remit. In 2017, this included advice relating to
- bond issuance for ESB and credit facilities for Irish Water and EirGrid
 - capital expenditure budgets, the majority relating to regulated electricity and gas network assets
 - specific capital expenditure projects including Gas Networks Ireland and Aurora Telcom gas/fibre network extension projects, Irish Water infrastructure projects, the Coillte medite wood panel project and ESB wind farm and head office development.

¹ The New Economy and Recovery Authority (NewERA) was initially set up on a non-statutory basis following a Government announcement in September 2011.

² At 31 December 2017, the designated bodies were the Electricity Supply Board, Ervia, Bord na Móna plc, Coillte Teoranta, EirGrid plc, Irish Water and any subsidiaries or any company in which any of the designated bodies has an interest. In April 2018, An Post became a designated body.

³ SI No. 395 of 2011.

⁴ At end 2017, a small number of foreign assets valued at €95,000 had not transferred to the ISIF.

⁵ Section 43 of the 2014 Act provides that the Minister may give a direction to the NTMA in relation to the holding and management of a directed investment, the exercise of any voting or other rights attaching to a directed investment, and the disposal of a directed investment.

Banking function staffing

- 21.35** The NTMA's Banking Unit has been seconded to the Department of Finance since August 2011, where it now forms part of the Department's Shareholding and Financial Advisory Division.³ At the direction of the Minister, costs of the Banking Unit, comprising staff costs and certain professional advisor costs, continue to be met by the NTMA. Costs incurred by the NTMA in 2017 in relation to the Banking Unit totalled €4.3 million and are separately disclosed in the NTMA's administration account in 2017. The NTMA incurred professional advisor costs of €2.2 million relating to the sale of Allied Irish Bank (AIB) shares. This sum was recouped from AIB in 2017.

Ireland Strategic Investment Fund

- 21.36** The Ireland Strategic Investment Fund (ISIF) was established in December 2014 pursuant to the 2014 Act. On its establishment, the assets and the liabilities of the National Pensions Reserve Fund (NPRF) became the assets and liabilities of the ISIF, apart from some residual foreign assets and liabilities.⁴
- 21.37** At 31 December 2017, the ISIF held net assets of €20.4 billion (2016: €21 billion). The net assets comprised €11.8 billion (2016: €12.9 billion) in the directed investment portfolio and €8.7 billion (2016: €8.1 billion) in a discretionary portfolio.
- The directed investment portfolio is subject to directions given by the Minister.⁵ The Minister has directed that any interest or other income received in respect of deposits and/or securities held in the directed portfolio are transferred to the discretionary portfolio and are held or invested by the NTMA.

- The discretionary portfolio consists of investments made in accordance with the relevant sections of the 2014 Act, where the NTMA holds or invests the assets of the ISIF (other than directed investments) on a commercial basis in a manner designed to support economic activity and employment in the State.

Directed investment portfolio

- 21.38** In February 2017, an outstanding €25 million loan from the ISIF to the SBCI was converted to ordinary share capital of the SBCI under the direction of the Minister. This share capital is held directly by the Minister.
- 21.39** In June and July 2017, the State realised €3.4 billion from the sale of almost 29% of the shares in AIB in an initial public offering (IPO).
- 21.40** At 31 December 2017, the net assets of the directed investment portfolio comprised
- AIB — 71% shareholding valued at €10.5 billion (€5.42 per share).
 - Bank of Ireland — 13.9% shareholding valued at €1.1 billion (€7.12 per share).
 - €215 million held in cash and committed for lending to the SBCI.

Discretionary portfolio

- 21.41** The statutory mandate of the ISIF, in respect of the discretionary portfolio, is to invest on a commercial basis in a manner designed to support economic activity and employment in the State. The NTMA is required to determine, monitor and keep under review an investment strategy for the assets of the ISIF (other than directed investments), in consultation with the Minister and the Minister for Public Expenditure and Reform. In July 2015, the ISIF published an Investment Strategy which set out the long-term strategic direction of the Fund. This investment strategy included
- investing on a commercial basis to support economic activity and employment in Ireland
 - utilising ISIF's key differentiating features of flexibility, long-term timeframe and being a sovereign investment partner to enable transactions which would not otherwise easily be completed
 - targeting 80% allocation to 'high economic impact' investment opportunities which will generate economic additionality over time and have low levels of displacement and deadweight¹
 - deploying capital over a three to five year period, subject to availability of commercial investment opportunities
 - earning a portfolio return over the medium term in excess of the average cost of Irish Government debt
 - seeking co-investment where possible to leverage the economic impact that can be obtained from ISIF resources.
- 21.42** When this investment strategy was finalised in mid-2015, it was agreed that a formal review of the strategy would take place after 18 months and that this would include consultation with the Minister and the Minister for Public Expenditure and Reform. In July 2018, the Government approved the outcome of the review and the ISIF is currently preparing proposals for a reformed investment strategy for consideration by the Minister.
- 21.43** The ISIF reported an investment return on the discretionary portfolio of 4.3% in 2017.

¹ The NTMA describe economic additionality as benefits to GDP which arise as a result of the investment. Deadweight is described as the economic impact which would have been achieved in any event and displacement is where the investment will substitute for existing economic activity.

Targeted funds

21.44 In 2015, €335 million was transferred from the Exchequer to the ISIF for the purpose of a new Connectivity Fund within the discretionary portfolio. The Connectivity Fund is restricted to investment in projects that enhance Ireland's physical, virtual or energy connectivity. The total deployed by ISIF under the Connectivity Fund up to end 2017 amounted to €93 million. These investments included

- €26 million equity investment in Aqua Comms — supporting subsea fibre-optic network interconnecting New York, Dublin and London via Killala, County Mayo
- €35 million investment in a 2028 bond issued by the Dublin Airport Authority
- €18 million junior debt facility with the Port of Cork to relocate from its existing locations near the city centre to a redeveloped site in Ringaskiddy
- €14 million loan facility to Shannon Airport to support the upgrade of the existing runway.

Budget 2018 initiatives

21.45 In Budget 2018, the Government confirmed its intention to establish a 'rainy day fund' and Home Building Finance Ireland (HBFI), both of which will be funded initially from ISIF resources.

- The rainy day fund will be established in 2019. It will be given an initial injection of €1.5 billion from the ISIF and annual exchequer contributions of €500 million from 2019 to 2021.
- The HBFI will be responsible for increasing the availability of debt funding on market terms to developers to build viable residential development projects. Up to €750 million of ISIF funds will be allocated to this. By end 2017, the ISIF had committed €526 million to residential housing investments. ISIF backed residential housing platforms have committed to deliver 9,500 homes by 2021.

National Development Finance Agency

21.46 When performing certain infrastructure investment activities, the NTMA describes itself as the National Development Finance Agency (NDFA). The functions of the NDFA include acting as the statutory financial advisor to State authorities for all public investment projects with a capital value over €20 million.

21.47 The NDFA also has responsibility for

- the procurement and delivery of public private partnership (PPP) projects in sectors other than transport and the local authorities
- the direct procurement of certain education projects
- the provision of contract management for the operation and maintenance of certain PPP schools
- monitoring of operations on the Convention Centre Dublin PPP under a service level agreement.

21.48 Progress in relation to PPP projects that were ongoing at the end of 2017, is as follows

- Primary care centres — four health centres were completed during 2017, another nine health centres were completed by end August 2018, with the remaining centre scheduled to be completed later this year.
- Courts PPP — this involves the development of new courthouses and the refurbishment of existing courthouses in seven locations. Three sites were completed in 2017, and the remaining four were completed by August 2018.
- Schools PPP bundle 5 — this involves five schools and one institute of further education providing 4,870 places. It was delayed following the liquidation of Carillion Construction Ltd in January 2018, which was a 50% stakeholder in the PPP consortium.¹ Unitary charge payments are only paid upon service commencement of the schools.
- Dublin Institute of Technology Grangegorman PPP — the contract award and the financial close was reached in March 2018. Following a two-year construction period, the buildings are expected to become operational in 2020.
- Social housing PPP — this involves the development of 1,500 social housing units in three bundles. Bundle one tender commenced in 2017 (534 housing units) and bundle two commenced in 2018 (465 housing units).

21.49 Projects where the NDFA is currently an advisor, including the provision of financial advice, are

- housing projects including social housing lease and mortgage-to-rent-schemes
- local authorities and the use of their land banks to accelerate delivery of social, affordable and private housing in line with Government policy
- the Dublin waste-to-energy PPP — the project became operational in 2017 and was refinanced in December 2017
- the Forensic Science Laboratory
- Secure managed digital radio network services
- National Forensic Mental Health Services Hospital
- Cork radiation oncology unit
- Maynooth education campus project.

21.50 In addition, the NDFA provides assistance in sourcing European Investment Bank (EIB) funding for both traditionally funded and PPP projects. The NDFA engaged with the EIB on the provision of a direct loan to the Exchequer of €490 million for the new Children's Hospital project. This was finalised in December 2017 and represents the EIB's largest ever financial engagement in Ireland.***National Asset Management Agency*****21.51** As in previous years, the NTMA assigned staff and provided services to the National Asset Management Agency (NAMA) during 2017. The NTMA incurred costs of €38 million (2016: €47 million) in that regard, which was recharged to NAMA.²

- €34 million (2016: €41 million) was incurred in respect of staff costs. This comprised staff directly employed by the NTMA and assigned to NAMA (264 staff at 31 December 2017) and the apportioned remuneration cost of NTMA employees operating shared services including IT, human resources and finance.
- €4 million (2016: €6 million) in respect of other costs was incurred by the NTMA on behalf of NAMA, including rent, office services and consultancy costs.

¹ Following a retendering process two of the schools are now open with a third completed and ready for opening in late September 2018. The remaining schools and the institute of education remain to be opened.

² The total administrative costs of NAMA were €67 million in 2017 (€80 million in 2016).

- 21.52** NAMA is accounted for separately and does not form part of the NTMA's accounts for the purposes of section 12 of the 1990 Act (as amended).¹

Strategic Banking Corporation of Ireland

¹ The report on the audit of NAMA issued on 30 April 2018.

² SMEs are defined in accordance with Article 2 of EC Recommendation 2003/361/EC (6 May 2003).

³ Section 10 of the Strategic Banking Corporation of Ireland Act 2014.

⁴ The report on the audit of the SBCI for 2017 issued on 30 April 2018.

- 21.53** The Strategic Banking Corporation of Ireland (SBCI) was established in September 2014 as a company under the Strategic Banking Corporation of Ireland Act 2014, to make low-cost credit available to Irish small and medium enterprises (SMEs) by sourcing funds from national and international lenders (and investors).²
- 21.54** The NTMA provides the SBCI with business and support services and systems, staff and treasury services and advice in connection with debt securities and borrowings. The NTMA incurred costs of €5.2 million for the provision of these services in 2017 (2016: €4.2 million) which were recharged to the SBCI.³
- 21.55** The SBCI is accounted for separately and does not form part of the NTMA's accounts for the purposes of section 12 of the 1990 Act (as amended).⁴

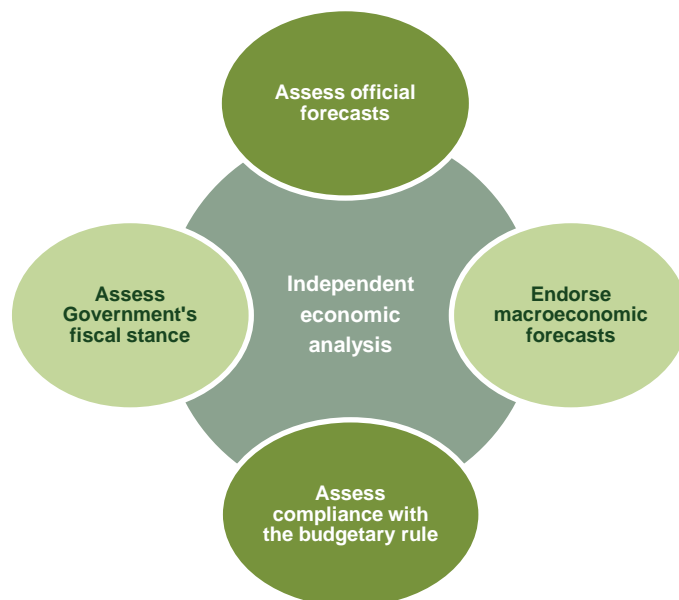
22 Irish Fiscal Advisory Council

22.1 The Irish Fiscal Advisory Council (the Council) is required under the Fiscal Responsibility Act 2012 (the Act) to provide independent assessments of the Government's budgetary plans and projections and to inform public discussion of economic and fiscal matters.

22.2 The Council's statutory responsibilities are to

- assess the official forecasts produced by the Department of Finance (the Department) in spring and autumn each year¹
- assess whether the fiscal stance of the Government is conducive to prudent economic and budgetary management including by reference to the EU Stability and Growth Pact²
- monitor and assess whether the general government budgetary position is either in balance or in surplus, or is moving at a satisfactory pace towards that condition (the 'budgetary rule' as set out in the Act), and assess whether any non-compliance is as a result of exceptional circumstances³
- endorse, as it considers appropriate, the macroeconomic forecasts prepared by the Department, on which the budget and stability programme updates are based.⁴

Figure 22.1 Functions of the Irish Fiscal Advisory Council



1 In accordance with the Act, 'official forecasts' are the macroeconomic and budgetary forecasts published by the Department of Finance for the purposes of fiscal planning.

2 The Stability and Growth Pact is a rule-based framework for the coordination of national fiscal policies in the EU.

3 Under the Act, 'exceptional circumstances' include a period of severe economic downturn or an unusual event (outside the control of the Government) which has a major impact on the budgetary position of the Government.

4 A joint memorandum of understanding between the Council and the Department underpins the endorsement process.

Source: Irish Fiscal Advisory Council

Accounts of the Irish Fiscal Advisory Council

- 22.3** The Chairperson of the Council is the officer accountable for the preparation and presentation of its financial statements for audit. Under the Act, the Council is required to keep accounts of receipts and expenditure in the form approved by the Minister for Finance (the Minister), and to submit them for audit by the Comptroller and Auditor General within three months after the end of the accounting period to which they relate. On completion of the audit, a copy of the accounts and of the audit report must be given to the Minister, who in turn must lay them before the Houses of the Oireachtas.
- 22.4** Separately, the Act requires the Comptroller and Auditor General to report to Dáil Éireann with respect to the correctness of the sums brought to account by the Council each year. This is the report for 2017.
- 22.5** The accounts of the Council for 2017 have been audited, and the report on the audit was issued on 24 September 2018.
- 22.6** I am satisfied that the accounts give a true and fair view of the assets, liabilities and financial position of the Council at end 2017 and of its income and expenditure for the year.¹

Membership and staffing

- 22.7** The Act sets out that the Council shall consist of five members, including the Chairperson. Appointments are made by the Minister, with the term of office generally being four years. Council members may not serve for more than two consecutive terms.
- 22.8** A vacancy on the Council arose following the end of the (then) Chairperson's second term at the end of 2016. The vacancy was advertised and, following an open selection process, the Minister appointed a new member to the Council for a period of four years, with effect from 1 January 2017.
- 22.9** The Minister also appointed a serving council member as Chairperson, and re-appointed another serving council member for a second term, both with effect from 1 January 2017.
- 22.10** At the end of 2017, the Council was supported by six staff, comprising five economists and an administrator. One staff member was on secondment from another organisation.

Funding

- 22.11** The Council is funded from the Central Fund of the Exchequer, subject to an inflation-indexed annual 'ceiling' amount.² The funding ceiling for 2017 was €820,892 (2016: €822,537).³
- 22.12** Expenditure of the Council totalled around €607,000 in 2017 (2016: €633,000), of which 55% (2016: 60%) related to salary costs. The largest element of the Council's non-pay administration expenditure related to an administration fee payable to the Economic and Social Research Institute (ESRI) in respect of accommodation costs and support services which totalled around €106,000 (2016: €102,000).

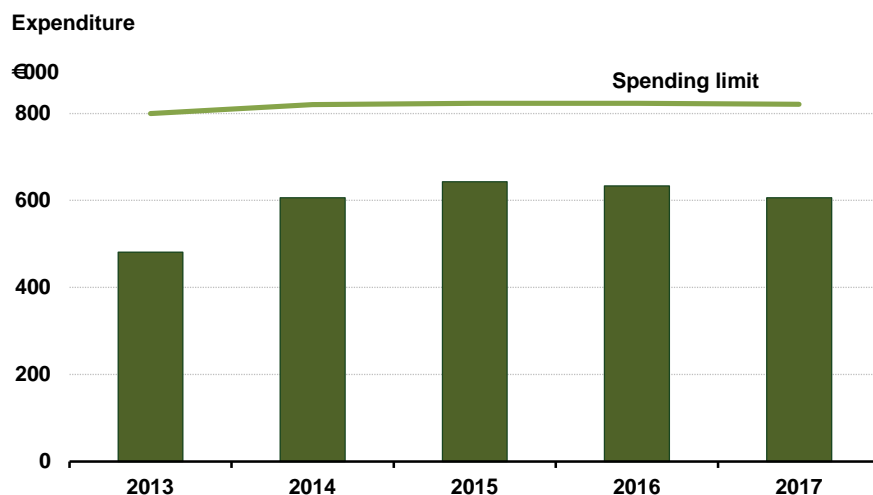
¹ The Council's financial statements have been prepared in accordance with Financial Reporting Standard (FRS)102.

² Paragraph 9 of the Schedule to the Act provides for the funding source and sets the baseline level of spending for the Council on commencement at €800,000.

³ The Department of Finance applied the Central Statistics Office Harmonised Index of Consumer Prices for 2016 of -0.2% when determining the ceiling for 2017.

22.13 A summary of the Council's budget and related expenditure for the period 2013 to end 2017 is shown in Figure 22.2.

Figure 22.2 Financial summary of the Irish Fiscal Advisory Council, 2013 to 2017



Source: The Irish Fiscal Advisory Council's annual financial statements. Analysis by the Office of the Comptroller and Auditor General.

22.14 Fees and expenses incurred in relation to Council members for 2017 totalled just over €85,500 (2016: €81,000). Fees in respect of two members were paid to their (public sector or international) employer organisations, rather than to the individuals concerned.¹ Expenses paid to Council members mainly reflect travel and subsistence costs incurred by international and non-Dublin based members attending Council meetings, which are held in Dublin.

22.15 Retirement benefit costs of almost €28,800 were recognised by the Council in 2017. The Council operates two superannuation schemes for its staff.

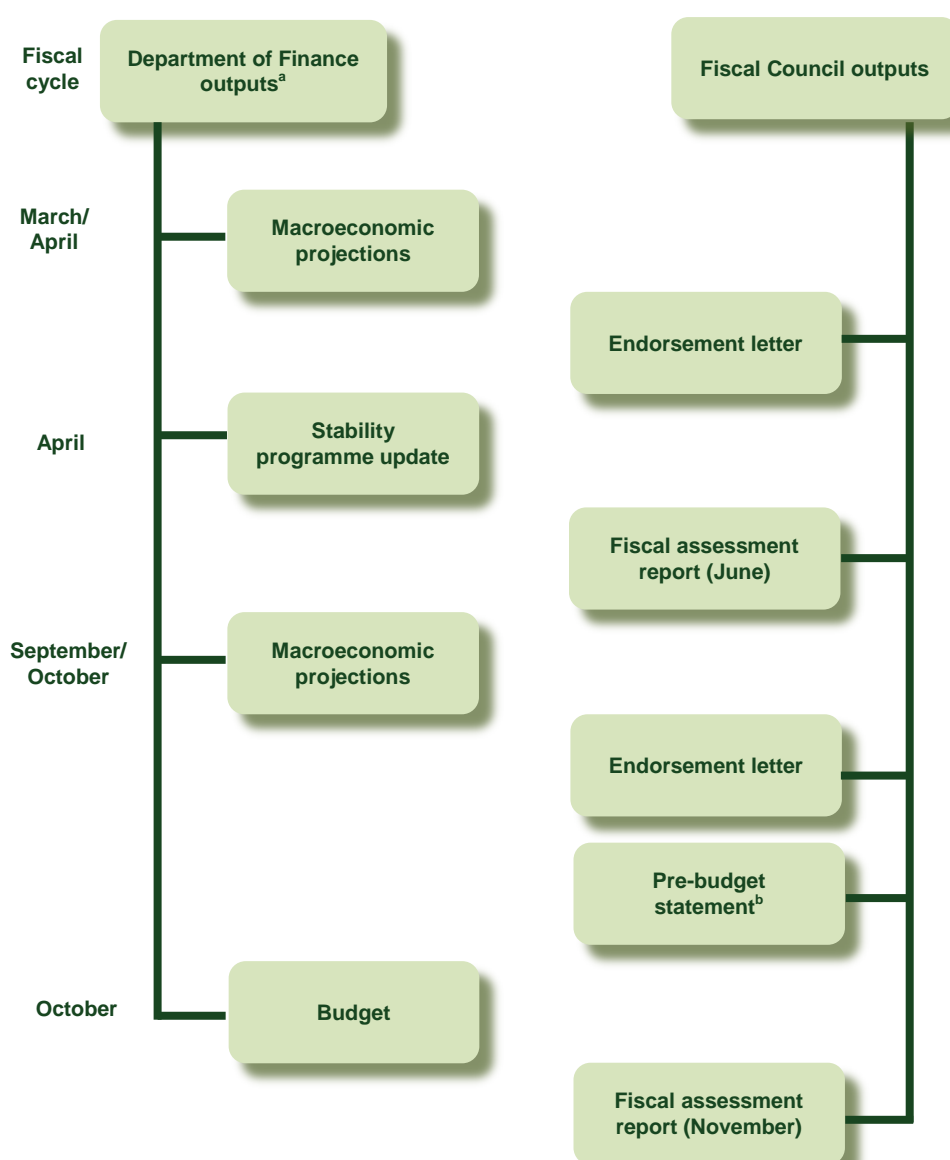
- The Single Public Service Pension Scheme (the Single Scheme) is the defined benefit scheme for pensionable public servants appointed on or after 1 January 2013. Three staff are eligible for retirement benefits under the Single Scheme. The retirement liability for one staff member on secondment to the Council rests with their parent Department.
- The Council has received sanction from the Department of Public Expenditure and Reform to operate a 'model' pension scheme on an administrative basis for the purpose of providing superannuation benefits for staff recruited to the public service prior to the introduction of the Single Scheme. Two staff members are participating in the model scheme.

¹ Under the one-person-one salary principle, Council members who are employees of other public bodies do not receive fees in respect of their service on the Council.

Activity of the Council

- 22.16** The Council produces a number of annual outputs in response to outputs from the Department. Figure 22.3 outlines these outputs. In addition, the Council has produced a number of non-statutory reports and papers (see Annex 22A).
- 22.17** Under paragraph 11 of the Schedule to the Act, the Chairperson of the Council may be called before a Committee of either House of the Oireachtas to account for the Council's functions. The Council appeared before the Committee on Budgetary Oversight on three occasions during 2017.

Figure 22.3 Irish Fiscal Advisory Council outputs



Source: Office of the Comptroller and Auditor General

- Notes:
- a The Department also publishes a summer economic statement around June/July. This statement was introduced as part of the budgetary reform process.
 - b This statement is published annually in September and takes into account, inter alia, the summer economic statement.

Peer review of the Council

- 22.18** In 2015, in line with its Strategic Plan 2014 – 2016, the Council commissioned an external evaluation to assess the functioning of the Council with respect to its mandate under the Act and its performance as an independent fiscal institution in support of sustainable growth in Ireland.¹
- 22.19** The review concluded that the Council had fulfilled all the tasks expected from an independent fiscal institution and that it had been visible in public debate, increasing transparency and public knowledge about fiscal matters.²
- 22.20** The review also noted that there was scope for enhancing the output and impact of the Council and made 25 recommendations. The Council, following consideration, prepared an implementation plan for the recommendations. It subsequently decided, following review, not to implement two recommendations and that another three were outside of its control. The Council has indicated that it has implemented the other recommendations of the 2015 external review.

¹ The evaluation team members were Professor Lars Jonung (Chair), Professor Iain Begg and Mr Michael G Tutty. Mr Tutty was subsequently appointed to the Council.

² The review (published in June 2015) is available at www.fiscalcouncil.ie

Annex 22A

Irish Fiscal Advisory Council's non-statutory reports, 2013 to July 2018

2013	Working paper
	<ul style="list-style-type: none"> The Government's Balance Sheet after the Crisis: a Comprehensive Perspective
2014	Analytical notes
	<ul style="list-style-type: none"> House Price Risks Sensitivity Analysis of the Department of Finance Approach to Potential Output Estimation under the EC Methodology Tax Forecasting Error Decomposition DIRT Forecast Methodology Future Implications of the Debt Rule Adoption of New International Standards for National Accounts and Balance of Payments
2015	Working papers
	<ul style="list-style-type: none"> Uncertainty in Macroeconomic Data: the Case of Ireland An Analysis of Tax Forecasting Errors in Ireland
	Analytical notes
	<ul style="list-style-type: none"> The EU Expenditure Benchmark: Operational Issues for Ireland in 2016 Controlling the Health Budget: Annual Budget Implementation in the Public Health Area
2016	Analytical notes
	<ul style="list-style-type: none"> Public Capital: Investments, Stocks and Depreciation Challenges Forecasting Irish Corporation Tax
2017	Working papers
	<ul style="list-style-type: none"> Producing Short-Term Forecasts of the Irish Economy
2018 (to July)	Working papers
	<ul style="list-style-type: none"> Estimating Ireland's Output Gap Designing a Rainy Day Fund to work within the Fiscal Rules
	Stand still scenario
	<ul style="list-style-type: none"> Stand Still Scenario for Government Spending in the Medium Term, 2019 – 2023

Source: Irish Fiscal Advisory Council