Comptroller and Auditor General

# Report on the Accounts of the Public Services 2011

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

September 2012

# Report of the Comptroller and Auditor General on the Accounts of the Public Services 2011

I am required under Article 33 of the Constitution to report to Dáil Éireann at stated periods as determined by law. Pursuant to that constitutional provision, I am required under Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993 to report to Dáil Éireann on my audit of the appropriation accounts of departments and offices and the account of the receipt of revenue of the State not later than 30 September in the year following the year to which the accounts relate. I am required under other statutes to report on certain matters along with my report on the appropriate accounts.

I have certified each appropriation account for the year ended 31 December 2011 and, in an associated volume, hereby submit those accounts, together with my audit certificates, to Dáil Éireann.

I report in this volume on certain matters arising out of my audits of the accounts of the public services for 2011. The report is set out in four parts.

- Part 1 deals with matters relating to the Central Fund and government debt.
- Part 2 deals with matters arising out of the audit of the Revenue Account and the examination of Revenue systems.
- Part 3 outlines certain matters related to voted expenditure in 2011
- Part 4 comprises my statutory report on the audit of the accounts of the National Treasury Management Agency, and reports on collection of revenue by public bodies other than the Revenue Commissioners.

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 segments of the report were sent to the departments and offices concerned and their comments 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 2011 to Dáil Éireann in accordance with Section 3(11) of the Comptroller and Auditor General (Amendment), Act 1993.

Seamus Mc Carthy.

**Seamus McCarthy**
**Comptroller and Auditor General**

19 September 2012

# Report on the Accounts of the Public Services 2011

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# Part 1  Central Government

# 1 Financial Outturn for 2011

**1.1** All revenues of the State, unless otherwise determined by law, are paid into one fund called the Central Fund.[1] This includes tax revenue and the proceeds of borrowing undertaken on behalf of the State by the National Treasury Management Agency (NTMA). Issues from the Fund are used to fund expenditure on State services. The transactions of the Fund are effected through the Exchequer account held at the Central Bank.

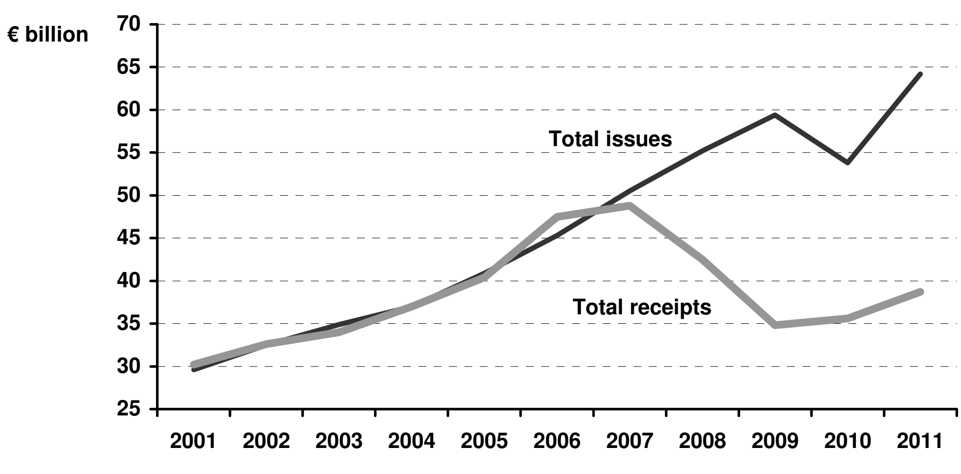
**1.2** The annual Finance Accounts present the receipts into and issues from the Central Fund together with details relating to NTMA borrowing. This chapter has been prepared to summarise the transactions on the Central Fund and to highlight some key trends. It also provides an overview of certain major liabilities and assets of the State which are not reflected in the Finance Accounts.

## Central Fund Receipts and Issues

**1.3** The movement in Central Fund receipts and issues over the period 2001 to 2011 is set out in Figure 1.1. The State deficit, representing the excess of issues over receipts, increased from less than €2 billion in 2007 to over €24 billion in 2009. While the deficit reduced to €18 billion in 2010, it increased again to over €25 billion in 2011.

**1.4** A breakdown of the receipts and issues for each of the years 2007 to 2011 is presented in Figure 1.2.

**Figure 1.1 State Receipts and Issues 2001 to 2011**




Source: Finance Accounts 2001 to 2011

1 Examples of State revenue which is not paid into the Central Fund include PRSI receipts which are paid into the Social Insurance Fund and the proceeds of motor tax which are paid into the Local Government Fund.

**Figure 1.2 Central Fund Receipts and Issues 2007 to 2011[a]**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| **Receipts** | | | | | |
| Tax revenue | 47,249 | 40,777 | 33,043 | 31,753 | 34,027 |
| Other current revenues | 638 | 847 | 838 | 2,687 | 2,520 |
| Withdrawal from National Pension Reserve Fund | — | — | — | — | 1,018 |
| Loans/advances repaid: | | | | | |
| EAGF[b] | 730 | 740 | 741 | 790 | 673 |
| Social Insurance Fund[c] | — | — | — | — | 254 |
| National Asset Management Agency | — | — | — | 250 | 49 |
| Others | 17 | 9 | 9 | 3 | 10 |
| Other capital receipts | 196 | 161 | 140 | 138 | 116 |
| **Total receipts** | **48,830** | **42,534** | **34,771** | **35,621** | **38,667** |
| **Issues** | | | | | |
| Issues for voted expenditure | 44,609 | 49,313 | 47,163 | 46,434 | 45,711 |
| Service of national debt | 1,676 | 1,611 | 2,641 | 3,619 | 4,736[d] |
| Share capital acquired in banks | — | — | 4,000 | 725 | 2,300 |
| Bank recapitalisation payments | — | — | — | — | 5,268 |
| Promissory notes repayment | — | — | — | — | 3,085 |
| National Pensions Reserve Fund contribution | 1,616 | 1,690 | 3,000 | — | —- |
| Contribution to EU budget | 1,570 | 1,587 | 1,486 | 1,352 | 1,350 |
| EU stability support | — | — | —- | 346 | — |
| Loans/advances issued: | | | | | |
| EAGF[b] | 740 | 741 | 790 | 673 | 720 |
| Social Insurance Fund[c] | — | — | — | 110 | 199 |
| Insurance Compensation Fund | — | — | — | — | 280 |
| NAMA | — | — | — | 299 | — |
| Oireachtas Commission | 114 | 119 | 123 | 103 | 130 |
| Other payments | 124 | 187 | 209 | 105 | 406 |
| **Total issues** | **50,449** | **55,248** | **59,412** | **53,766** | **64,185** |
| **Deficit for the year** | **1,619** | **12,714** | **24,641** | **18,145** | **25,518** |

Source: Finance Accounts 2007 to 2011

Notes:
a Consolidates transactions processed through the Exchequer Account and the Capital Services Redemption Account (a facility maintained by the National Treasury Management Agency for the purpose of servicing national debt and transactions of a normal banking nature).

b European Agricultural Guarantee Fund.

c Funds are advanced to the Social Insurance Fund as a working facility and subsequently repaid. €55 million remained to be repaid to the Exchequer at the end of 2011.

d Includes €600 million that was transferred to the Capital Services Redemption Account in 2010 and used for debt servicing in 2011.

**1.5** Receipts into the Central Fund in 2011 totalled €38.7 billion. This represented an increase of €3 billion relative to the 2010 receipts of €35.6 billion, but a cumulative 21% decrease from peak 2007 levels. Taxation receipts rose by €2.3 billion compared with 2010.

**1.6** Overall Central Fund issues in 2011 amounted to €64.2 billion, an increase of 19% on the 2010 level. The bulk of this (€45.7 billion) comprises issues from the Central Fund for voted services, which is down 7.3% from the peak 2008 level. Other key features of the 2011 issues were

- Repayment of almost €3.1 billion relating to promissory notes issued to the Irish Bank Resolution Corporation Limited and the Educational Building Society under the Credit Institutions (Financial Support) Act, 2008 was made during 2011.
- Bank recapitalisation payments and acquisition of share capital in banks totalled over €7.5 billion in 2011. This brings the cumulative cash investment through the Exchequer to over €12 billion.[2] Further recapitalisation of the banks was undertaken by the National Pensions Reserve Fund.[3]
- In 2011, €280 million was advanced to the Insurance Compensation Fund as it did not have sufficient funds to make a payment due to the joint administrators of Quinn Insurance Limited on foot of the High Court Order.[2]
- Expenditure related to servicing of borrowing undertaken by the NTMA on behalf of the Central Fund increased by over €1.1 billion or 31%. (Chapter 2 outlines the government debt position in more detail).
- A total of €1.35 billion was contributed to the EU budget. (EU transactions are outlined in further detail in Chapter 5).

## Movement in State Balances

**1.7** The receipts into and issues from the Central Fund give rise to a number of balances, principally the balance on the Exchequer account at the Central Bank. The movements in those balances are set out in Figure 1.3.

**1.8** The Capital Services Redemption Account was established to set funds aside to meet the cost of servicing and redeeming State debt. It is maintained by the NTMA and is subject to guidelines issued by the Minister for Finance. The Minister directed that the balance at the end of 2010 should not exceed €601 million. In all other years, the limit on the balance was set at €1 million.

**1.9** Short-term notes are borrowing instruments issued by a State agency and held by the State. In effect, they represent lending by the Central Fund to the agency concerned. The balance at end 2011 was 'commercial paper' issued by the Housing Finance Agency and which could not be readily realised by the Central Fund. Commercial deposits are deposits placed by the NTMA with financial institutions for periods ranging from one to 365 days.

**1.10** Receipts and payments of collateral in relation to derivative contracts entered into by the NTMA are administered through credit support accounts. The excess of payments over receipts at the end of 2011 of €715 million was funded by the Exchequer and is due to be repaid to the Exchequer. Further details regarding these transactions are outlined in Chapter 2.

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2 Chapter 3 deals with the financial stabilisation measures taken by the State in the banking and insurance sector.

3 The total recapitalisation of banks to end 2011 was €63.6 billion. This includes the value of promissory notes issued and the value of preference share dividends (€0.8 billion) paid to the State in the form of ordinary shares. A further €1.6 billion was invested by July 2012 (€0.3 billion of which related to preference share dividends). The total recapitalisation to July 2012 was therefore €65.2 billion.

**Figure 1.3 Movements in State Balances 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | **€m** | **€m** | **€m** | **€m** | **€m** |
| **State balance at 1 January** | | | | | |
| Central Bank Exchequer account | 3,587 | 3,995 | 21,269 | 21,026 | 11,399 |
| Commercial deposits | — | 490 | 790 | 790 | 580 |
| Capital Services Redemption Account | — [a] | 1 | — [a] | — [a] | 600 |
| Short-term notes | — | — | — | — | 3,585 |
| | **3,587** | **4,486** | **22,059** | **21,816** | **16,164** |
| **Movement in year** | | | | | |
| Net Exchequer borrowing in year | 2,518 | 30,287 | 24,397 | 12,493 | 27,046 |
| Surplus/(deficit) of receipts over issues | (1,619) | (12,714) | (24,641) | (18,145) | (25,518) |
| | **899** | **17,573** | **(244)** | **(5,652)** | **1,528** |
| **State balance at 31 December** | | | | | |
| Central Bank Exchequer account | 3,995 | 21,269 | 21,026 | 11,399 | 13,099 |
| Commercial deposits | 490 | 790 | 790 | 580 | 30 |
| Capital Services Redemption Account | 1 | — [a] | — [a] | 600 | — [a] |
| Short-term notes | — | — | — | 3,585 | 3,848 |
| Collateral funding[b] | — | — | — | — | 715 |
| | **4,486** | **22,059** | **21,816** | **16,164** | **17,692** |

Source: Finance Accounts 2007 to 2011

Notes: a Balance in the account at year end was less than €500,000.

b Collateral deposited with derivative counterparties under credit support agreements (see Chapter 2).

## Major Exchequer Liabilities and Assets

**1.11** The State had certain long-term financial liabilities and assets at 31 December 2011, many of which are reported upon in other chapters in this report. The summary position in relation to key liabilities and assets is outlined below.

*Government Debt*

**1.12** The general government debt (GGDebt) measures indebtedness taking account of all liabilities of the State. At 31 December 2011, the GGDebt stood at €169 billion.

**1.13** The main component of the GGDebt was cumulative borrowing undertaken by the NTMA on behalf of the State. At end December 2011, this amounted to €137 billion (nominal or redeemable par values). This compared to €110 billion at the end of 2010.

**1.14** During 2010, the Minister for Finance issued promissory notes to the value of €31 billion to two Irish financial institutions.[4] Interest accrues on the amounts outstanding. Under the terms of the promissory notes, the State is required to pay the amounts due by way of annual instalments. The first instalments, totalling €3.1 billion, were paid during 2011. The balance of the liability at end 2011 was €28.3 billion.

**1.15** Other liabilities of the State include Post Office Bank Fund deposits, borrowing of local authorities and other State bodies as well as a residual amount of debt of the Housing Finance Agency.

*Financial Commitments Under PPP Contracts*

**1.16** Central government departments and agencies have entered into long-term public private partnership (PPP) deals for the provision of a range of services and infrastructure. These include commitments to future payments over the terms of the contracts.

**1.17** The total value of the future commitments to be met in respect of contracts in place at the end of 2011 is estimated at just over €4 billion (see Chapter 6). Part of this commitment represents the cost of future operation and maintenance, which in projects or services that are conventionally procured, are met on a ‘pay as you go’ basis.

**1.18** Further PPP projects are in the course of development or procurement, but financial commitments in respect of those projects will not arise until they reach formal contract stage.

*Public Service Pension Costs and Liabilities*

**1.19** Accrued pension entitlements of public servants are a significant liability of the State. At end December 2009, a total of €116 billion had accrued in respect of occupational pensions payable to public servants. Those liabilities represent the estimated present value of the cash payments that fall to be met over the next 60 years in respect of pensions earned at 31 December 2009.[5] Later assessments of the liability have not been made.

**1.20** The Commission on Public Service Pensions recommended in 2000 that actuarial reviews of public service pension schemes and projections of public service pension outflows should be carried out on a three-year cyclical basis. Regular reviews have not been undertaken.

*Pension Reserves*

**1.21** The National Pension Reserve Fund (the Pension Fund) was valued at €13.4 billion on 31 December 2011.

**1.22** The discretionary investment of the Pension Fund stood at €5.4 billion at 31 December 2011. These investments are valued at market prices.

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4 The promissory notes were originally issued to three institutions – Anglo Irish Bank, Irish Nationwide Building Society (IBNS) and the Educational Building Society. However, Anglo Irish Bank and IBNS were subsequently merged to form one institution - Irish Bank Resolution Corporation Limited.

5 See Chapter 3 of the ***Report of the Comptroller and Auditor General on the Accounts of the Public Services 2009.***

**1.23** The remaining assets of the Pension Fund are investments made under direction of the Minster for Finance. €21 billion of the Pension Fund's assets (including re-investment of dividends received from Allied Irish Banks plc and Bank of Ireland) had been devoted to bank capitalisation by the end of 2011. The value of the Pension Fund's investments in the banks was €8 billion at 31 December 2011.[6]

*Loans and Advances*

**1.24** Loans and advances provided from the Central Fund totalling €1.4 billion were outstanding at the end of 2011. These include

- €720 million outstanding in respect of cyclical advances to fund costs associated with the operation of EAGF schemes (to be reimbursed by the EU)
- €346 million in relation to Ireland's contribution in 2010 to EU stability support for Greece
- €280 million advanced in 2011 to the Insurance Compensation Fund.

## State Commitments and Contingencies

**1.25** As outlined in Chapter 3, the State has guaranteed the liabilities of certain Irish credit institutions. The value of the bank liabilities guaranteed at the end of December 2011 was of the order of €102 billion. Deposits (up to a maximum of €100,000 per depositor per institution) are covered separately by a Deposit Guarantee Scheme. At the end of December 2011, such deposits with those credit institutions covered by bank liability guarantees had a combined value of €82 billion.

**1.26** The State has a further commitment to meet any shortfall in the value of collateral provided to the Central Bank of Ireland under exceptional liquidity assistance (ELA) arrangements. ELA of €42 billion had been advanced by the Central Bank at the end of 2011. Collateral eligible for the purpose of ELA includes: the promissory notes issued by the Minister for Finance; loans including residential mortgages and investment or development loans; and guarantees of the Minister. The Central Bank has received letters of comfort from the Minister. These confirm that any shortfall on the liquidation of collateral can be made good by the State. The State's liability in respect of the promissory notes is included in GGDebt (see above). Therefore, to the extent that the promissory notes have been pledged as collateral for ELA, no additional State commitment arises in the event of any shortfall in collateral.

**1.27** The Minister for Finance has guaranteed 95% of the debt issued by NAMA to pay for loans acquired by it from credit institutions (see Chapter 3). The value of debt guaranteed at the end of 2011 was €29 billion.

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6 The valuation of assets of the NPRF that have been devoted to bank stabilisation payments is dealt with in Chapter 4.

## Conclusions and Recommendations

**1.28** The deficit in State receipts relative to issues in 2011 was over €25 billion. At the end of 2011, the general government debt stood at €169 billion. In addition, the State had commitments of over €4 billion in respect of public private partnership contracts. Assets held by the State at the end of 2011 included €17.7 billion held as State balances and €13 billion in the National Pension Reserve Fund, of which €8 billion is invested in Allied Irish Banks plc and Bank of Ireland. The amount outstanding at the end of 2011 in respect of loans and advances issued from the Central Fund was €1.4 billion.

**1.29** The State also had contingent liabilities arising out of its guarantee of the liabilities of certain Irish credit institutions and in respect of guarantees and letters of comfort issued to the Central Bank of Ireland for exceptional liquidity assistance to banks.

**1.30** The latest estimates of long-term liability for occupational pensions for public sector employees was €116 billion at the end of 2009. Since 2009, very significant changes have been made in relation to public sector pensions, and substantial numbers of public sector workers have retired earlier than expected. These developments may have significantly altered the value of accrued pension entitlements.

**Recommendation 1.1:** Actuarial reviews and projections of public service pension outflows should be carried out on a regular basis, to ensure that the State is aware of the long term cost impact of pensions and the timing of pension outflows.

**Department of Public Expenditure and Reform Accounting Officer's Response:** Agreed. The regular preparation and publication of actuarial assessment of public service pension provision is an important part of policy formation. Work should begin as soon as possible on a new actuarial assessment that takes account of the very significant savings in public service pay, pensions and numbers since 2009.

**1.31** The Finance Accounts are, in the main, a cash-based record of the receipts and issues of the Central Fund during the year and details at the end of the year of borrowing undertaken by the NTMA on behalf of the State. Certain additional supplementary information is also provided in relation to share capital, loan transactions and guarantees. However, the accounts do not purport to be whole of government accounts or to reflect the totality of Government assets, liabilities or contingencies. While the Finance Accounts comply with the form specified by the Minister for Finance, there is scope for additional disclosure, which would present a more complete and transparent account of the financial transactions of central government in the year and of the State's financial position at year end.

**Recommendation 1.2:** The Department of Finance should review the level and quality of disclosure in the Finance Accounts so as to increase the transparency of public financial information.

**Department of Finance Accounting Officer's Response:** Agreed. The primary purpose of the Finance Accounts, as defined by statute, is to show 'payments into and out of the Central Fund'. The accounts have always contained a certain amount of discretionary information, other than Central Fund transactions, and this has increased in recent years, particularly through additional footnotes. The Department agrees with the overall objective of transparency of public financial information. In reviewing the matter, the Department of Finance will consult with the Department of Public Expenditure and Reform, which has the lead role in relation to policy for accounting by government departments. Consideration will be given to the level of additional information to be added to the Finance Accounts, having regard to the need not to obscure the fundamental purpose of those accounts or delay their production. The extent to which additional government financial reporting statements should be developed will also be considered.

# 2 Government Debt

**2.1** Revenues from taxation and other charges represent the primary source of State funding. In addition, the State engages in a range of borrowing activities. This chapter outlines the trend and composition of the general government debt, and in the cost of debt service. It also reviews developments in relation to Ireland's return to the sovereign debt market.

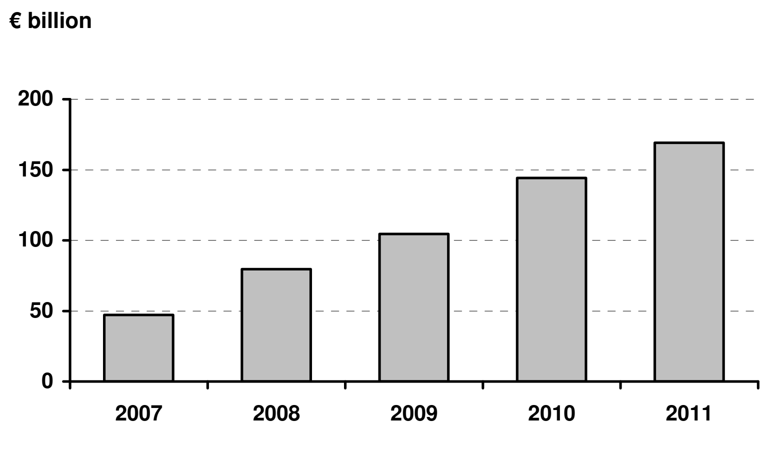
## General Government Debt

**2.2** The most comprehensive measure of government debt is general government debt (GGDebt), an internationally standardised measure of debt which all EU countries are legally obliged to use for their twice-yearly reporting of government deficit and debt under the Maastricht Treaty. GGDebt is the total gross debt outstanding of the consolidated general government sector – that is, the total gross debt (at nominal value) owed by all government bodies to third parties outside government.[1] Debt that one government body owes another does not count towards the GGDebt.

**2.3** In Ireland, the general government sector includes most public sector bodies, but not the publicly owned banks, NAMA Investment Ltd, and those commercially-operated State companies which cover a majority of their operating costs through sales. The composition of the GGDebt is set out in Figure 2.9 (Annex A).

**2.4** The GGDebt stood at approximately €169 billion at the end of 2011. The significant upward trend in GGDebt since 2007 is indicated in Figure 2.1.

**Figure 2.1 General Government Debt 2007 to 2011**




Source: Central Statistics Office ***National Income and Expenditure 2011***, published September 2012 (Annex A, Figure 2.9)

Note: a The GGDebt calculation is a statistical process. Consequently, some figures are subject to revision.

1 Specifically, GGDebt is defined as the sum of liabilities of the general government sector in the following European System of Accounts 1995 (ESA95) categories: currency and deposits; securities other than shares excluding financial derivative; and loans.

### *Adjustments to Prior Year Figures*

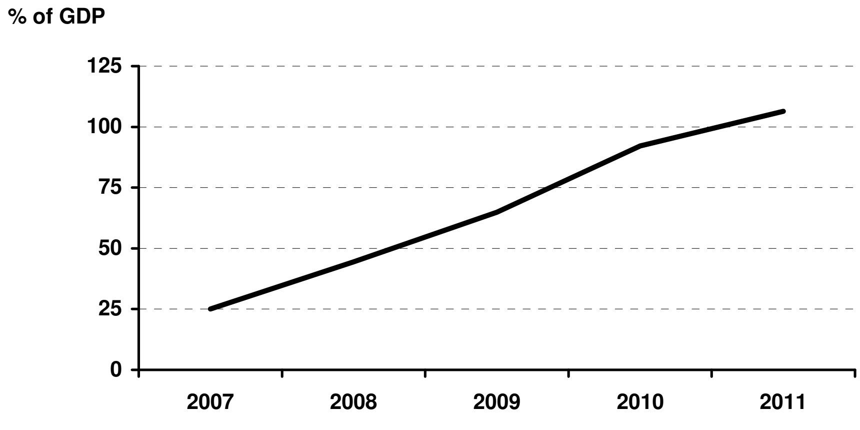
**2.5** The GGDebt for 2010 was originally reported (in March 2011) as €148.1 billion, an overstatement of €3.85 billion. In 2010, the Housing Finance Agency (HFA) borrowed substantial sums from the National Treasury Management Agency (NTMA).[2] In previous years, HFA borrowings had been sourced on the open market. When the end-2010 GGDebt figures were compiled, around €3.6 billion borrowed by the HFA from the NTMA was mistakenly treated as external borrowings and was wrongly added to the GGDebt.

**2.6** In an examination of the compilation of the GGDebt, the Central Statistics Office identified a number of smaller adjustments for each of the years 2007 to 2010 (reductions of €242 million, €234 million, €157 million and €266 million respectively). These mainly related to HFA borrowings from other government bodies.

### *GGDebt as a proportion of GDP*

**2.7** The ratio of GGDebt to gross domestic product (GDP) is a standard sustainability measure applied for the purposes of comparison across the EU. The GGDebt as a proportion of GDP rose from 25% in 2007 to 106.4% in 2011 (See Figure 2.2).

**Figure 2.2 GGDebt as a proportion of GDP 2007 to 2011**



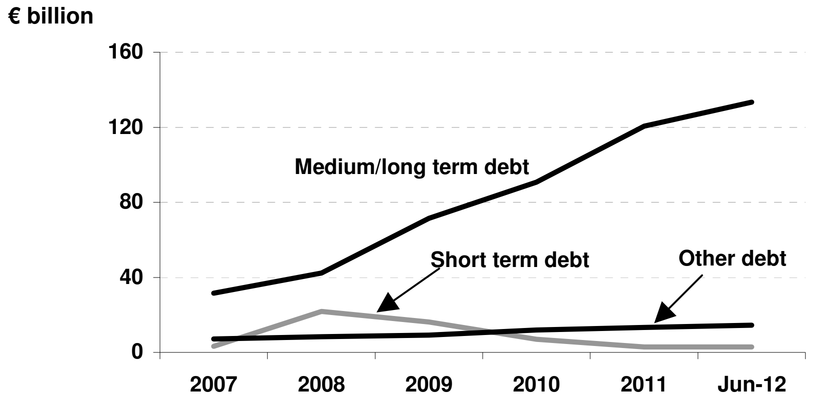

Source: Annex A, Figure 2.10

2 The NTMA purchased HFA commercial paper.

## Gross National Debt

**2.8** The largest component of the GGDebt is the gross national debt, which is debt arising from borrowings of the Exchequer, undertaken by the NTMA. This stood at €136.8 billion at the end of 2011. From the end of 2011 to the end of June 2012, this increased by a further 10% to €150.7 billion.[3] Figure 2.3 illustrates the trends in the major components of gross national debt from 2007 to June 2012.

**Figure 2.3 Gross National Debt at Redeemable Par Values 2007 to 2011 (year-end) and at June 2012**




Source: Annex A, Figure 2.11

### *Medium and Long Term Debt*

**2.9** Medium and long-term debt at the end of June 2012 accounted for just over 88% of the gross national debt. It comprised mainly borrowings in the form of government bonds (€83.1 billion) and loans under the EU/IMF Programme of Financial Support for Ireland which was negotiated in late 2010 (€49.6 billion).[4] Annex B provides further details on funding under the EU/IMF programme.

**2.10** Medium and long term debt has varying maturity profiles. At the end of June 2012, the maturity of government bonds in issue ranged from under one year to 13 years. The maturity for borrowing under the EU/IMF programme is up to 30 years. Figure 2.4 shows the maturity profile of Government bonds and funding under the EU/IMF programme (totalling €133 billion) at the end of June 2012.

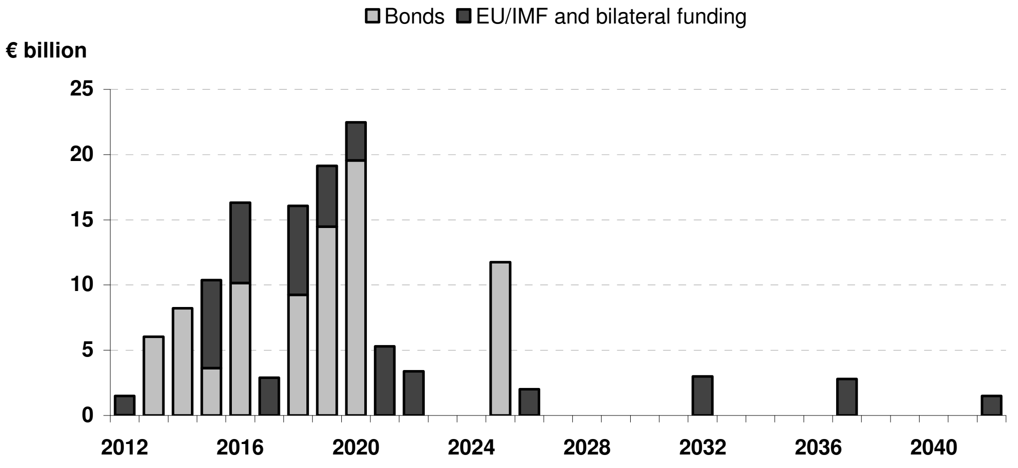
**2.11** Figure 2.4 reflects the impact of the changes in gross national debt in the first half of 2012, in addition to EU/IMF drawdowns.

- In January 2012, the NTMA offered investors the opportunity to exchange their holdings of a bond maturing in 2014 for a new bond maturing in February 2015. As a result, €3.53 billion (30%) of bonds due to mature in 2014 had their maturity extended by one year to 2015.

3 June 2012 figures have not been audited.

4 The EU/IMF programme was negotiated with the International Monetary Fund (IMF), the European Commission (EC) and the European Central Bank.

**Figure 2.4 Maturity Profile of Government Bonds and EU/ IMF Programme Funding held at end June 2012 [a]**




Source: National Treasury Management Agency (Annex A, Figure 2.12)

Note: a The EU/IMF programme balances are shown net of currency hedging transactions where relevant.

- The level of Government bonds in issue increased in March 2012 when bonds were issued to meet a promissory note payment of €3.06 billion due to Irish Bank Resolution Corporation Limited (IBRC).[5] The bonds issued will mature in 2025 and have an annual interest rate of 5.4%. As the market value of the bonds at the time was just over €88 per €100 nominal, the State issued bonds with a nominal value of €3.46 billion in order to meet the payment. The yield on the bonds and, therefore, the effective interest rate on the repayment of €3.06 billion, is just over 6.8%.

**2.12** On 26 July 2012, the NTMA offered investors the opportunity to switch their existing holdings of bonds due to mature in 2013 and 2014 into bonds with longer maturities (2017 and 2020). Due to the differences in the market prices of the bonds exchanged, there was a net payment at the time of the swap of just under €30 million to the investors who took up the offer, swapping just over €1 billion.

### *Short Term Debt*

**2.13** Short-term debt is debt with an original maturity of less than one year. At the end of June 2012, the short-term debt comprised mainly borrowings using Exchequer notes and the NTMA's Euro commercial paper programme.[6] Figure 2.5 compares the maturity profile of short-term debt in 2008 and at the end of June 2012. This indicates both a significant drop in the volume of short-term debt and shortening average maturity.

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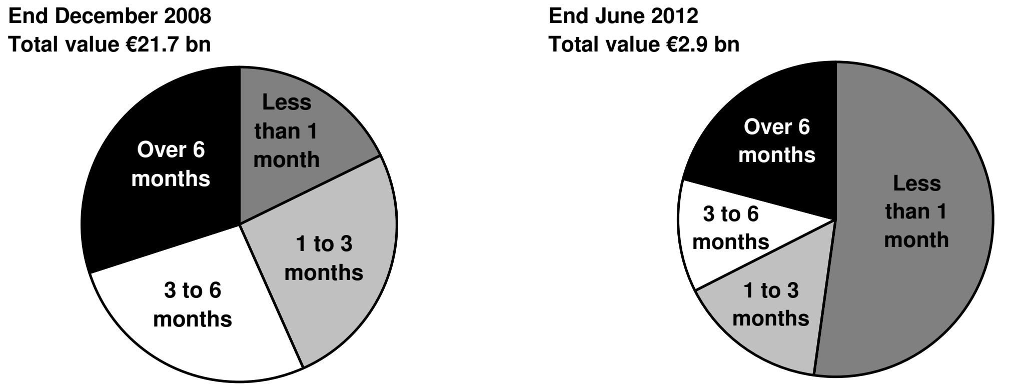
5 Promissory notes were issued to three institutions – Anglo Irish Bank, Irish Nationwide Building Society (INBS) and EBS. Anglo and INBS were subsequently merged into IBRC.

6 At the end of 2011, NAMA held €2.3 billion (79%) of the total short-term debt in issue in the form of Exchequer notes.

**Figure 2.5 Maturity Profile of Short Term Debt December 2008 and June 2012**




Source: Annex A, Figure 2.13

## Promissory Notes

**2.14** In 2010, as part of the process of bank capitalisation, the Minister for Finance issued promissory notes to the value of €30.85 billion to the IBRC and the Educational Building Society (EBS). The net effect of this measure was to create State debt outside the NTMA-managed gross national debt.

**2.15** The State did not have an immediate outlay of cash when it issued the promissory notes. Under the terms of the notes, payments equal to 10% of the amounts outstanding at 31 December 2010 are made annually on set dates.[7] Interest is accrued annually on the notes. The first payments were made from the Central Fund in 2011. Annual payments will continue until the principal amounts and all of the accrued interest have been paid. The value of notes outstanding at 31 December 2011 was €28.33 billion. The movement in the balance outstanding on promissory notes between 2010 and 2011 is outlined in Figure 2.6.

**Figure 2.6 Balance outstanding on banking-related promissory notes end December 2011**

| | IBRC | EBS | Total |
|---|---|---|---|
| | €m | €m | €m |
| **Value of promissory notes issued (in 2010)** | **30,600** | **250** | **30,850** |
| **Total payments in 2011** | **(3,060)** | **(25)** | **(3,085)** |
| *Interest element* [a] | *(554)* | *(14)* | *(568)* |
| *Principal element* | *(2,506)* | *(11)* | *(2,517)* |
| **Balance outstanding at end 2011** | **28,094** | **239** | **28,333** |

Source: Department of Finance

Note: a Interest is interest paid in 2011 and does not include any interest accrued after the payment dates.

7 Payments are made on 31 March to IBRC and 17 June to EBS (or on the next business day when these dates are not business days).

## Cost of Debt

**2.16** The debt service cost disclosed in the NTMA's accounts for 2011 is €5.4 billion when measured on a cash basis. However, when account is taken of a transfer of €638 million from current funds to a statutory sinking fund, the servicing outlay was €4.7 billion.[8]

**2.17** Measurement of debt service costs on a cash basis masks the effect of servicing obligations which had accrued by year end but remained to be discharged. When the debt service cost is measured on an accruals basis, the servicing cost for 2011 was €5.3 billion.[9] The equivalent cost for 2010 was €4.3 billion – a 23% increase year-on-year.

**2.18** The gross national debt increased by 225% between 2007 and 2011 and the cost of servicing the debt, when measured on an accruals basis, rose by around 231% in the same period from €1.6 billion to €5.3 billion, indicating that the average interest rates applied to the debt was broadly similar in both years.

**2.19** At the end of June 2012, three components accounted for almost 97% of the gross national debt

- Government bonds accounted for 55% of the debt at an average interest rate of 4.78%.
- Borrowing under the EU/IMF programme accounted for a third of the gross national debt. The estimated weighted average cost at that date, after taking account of hedging costs, was 3.35% a year.
- State savings schemes accounted for just over 8% of the borrowings. The two biggest schemes, comprising almost 80% of those borrowings, had maximum interest rates of between 3.23% and 3.53%.

**2.20** At the end of June 2012, the NTMA estimated that the weighted average cost of servicing the national debt stood at 4.1% per annum. At that date, around 95% of debt was at fixed rates, including debt where hedging had been undertaken while the balance was at floating interest rates.

**2.21** The average interest rate on government bonds is based on the interest payable on the nominal amount of debt outstanding. This does not fully reflect the cost of that borrowing because it does not take account of differences between cash received from lenders and the nominal amount of debt issued. When the amount received is lower than the nominal value of the debt issued, the cost of borrowing is greater than the interest rate on the nominal debt.[10]

**2.22** The interest rates on the promissory notes range from just over 4% to just under 12%, with a zero rate applying in 2011 and 2012 to the IBRC promissory notes. The average rate for all the promissory notes, taking account of the period with zero interest rates, is just under 6%.

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8 This sinking fund is used to repay debt.

9 The accruals basis recognises the costs incurred rather than those paid and does not take account of sinking fund movements.

10 Conversely, when the amount received is greater than the nominal value of the debt issued, the true cost of borrowing is lower than the interest rate on the nominal debt.

## Debt Market Re-entry

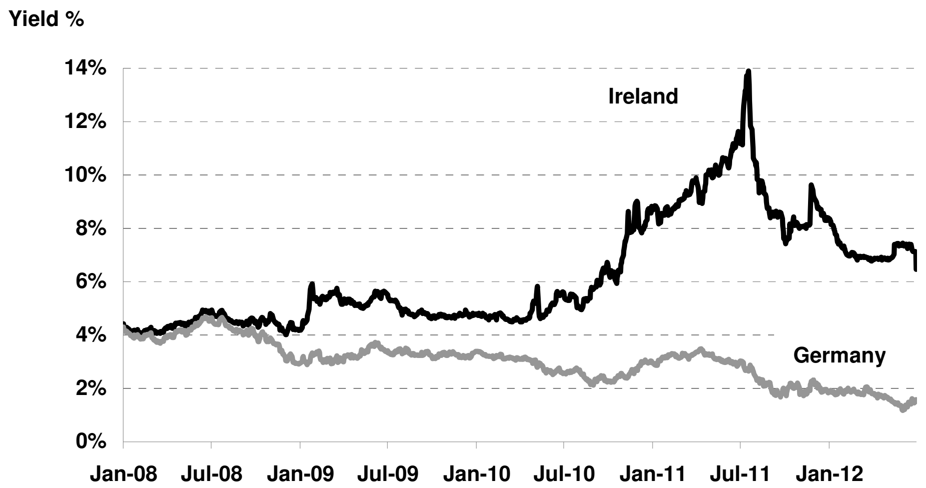
**2.23** The yield on Irish bonds is a key determinant of when Ireland can return to borrow in the market. The yield spreads on Irish debt compared to those of Germany diverged in late 2008, and more substantially from mid-2010.[11] (See comparison of yields for 10-year debt in Figure 2.7). As a result, from September 2010 to July 2012, the NTMA did not actively seek funding in the bond markets.

**2.24** In early July 2012, the NTMA returned to the markets with an auction of three-month Irish treasury bills. The target amount of €500 million was sold at competitive auction and €12.5 million at non-competitive auction at a yield of 1.80%.[12]

**2.25** On 26 July 2012, the NTMA offered bonds with long term maturities for sale. The weighted average yield for the issued bonds was 5.95%. Bonds with a nominal value of €4.19 billion were sold for €4.05 billion as follows

- €2,894 million in nominal value of a new 5.5% treasury bond maturing in 2017 was sold at €98.27 per €100 nominal value. The cash received was €2,844 million giving investors a yield of 5.9%

**Figure 2.7 Irish and German 10-year bond yields 2008 to June 2012**




Source: National Treasury Management Agency

- €1,299 million in nominal value of an existing 5% treasury bond maturing in 2020 was sold for €93.03 per €100 nominal value. This generated €1,208 million giving investors a yield of 6.1%.

11 Yield spread is the difference between the yields on two bonds of the same maturity.

12 In the non-competitive phase of the auction, primary dealers and eligible Irish treasury bills counterparties may make bids at the highest accepted interest rate of the competitive auction. They are entitled to bid for up to 30% of their respective successful bids in the competitive auction.

## Cash and Other Financial Assets

**2.26** Ireland's national debt is defined by the NTMA as the net debt arising from borrowings of the Exchequer after taking account of cash balances and other related financial assets.

**2.27** The State held significant balances of cash and other financial assets at the end of June 2012. These increased from a level of €4.5 billion in 2007 to a peak level of over €22 billion in 2008. At the end of June 2012, their combined value was €18.8 billion as shown in Figure 2.8.

**Figure 2.8 Cash and Other Financial Assets 2008 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 | June 2012 |
|---|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m | €m |
| Exchequer Account | 3,997 | 21,269 | 21,026 | 11,399 | 13,099 | 14,488 |
| Bank deposits | 490 | 790 | 790 | 580 | 30 | 300 |
| Capital Services Redemption Account | — | — | — | 600 | — | 67 |
| Housing Finance Agency commercial paper | — | — | — | 3,585 | 3,848 | 3,941 |
| Credit support annexes collateral funding | — | — | — | — | 715 | — |
| **Total cash and financial assets** | **4,487** | **22,059** | **21,816** | **16,164** | **17,692** | **18,796** |

Source: National Treasury Management Agency

**2.28** While €13.1 billion was available to the State immediately or at short notice at the end of 2011, €3.8 billion of Housing Finance Agency commercial paper was not readily realisable. €715 million used to fund collateral deposited with derivative counterparties under credit support agreements, while not readily realisable, will be realised with changes in the market value of related derivatives or as the derivatives mature.

**2.29** In order to mitigate the risk of counterparty default in derivative transactions and to optimise market access, the NTMA enters into credit support arrangements with its market counterparties.[13] The party to a derivative contract who is 'out of the money', is required to deposit collateral with its counterparty.[14] As a result, €715 million was used to fund collateral deposited with derivative counterparties at the end of 2011. The transfer of collateral is subject to an obligation on the part of the counterparty to return collateral in line with changes in market values or under certain circumstances such as a default or termination of the contract. The provider of collateral is entitled to deposit interest on cash balances posted. When a derivative contract matures it has a zero value and all collateral will have been returned to the party which posted it.

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13 Derivative contracts are drawn up in accordance with master agreements of the International Swaps and Derivatives Association (ISDA). A credit support annex (CSA) is a legal document which may be attached to an ISDA master agreement to regulate credit support for derivative transactions and it defines the circumstances under which counterparties are required to post collateral. Under a CSA, the posting of cash constitutes an outright transfer of ownership by the provider of collateral.

14 Derivatives are valued at market value daily. The market value represents the difference between the present value of the cash flows that the two parties are contractually obliged to exchange under the contract and the present value of the cash flows that they would contract to exchange on the day of valuation. The market value of the derivative creates an asset for one party to the contract (because the terms it would get from the market would be less advantageous than under the derivative contract). The other party has a liability and is 'out of the money'.

**2.30** The NTMA established a credit support account in the Central Bank of Ireland in 2010 to facilitate these transactions. During 2010 and 2011, when required, the credit support account was funded by the Exchequer.

**2.31** In addition to undertaking hedging transactions relating to the national debt, the NTMA is the counterparty for the derivative positions of the National Asset Management Agency (NAMA). During 2010 and 2011, the NTMA did not require NAMA to post collateral. In March 2012, the NTMA entered into an agreement with NAMA under which NAMA may be required to post collateral. In June 2012, NAMA made its first collateral posting under this agreement. At the end of June 2012, following the posting of collateral by NAMA, no Exchequer funding was provided for the credit support account.

## Conclusions

**2.32** The GGDebt measures State indebtedness taking account of borrowing by the State, together with other liabilities of the State including promissory notes, liabilities of non-commercial State agencies and local authorities. In 2011, the GGDebt increased by 17%, and stood at €169.1 billion at the end of 2011. This followed an increase of 38% in 2010. The ratio of GGDebt to GDP at end-2011 was 106%.

**2.33** In 2011, the Central Statistics Office reviewed the GGDebt for the years 2007 to 2010, resulting in a downward revision of the debt for each of those years. The 2010 GGDebt was revised downwards by €3.85 billion, primarily due to the correction of a consolidation error in the treatment of borrowings by the Housing Finance Agency.

**2.34** At the end of 2011, borrowing by the NTMA on behalf of the State (referred to as gross national debt) amounted to €136.8 billion. By mid-2012, this had risen by a further 10% to over €150 billion including almost €50 billion borrowed under the EU/IMF programme. Around €42 billion of the medium and long-term debt held at end June 2012 is due for repayment by 2016. A further €58 billion is due for redemption in the period 2018 to 2020.

**2.35** The balance of the GGDebt was made up of promissory notes issued in connection with bank stabilisation (€28.3 billion) and other miscellaneous net public borrowing of €4 billion.

**2.36** Debt service costs when measured on an accruals basis increased by €1 billion (or 23%) in 2011 principally due to the increase in the amount of the debt. At the end of June 2012, the estimated average weighted average cost of borrowing was 4.1%.

**2.37** In July 2012, the NTMA sold bonds with long-term maturities for the first time since September 2010. Bonds to the value of €4.19 billion were sold at a weighted average yield of 5.95%. Around the same time, it swapped around €1 billion in bonds due to mature in 2013 and 2014 for bonds maturing in 2017 and 2020.

# Annex A Composition of GGDebt and Gross National Debt

**Figure 2.9 Composition of General Government Debt at year-end 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| **Central Government – Exchequer** | | | | | |
| Gross National Debt | 42,047 | 72,457 | 96,968 | 109,609 | 136,774 |
| Less liabilities to other central government bodies, local authorities and VECs | (2,943) | (3,275) | (2,413) | (2,472) | (2,636) |
| Adjustment to nominal value of debt [a] | 23 | 489 | 55 | 72 | 4 |
| European Financial Stability Fund Prepaid Margin | | — | — | — | 530 |
| Liability for Coinage in circulation | 653 | 697 | 674 | 673 | 694 |
| Accrual Adjustments [b] | 785 | 658 | 473 | 432 | 476 |
| Other adjustments [c] | 4 | 3 | 14 | (7) | 154 |
| Promissory notes | — | — | — | 30,850 | 28,333 |
| ***Exchequer contribution*** | ***40,569*** | ***71,029*** | ***95,771*** | ***139,157*** | ***164,329*** |
| **Housing Finance Agency** | | | | | |
| Gross debt | 4,338 | 4,992 | 4,941 | 4,512 | 4,414 |
| Less liabilities to central government bodies and local authorities | (523) | (487) | (229) | (3,864) | (4,047) |
| ***Housing Finance Agency contribution*** | ***3,815*** | ***4,505*** | ***4,712*** | ***648*** | ***367*** |
| **Other Central Government** | | | | | |
| Post Office Bank Fund Deposits | 1,303 | 1,772 | 1,892 | 2,330 | 2,506 |
| Non-commercial State Bodies [d] | 587 | 869 | 791 | 539 | 490 |
| Westlink Buy-Out | 0 | 560 | 510 | 460 | 410 |
| ***Other central government contribution*** | ***1,890*** | ***3,201*** | ***3,193*** | ***3,329*** | ***3,406*** |
| **Local Government** | | | | | |
| Gross debt | 4,744 | 5,403 | 5,620 | 5,617 | 5,448 |
| Less liabilities to Housing Finance Agency and central government bodies | (3,861) | (4,534) | (4,669) | (4,527) | (4,420) |
| ***Local government contribution*** | ***883*** | ***868*** | ***951*** | ***1,091*** | ***1,029*** |
| **Total** | **47,155** | **79,603** | **104,626** | **144,223** | **169,131** |

Source: Central Statistics Office (Inconsistent totals are due to rounding.)

Notes:
a GGDebt reported to the EU is stated at nominal values. Certain debt, such as commercial paper, is issued at a discount to its nominal value, but the nominal value is reported for GGDebt purposes.
b Small Savings Reserve Fund and National Loans Advance Interest.)
c Repurchase agreements, collaterals and OPW contracts.
d Including voluntary hospitals and HSE.

**Figure 2.10 GGDebt as a proportion of GDP 2007 to 2011**

| **Ratio** | **2007** | **2008** | **2009** | **2010** | **2011** |
|---|---|---|---|---|---|
| | **€m** | **€m** | **€m** | **€m** | **€m** |
| GGDebt | 47,155 | 79,603 | 104,626 | 144,223 | 169,131 |
| GDP | 188,729 | 178,882 | 161,275 | 156,487 | 158,993 |
| **GGDebt: GDP** | **25.0%** | **44.5%** | **64.9%** | **92.2%** | **106.4%** |

Source: Central Statistics Office

**Figure 2.11 Cumulative Borrowing at Redeemable Par Values at year ended 2007 to 2011 and June 2012**

| | 2007 | 2008 | 2009 | 2010 | 2011 | June 2012 |
|---|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m | €m |
| Medium/ long term debt [a] | | | | | | |
| Government bonds | 30,947 | 41,863 | 70,858 | 90,102 | 85,310 | 83,131 |
| EU/IMF programme funding [b] | — | — | — | — | 34,629 | 49,570 |
| Other medium/ long-term | 615 | 483 | 670 | 673 | 673 | 673 |
| Short term debt [c] | 3,286 | 21,783 | 16,261 | 6,972 | 2,920 | 2,885 |
| Borrowings from other State Funds [d] | 2,258 | 2,605 | 1,783 | 1,524 | 1,696 | 2,184 |
| Government savings schemes [e] | 4,941 | 5,723 | 7,396 | 10,338 | 11,546 | 12,301 |
| **Gross National Debt** | **42,047** | **72,457** | **96,968** | **109,609** | **136,774** | **150,744** |

Source: National Treasury Management Agency

Notes:
a Original maturities of more than one year.
b The balances are stated net of currency hedging transactions.
c Original maturities of one year or less.
d The main element of this borrowing relates to the Post Office Savings Bank Fund.
e Maturities up to ten years.

**Figure 2.12 Maturity Profile of Government Bonds at year ended 2007 to 2011 and June 2012**

| Duration | 2007 | 2008 | 2009 | 2010 | 2011 | June 2012 |
|---|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m | €m |
| Under 5 years | 5,939 | 15,931 | 25,687 | 28,298 | 33,670 | 28,079 |
| 5 to 10 years | 11,928 | 11,857 | 29,296 | 53,520 | 43,356 | 43,299 |
| Over 10 years | 13,080 | 14,075 | 15,875 | 8,284 | 8,284 | 11,753 |
| **Total** | **30,947** | **41,863** | **70,858** | **90,102** | **85,310** | **83,131** |

Source: National Treasury Management Agency

**Figure 2.13 Maturity Profile of Short-Term Debt end December 2007 to 2011 and end June 2012**

| Duration | 2007 | 2008 | 2009 | 2010 | 2011 | June 2012 |
|---|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m | €m |
| Less than one month | 2,376 | 3,880 | 4,561 | 2,186 | 2,796 | 1,504 |
| One to three months | 711 | 5,518 | 8,628 | 3,286 | 106 | 445 |
| Three to six months | 198 | 5,803 | 2,913 | 1,392 | 18 | 332 |
| Over six months | 1 | 6,582 | 159 | 108 | — | 604 |
| **Total** | **3,286** | **21,783** | **16,261** | **6,972** | **2,920** | **2,885** |

Source: National Treasury Management Agency

## Annex B Debt Provided under the EU/IMF Programme

Under the EU/IMF programme, Ireland can access up to €67.5 billion of which almost €50 billion had been drawn down at the end of June 2012 as set out in Figure 2.14.

**Figure 2.14 EU/ IMF Programme of Financial Support for Ireland December 2011 and June 2012[a]**

| Lender | December 2011 | | June 2012 | |
|---|---|---|---|---|
| | € m | Average term (years)[b] | € m | Average term (years)[b] |
| International Monetary Fund (IMF) | 12,598 | 7.5 | 17,264 | 7.5 |
| European Financial Stability Facility (EFSF)[c] | 7,650 | 6.6 | 12,209 | 10.1 |
| European Financial Stabilisation Mechanism (EFSM) | 13,900 | 8 | 18,400 | 11.8 |
| Bilateral loans [d] | 481 | 7.5 | 1,697 | 7.5 |
| **Total** | **34,629** | **7.5** | **49,570** | **9.7** |

Source: National Treasury Management Agency

Notes:
- a The balances are stated net of currency hedging transactions where relevant.
- b Weighted average.
- c The EFSF figures are shown net of a prepaid margin of €530 million and also includes short term interim funding which will be replaced by longer term funding under the EU/IMF programme.
- d The bilateral loans at the end of 2011 were held with the United Kingdom and, by the end of June 2012, also with Denmark and Sweden.

In July 2011, the Euro Area Heads of State or Government agreed to extend the average life of borrowings under both the European Financial Stability Facility (EFSF) and the European Financial Stabilisation Mechanism (EFSM).

The estimated weighted average interest rate applied at the end June 2012, after taking account of hedging costs, was 3.35%. €44.6 billion of the total €49.6 billion was at fixed rates and the balance at floating rates.[15]

There have been a number of amendments to the terms of the funding under the EFSF and the EFSM since the first drawdowns were made in early 2011.

The first drawdown from the EFSF in February 2011 amounted to €4.2 billion. The interest rate charged on the drawdown (5.22%) was based on the cost of borrowing for the EFSF (2.75%) plus a margin of 2.47%. Ireland was required to prepay the present value of the interest margin charges that would accrue over the life of the loan amounting to €530 million along with additional fees and charges of €72 million. The net amount disbursed was €3.6 billion.

In July 2011, the Euro Area Heads of State or Government agreed to reduce the cost of the borrowing under the EFSF to lending rates close to, but without going below, the EFSF funding cost. The change applied to amounts already drawn from the EFSF and the effect was to reduce the interest rate on the February 2011 funding to 2.75%, thereby eliminating the margin.

15 Fixed rate debt includes short term EFSF bill issuance of €1.5 billion which was subsequently rolled into a long term loan to Ireland in July and August 2012. Fixed rate debt also includes the new EFSF pooled funding mechanism which introduced an element of variability into loan disbursements /rollovers from March 2012.

In 2016, when the debt matures, Ireland will repay the gross funding of €4.2 billion and will be repaid the €530 million prepaid margin interest leaving a net repayment of €3.7 billion. The cost of servicing the loan is, however, charged on the full €4.2 billion.

Early drawdowns from the EFSM had a similar interest rate structure to the EFSF with the rate charged comprising a rate based on the cost of borrowing for the EFSM plus a margin of 2.925%. In October 2011, the EU Council of Ministers approved a proposal to eliminate the margin. The changes applied to all funding already provided by the EFSM.

# 3 Banking and Insurance Measures

**3.1** During 2011, the State continued to implement measures to stabilise the banking system in Ireland through recapitalisation of domestic banks, provision of guarantees of deposits and certain other liabilities and through the provision by the Central Bank of Ireland of liquidity to financial institutions domiciled in Ireland. The main objectives of the banking stabilisation measures are to return banks to sustainable levels of profitability and to ensure that normal access to credit is restored for business, especially small and medium enterprises. In the longer term, the aim is for the State to dispose of its share holding in commercial banks.

**3.2** Following the recapitalisation of the banks, the sale of a €1 billion stake in Bank of Ireland to private investors and the purchase of Irish Life by the State, the State's total investment in Irish financial institutions by end July 2012 was €65.2 billion. The State owns 15% of Bank of Ireland and all, or almost all, of Allied Irish Banks plc (AIB), Permanent TSB Group Holdings plc (Permanent TSB – formerly Irish Life and Permanent) and Irish Bank Resolution Corporation (IBRC).[1]

**3.3** The Insurance Compensation Fund which operates under the control of the President of the High Court, was set up to meet liabilities of insolvent insurers. While the Fund is ultimately funded by levies on policy holders, the Minister for Finance may make advances from the Exchequer in circumstances where the Fund is unable to meet a payment approved by the High Court in a timely way. In 2011, the joint administrators of Quinn Insurance Ltd (QIL) applied to the High Court for funding to be provided from the Fund due to the assets of QIL being insufficient to meet estimated liabilities.

**3.4** The purpose of this chapter is to

- provide an update of the cost to the State of the banking stabilisation and insurance resolution measures taken
- set out the revised arrangements for managing the State's investments in the banks
- outline the credit availability measures taken to date.

## Implementation of Banking Stabilisation Measures

**3.5** Measures taken in 2011 to address the financial stability of credit institutions in Ireland included

- restructuring of the banking system
- purchase of impaired bank assets
- capitalisation of certain credit institutions
- guarantees of certain liabilities of credit institutions
- provision of liquidity support and
- deleveraging in order to restore the banks to a more stable funding position.

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1 Formerly Anglo Irish Bank (Anglo) and Irish Nationwide Building Society (INBS).

### *Restructuring the Banking System*

**3.6** In early 2011, the Minister for Finance (the Minister) announced the Government's restructuring plan for the banks, whereby the Irish banking system would have two full-service banks (AIB and Bank of Ireland) as its core pillars, as well as a restructured Irish Life and Permanent. Key elements of the restructuring were

- Pursuant to orders of the High Court, €8.6 billion of deposits were transferred in February 2011 from Anglo to AIB and €3.6 billion from INBS to Irish Life and Permanent, along with assets to support the liabilities.
- The High Court granted a transfer order on 1 July 2011 to the effect that the remaining assets and liabilities of INBS transferred with immediate effect to Anglo.[2]
- AIB completed the acquisition of the Educational Building Society (EBS) for a nominal payment of €1 on 1 July 2011.[3]
- On 14 October 2011, Anglo officially became known as IBRC, which is now in wind-down mode. During 2011, the net loan assets held by IBRC fell by €8.1 billion to €18.7 billion.[4]

### *Purchase of Impaired Bank Assets*

**3.7** The National Asset Management Agency (NAMA) was established to acquire loans that had been advanced for the purchase and development of land and other related advances from five credit institutions that participated in NAMA[5].

**3.8** By the end of 2011, NAMA had paid €31.8 billion to banks to purchase loans in respect of which the borrowers owed just over €74 billion. The loss incurred by the credit institutions on the loans was of the order of €42.4 billion, or 57% of the loans' carrying value. NAMA's financial statements for 2011 reported a total impairment provision of €2.75 billion on the loans it had acquired.

**3.9** NAMA issued debt to pay for the loans. 95% of the debt was in the form of floating rate notes guaranteed by the Minister.

### *Capitalisation of Credit Institutions*

**3.10** By the end of 2010, the State had made capital injections of €47 billion into financial institutions.[6] In March 2011, the Central Bank published a financial measures programme (FMP) report setting out the results of a prudential capital assessment review (PCAR 2011). This identified the further capital requirements of three institutions at €24 billion.[7]

**3.11** By mid-2012, the State had invested a further €18.2 billion (including investment of dividend receipts in ordinary shares in AIB and Bank of Ireland)[8], bringing the total investment to €65.2 billion, comprising

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2 The order was made under section 34 of the Credit Institutions (Stabilisation) Act 2010

3 The Minister approved the acquisition under section 7(11) of the Credit Institutions (Financial Support) Act 2008.

4 Annual Report 2011, IBRC.

5 The five credit institutions were Anglo, AIB, Bank of Ireland, INBS and EBS.

6 AIB (incorporating EBS), Bank of Ireland, Irish Life and Permanent and IBRC.

7 AIB, Bank of Ireland and Irish Life and Permanent. Irish Bank Resolution Corporation was not subject to PCAR 2011.

8 The Department is of the view that the dividends paid in the form of ordinary shares (€1.1 billion in total to end July 2012) should be excluded from the total investment (and from the return on investment) on the basis that they were not cash outlays.

- €44.45 billion in investment from the Exchequer issued by the Minister, (€13.6 billion in cash and €30.85 billion by way of promissory notes) and
- €20.75 billion invested by the National Pensions Reserve Fund (NPRF).[9]

**3.12** On 24 July 2011, the Minister directed the NPRF to sell part of its shareholding in Bank of Ireland. The net proceeds of the sale, which amounted to €1,018 million after costs of €34 million were deducted, were remitted to the Exchequer on the direction of the Minister.

**3.13** Following the recapitalisations and sale of shares in Bank of Ireland, the State owned

- 15% of the ordinary share capital of Bank of Ireland
- 99.8% of the ordinary share capital of AIB
- 100% of IBRC
- 99.2% of Irish Life and Permanent.[10]

**3.14** Figure 3.1 provides details of the capital injections made up to the end of July 2012.

**Figure 3.1 Capitalisation of Credit Institutions July 2012**

| Credit Institution | IBRC | AIB | Bank of Ireland | Irish Life and Permanent | Total |
|---|---|---|---|---|---|
| | € bn | € bn | € bn | € bn | € bn |
| Cost of ordinary share acquisition[a] | 4.1 | 10.2 | 2.1 | 2.3 | **18.7** |
| Cost of preference shares[b] | — | 3.5 | 1.8 | — | **5.3** |
| Contingent capital notes[c] | — | 1.6 | 1.0 | 0.4 | **3.0** |
| Capital contribution[d] | — | 6.1 | — | — | **6.1** |
| Value of promissory notes issued | 30.6 | 0.2 | — | — | **30.8** |
| Purchase of Irish Life | — | — | — | 1.3 | **1.3** |
| **Total** | **34.7** | **21.6** | **4.9** | **4.0** | **65.2** |

Source: Department of Finance

Notes:
a Ordinary shares acquired are shown net of fees and include dividends on preference shares received in the form of ordinary shares (AIB - €849 million and Bank of Ireland - €250 million). The shareholding in Bank of Ireland is net of €1 billion received by the NPRF for the sale of shares in the bank in July 2011.

b In March 2009, the NPRF invested €3,500 million in preference shares in Bank of Ireland. In April 2010, €1,663 million of these shares were converted to ordinary shares (included in ordinary shares above).

c Contingent capital notes qualify as core tier two capital. They convert to ordinary shares under certain circumstances, including if the core tier one capital ratio falls below 8.25%.

d The capital contribution was made by the Minister for Finance (€2.28 billion) and the NPRF (€3.77 billion).

9 Pursuant to directions issued by the Minister, the NPRF had, at July 2012 invested a net €20.75 billion in AIB and Bank of Ireland following the receipt of €1 billion arising from the sale of shares in Bank of Ireland. The overall investment is net of fees and includes investment of €1.1 billion from receipts of dividends on preference shares. The NPRF Commission cannot take any actions in regard to those investments other than in accordance with the Minister's directions. Chapter 4 provides further details on investments by the NPRF.

10 Two legal challenges have been taken in relation to the injection by the State of capital in Irish Life and Permanent.

**3.15** The State currently intends to sell Irish Life. The amount to be realised on disposal will depend primarily on the financial performance of the company and market conditions at the time of the sale.

**3.16** By the end of June 2012, the NPRF had received a return of just over €0.9 billion in cash from its investments, excluding fees offset against the cost of the investments, and a further €1.1 billion in dividends on preference shares received in the form of ordinary shares. In July 2012, the Exchequer received €0.3 billion in interest on the contingent capital notes.

**3.17** The adequacy of the capital injected into the banks and their net asset value following their restructuring will be determined by the extent of the losses they incur. The projected losses as set out in the FMP report were that

- €20 billion to €27.7 billion of (gross) losses would be incurred in the normal course of their business.[11]
- A further €13.2 billion of (gross) losses would be incurred from deleveraging through the disposal of certain assets in order to achieve liquidity ratio targets.[12]
- The three banks would incur net losses of between €19 billion and €27 billion between 2011 and 2013, in addition to €10 billion that had been provided for by the banks in the form of loan impairment provisions at the end of 2010. These net projected losses take account of €3.9 billion in operating profits in a stress case scenario.

**3.18** Overall, the assumptions in the FMP report are consistent with the assisted banks holding core tier one capital of the order of €13.7 billion to €21.4 billion by 2013. This asset value would accrue to the shareholders. The amount attributable to the State investment will be proportional to its shareholding. The residual value of the capital injections that the State has made into IBRC will be dependent on the financial performance of the bank and the amounts realised from the disposal of the assets in the merged entity.

**3.19** In the memorandum of understanding following the fifth review of the EU/IMF programme, there is a commitment that the Central Bank will carry out, by the end of November 2012, a review of how the banks have performed relative to PCAR 2011.[13] The details of the review will be agreed between the Irish authorities and the staff of the European Commission, the ECB and the IMF. The results of the review will be published.

11 Projected losses are €20 billion under a baseline scenario and €27 billion under a stress scenario.

12 Set out in a prudential liquidity assessment review (PLAR 2011).

13 In 2011, the three banks reported aggregate losses of around €2.5 billion while in the first six months of 2012 the two largest institutions reported further aggregate losses of €2.4 billion. However, the Central Bank states that the resulting financial performance of the banks in the period since the announcement of PCAR 2011 cannot be viewed as a measure of how the banks are performing relative to the financial performance assumed in PCAR 2011 due to changes in, inter alia, impaired loans and provision recognition requirements.

### *Liabilities under Guarantee Schemes*

**3.20** Certain liabilities of banks have been guaranteed by the State under three main schemes.

*Deposit Guarantee Scheme*

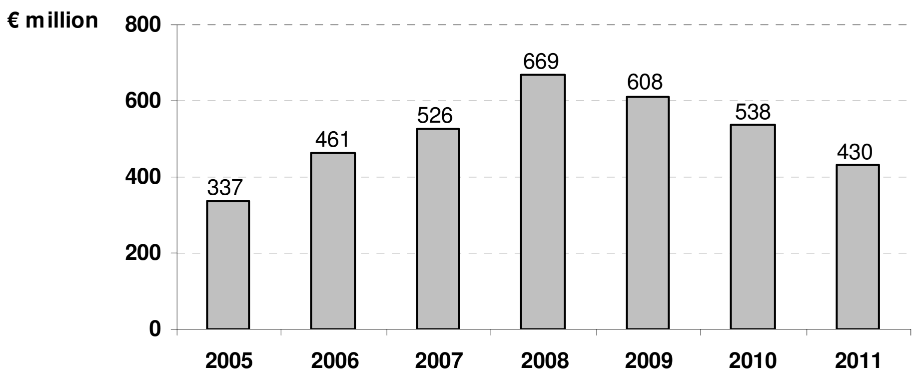
**3.21** Under the Deposit Guarantee Scheme, deposits by individuals in credit institutions that are licensed to receive deposits in Ireland and are authorised by the Central Bank are guaranteed up to a limit of €100,000 per eligible depositor per institution.[14]

**3.22** Credit institutions subject to the provisions of the scheme are required to deposit funds, to the value of 0.2% of all current customer deposits held by the institution, in a Deposit Protection Account administered by the Central Bank. Any claims of depositors under the scheme would be met in the first instance from the resources of the Deposit Protection Account and any residual shortfall would then be met from the Central Fund of the Exchequer, which would be recouped in due course from the banking sector. No claims have been made under the scheme since its inception.

**3.23** The extension of the scheme in 2009 included a provision that credit union deposits would be covered and legislation provided for this. An order has not yet been made requiring credit unions to hold funds in the Deposit Protection Account.

**3.24** At the end of 2011, 41 credit institutions were subject to the provisions of the scheme. The balance in the Deposit Protection Account was €430 million. The reduction in the balance since 2008 reflects reduced levels of deposits in Irish banks, year on year (see Figure 3.2).

**Figure 3.2 Deposit Protection Account Balance at year end 2005 to 2011**




Source: Central Bank Statement of Accounts 2005 to 2011

*CIFS Bank Guarantee Scheme*

**3.25** The Credit Institutions (Financial Support) Scheme (the CIFS Bank Guarantee Scheme), which operated from September 2008 to September 2010, provided a guarantee for a broad range of bank liabilities for seven covered institutions that opted to avail of the scheme.[15]

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14 Financial Services (Deposit Guarantee Scheme) Act 2009.

15 The legal basis for the scheme was provided through the Credit Institutions (Financial Support) Act 2008, which was signed into law on 2 October 2008. The institutions that availed of the scheme were AIB, Anglo, Bank of Ireland, EBS, Irish Life and Permanent, INBS and Postbank Ireland Limited (the 'covered' banks).

**3.26** The CIFS Bank Guarantee Scheme expired on 29 September 2010 and any liabilities that had not transferred to the Eligible Liabilities Guarantee Scheme by that date no longer benefited from a Government guarantee.

**3.27** The covered institutions were required to make payments for the protection provided under the scheme. As a result, just over €759 million was received from the credit institutions and almost €5 million in interest was earned on the balances held. After the expiry of the scheme, the total amount raised was paid over to the Exchequer as no claims had been made.

*Eligible Liabilities Guarantee Scheme*

**3.28** The Eligible Liabilities Guarantee Scheme (ELG scheme) was designed to provide a longer-term guarantee of certain banking liabilities and came into effect on 9 December 2009. The scheme is administered by the National Treasury Management Agency (the NTMA) on behalf of the Minister.

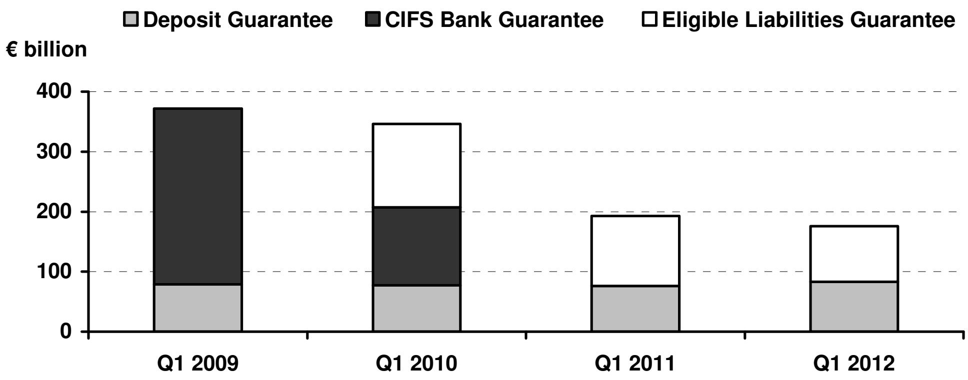
**3.29** The scheme requires approval every six months from the European Commission under EU State aid rules and was most recently approved in June 2012. This approval means that eligible debt securities and deposits issued or rolled over on or before 31 December 2012 may be guaranteed under the scheme, up to a maximum maturity of five years.

**3.30** The four institutions participating in the ELG scheme pay a fee for the cover they receive.[16] The payment level for liabilities depends on factors such as the maturity profile and amount of the liabilities, and is based on ECB recommendations on pricing government guarantees of banking liabilities. Fee payments are made into a designated account at the Central Bank and are paid quarterly to the Exchequer in arrears. Fees collected to the end of June 2012 amounted to €2.61 billion of which €2.36 billion had been paid to the Exchequer.[17]

*Aggregate Value of Covered Liabilities*

**3.31** Figure 3.3 indicates the estimated total value of the liabilities covered by the guarantee schemes at the end of each quarter from December 2008 to June 2012.

**Figure 3.3 Guaranteed Liabilities of Covered Institutions, December 2008 to June 2012[a]**




Source: Department of Finance

Note: a The guaranteed deposits included here relate only to eligible deposits in the institutions that were covered by the liability guarantee schemes.

16 AIB, IBRC, Bank of Ireland and Irish Life and Permanent.

17 €251 million in fees paid by the institutions in the period April to June 2012 had yet to be paid to the Exchequer.

### *Liquidity Support for Banks*

**3.32** The Central Bank, through Eurosystem monetary policy operations, provides liquidity to the banking sector in the form of advances to credit institutions based in Ireland. Both retail and international banks can avail of Eurosystem liquidity through the Central Bank. Advances under the Eurosystem fall into two broad categories

- The Main Refinancing Operations (MRO) generally comprise weekly offers of loans with a maturity of one week.
- The Long Term Refinancing Operations (LTRO) comprise mainly monthly offers of loans with a maturity of three months. In August and October 2011, the ECB introduced supplementary LTROs with a maturity of six months and twelve months respectively. In December 2011 and March 2012, two LTROs with a maturity of 36 months were introduced. These LTROs allow counterparties the option of early repayment after 12 months.

**3.33** All the advances are secured by collateral approved by the Eurosystem. The credit institutions whose loans were acquired by NAMA can use the floating rate notes they received as consideration for the loans to obtain collateralised liquidity from the Eurosystem under monetary policy operations because the notes qualify as eligible collateral.

**3.34** In addition to liquidity provision within the Eurosystem monetary policy operations, the Central Bank is also permitted, where required, to provide a certain level of exceptional liquidity assistance (ELA) to domestic credit institutions.[18] As with the Eurosystem monetary policy operations, the ELA lending must be collateralised. In addition to loans (including residential mortgages and investment or development loans), promissory notes issued by the Minister and guarantees of the Minister are eligible collateral for banks availing of ELA from the Central Bank.[19] In addition, the Central Bank has received letters of comfort from the Minister. These confirm that any shortfall on the liquidation of collateral can be made good by the State.

**3.35** Total lending under Eurosystem monetary policy operations and ELA increased significantly from €31 billion at the end of January 2008 to a peak of just under €180 billion in early 2011 (see Figure 3.4). From the second quarter in 2011, the level of liquidity support fell steadily to around €150 billion by the end of 2011. The drop in demand for liquidity during the second quarter of 2011 coincided with the placement of around €19 billion of State funds on deposit with Irish commercial banks (€10 billion by the NPRF and €9 billion from Exchequer funds) prior to the funds being used for recapitalisation of the banks. During the first half of 2012, the demand for liquidity fell by a further €23 billion, with outstanding lending at €127 billion by the end of June. The covered institutions accounted for €106.5 billion, or 84% of this total.

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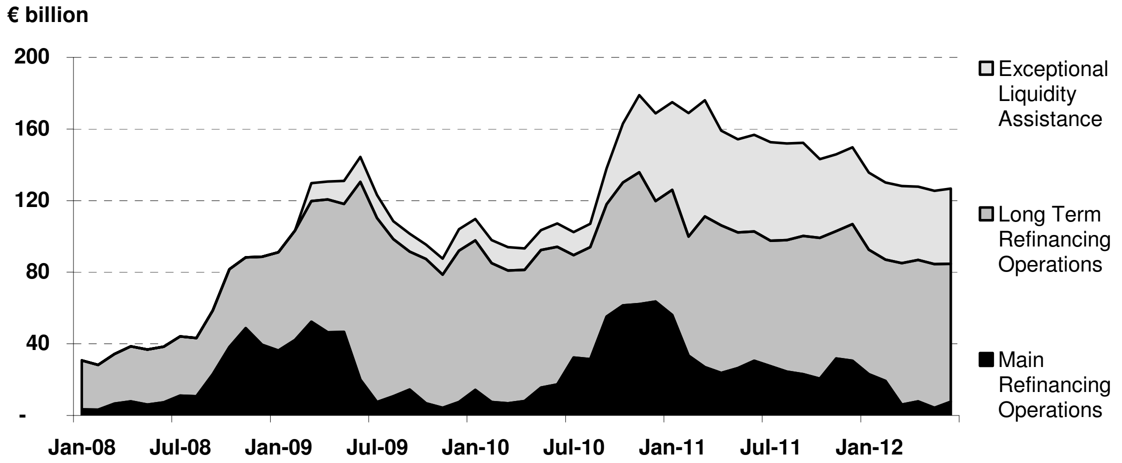
18 The Central Bank statistics do not disclose the amount of ELA provided. Up to end of March 2012 ELA was represented in 'Other assets'. It is now categorised under 'Other liabilities to euro area credit institutions in euro'. At end 2010 and end 2011, ELA made up over 98% of this category.

19 Where appropriate, discounts have been applied to the collateral by the Central Bank.

**Figure 3.4 Eurosystem and Central Bank of Ireland Lending to Credit Institutions, January 2008 to June 2012**




Source: Central Bank of Ireland Monthly Money and Banking Statistics

Note: Exceptional Liquidity Assistance includes a small element of other assets.

### *Deleveraging*

**3.36** Under PLAR 2011, AIB, Bank of Ireland and Irish Life and Permanent are required to achieve loan-to-deposit ratios (LDRs) of 122.5% by December 2013.[20] The aim of this requirement is to return the banks to a more appropriately leveraged and more stable funding position and also to reduce the banks' reliance on short term funding from the Central Bank.

**3.37** The banks are required to report quarterly to the Central Bank which then monitors their progress in achieving six-monthly interim LDR targets. Each bank has a deleveraging committee to govern, monitor and oversee its deleveraging plans. Representatives of the Department of Finance (the Department) and the Central Bank attend the meetings of those committees, as non-voting observers. The Department has established a deleveraging review committee to oversee and monitor the operation of the institutions' deleveraging committees and to refer transactions that give rise to actual or potential financial stability considerations to the Central Bank for joint consideration.

*Level of Deposits*

**3.38** In order to achieve the target LDR of 122.5%, financial institutions can either increase deposits or reduce their net customer loan balances. In making their plans to achieve the targets, the banks were instructed to assume a maximum of zero deposit growth between end 2010 (when deposits totalled €142.1 billion) and end 2013 with some exceptions, resulting in an end 2013 deposit level of €151.5 billion. As a result, the primary driver in the improvement in the LDRs was expected to be deleveraging – the reduction of loans through disposal and run down of non-core portfolios.

**3.39** The Department has stated that in practice, deposit levels in the three banks grew by some €10 billion by end May 2012 – significantly faster than envisaged in the PLAR 2011 review.

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20 PLAR 2011 referred to four institutions. The incorporation of the EBS into AIB reduced the number to three.

*Reduction in Net Customer Loan Balances*

**3.40** Each of the banks was required to separate its assets into core and non-core portfolios. The core assets are primarily those elements of the business that support the domestic economy.[21] In the PLAR 2011, the amount of assets designated for deleveraging across the three banks was set at €72.6 billion. This was subsequently revised to €70 billion (€11 billion from core loans and €59 billion from non-core loans). New lending is allowed for in the deleveraging plans in core areas such as small and medium enterprises (SMEs) and mortgages.[22]

**3.41** In April 2012, the Department reported the banks' progress in meeting interim LDR targets as follows

- Bank of Ireland had met its Central Bank mandated interim ratio target at the end of 2011 when its LDR was 144%, down from 175% at end 2010. The LDR had further improved to 136% by June 2012 driven mainly by further loan balance reductions.
- AIB had also met its mandated interim ratio target at end 2011 with an LDR of 138%, down from 165% at December 2010. By June 2012, the LDR had further improved to 125%.

**3.42** The LDR based on Irish Life and Permanent's financial statements was 227% at end 2011, down from 249% at December 2010. This did not meet the target set by the Central Bank. The Department noted that the high LDR reflects the decision to postpone the sale of a subsidiary of Irish Life and Permanent, Capital Home Loans Ltd. as a result of a change in management's strategy for the bank which is being considered as part of the submitted revised restructuring plan; the subsidiary accounts for about 70% of Irish Life and Permanent's initial envisaged deleveraging requirement.

**3.43** In a progress review report, the Department reported that at the end of December 2011 deleveraging of €36.4 billion had been achieved. This was more than half of the target. The Department noted that loan loss provisions for both AIB and Irish Life and Permanent were higher than those included in their respective deleveraging plans. It pointed out that the Central Bank allowed a certain amount of provisions to comprise part of the net loan balance reduction to be achieved over three years, and that this is lower than the total projected provision figure built into the March 2011 PCAR/PLAR exercise.[23]

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21 The FMP developed by the Central Bank states that the key principle governing the definition of core portfolios was the need to service the retail, Small and Medium Enterprises (SME) and corporate banking requirements of the Irish economy, including cross-border trade and investment, acknowledging that some limited element of international business remains essential. The split of assets and business between core and non-core was carried out by the banks using guidelines set out by the Central Bank.

22 A small enterprise has fewer than 50 employees and has either an annual turnover and/or an annual balance sheet total not exceeding €10 million. A medium enterprise has between 50 and 249 employees and has either an annual turnover not exceeding €50 million or a balance sheet total not exceeding €43 million.

23 Department of Finance, ***Banking Division-Recent Progress and Deleveraging***, April 2012.

**3.44** In an IMF report following the fifth quarterly review under the EU/IMF Programme of Financial Support for Ireland, the IMF pointed out the need to refine the deleveraging framework to minimise risks to domestic lending and deposit rates. The report noted that

- The faster than targeted deleveraging in 2011 was associated with larger run-offs of banks' core loan portfolios, potentially constraining domestic credit.[24]
- The Irish authorities were concerned that targets for banks' LDRs had contributed to increased deposit interest rates and undermined bank income. The Irish authorities were considering adjusting the deleveraging framework to have separate targets for the net stable funding ratio for banks' core balance sheets and the nominal reduction in non-core assets.[25]
- In view of deteriorating market conditions for bank assets given the large scale deleveraging efforts of other European banks, it was more likely that a safeguard against 'fire sales' already included in the deleveraging framework might need to be used in the first half of 2012, while a refined deleveraging framework was under development.

**3.45** In response to the quarter two 2012 review of the EU/IMF programme, the Department stated that

- Fire sales and excessive deleveraging of core portfolios will be avoided so as not to impair the flow of credit to the economy.
- The LDR target will be replaced with a net stable funding requirement benchmark. This will help alleviate some of the pricing pressures on the deposit market and allow the banks to adopt a broader perspective of their funding base.

**3.46** An August 2012 Memorandum of Understanding[26] between the Government and the EU/IMF stated that the Irish authorities, in consultation with the staff of the European Commission, the IMF, and the ECB

- will assess banks' deleveraging based on the existing nominal targets for disposal and run-off of non-core assets in line with the 2011 Financial Measures Programme
- will establish an advanced monitoring framework in relation to funding and liquidity monitoring, covering in detail all factors affecting banks' net stable funding ratio.

**3.47** The Department noted that Bank of Ireland had announced that it had completed its divestment programme and that AIB stated in its interim results presentation that it expects its LDR to be at or below the target of 122.5% by December 2012, a year ahead of target.

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24 'Run-off' refers to circumstances where repayments by customers exceed new lending by banks.

25 The 'net stable funding ratio' for banks calculates the proportion of long term loans that are funded by long term stable funding.

26 Memorandum of Understanding on Specific Economic Policy Conditionality (6th update).

## Credit Availability

**3.48** In return for the initial State recapitalisation, AIB and Bank of Ireland were required to undertake a number of initiatives providing credit for SMEs and entrepreneurs. This included a requirement for both banks to make available at least €3 billion each in new SME lending in 2010 and 2011 (a total of €12 billion). The requirement was increased to €3.5 billion for each bank for 2012 and to €4 billion for 2013.

### *Code of Conduct*

**3.49** In January 2012, the Central Bank published an updated ***Code of Conduct for Business Lending to Small and Medium Enterprises*** ('code of conduct').[27] The code sets out the processes regulated entities are required to adopt in facilitating access to credit for SMEs. Its objectives are to

- facilitate access to credit for sustainable and productive business propositions
- promote fairness and transparency in the treatment of SMEs by regulated entities and
- ensure that when dealing with financial difficulty cases, the aim of a regulated entity will be to assist borrowers to meet their obligations, or otherwise deal with the situation in an orderly and appropriate manner.

**3.50** The code of conduct applies to regulated entities when providing lending to SMEs operating within the State, with some limited exceptions. Regulated entities are required to comply with the code and must demonstrate this compliance.

### *Credit Review Office*

**3.51** The Credit Review Office (CRO) was established as an independent body in March 2010.[28] Its primary function is to help ensure that credit is not refused to viable businesses with valid business propositions. It has no regulatory or statutory powers to override banks' lending decisions but gives an independent opinion on banks' credit decisions. Banks are required to comply with the CRO recommendations or explain why it would not be appropriate to do so.[29]

*Review of Banks' Lending Targets*

**3.52** The CRO publishes quarterly reports which include a general summary on each bank's lending outcomes. The seventh quarterly report, covering the period to the end of 2011, noted that both AIB and Bank of Ireland had met the target of sanctioning €3 billion in lending in 2011.

**3.53** The eighth quarterly report set out the progress in the first quarter of 2012 against the new €3.5 billion lending targets for each bank and noted that the combined loan sanctions levels in quarter one were broadly similar to the first quarter of 2011. However, the report noted that lending transactions recorded by the two banks in the first quarter of 2012 were around 15% lower than the same quarter in 2011. Reasons given included

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27 The Code is issued under Section 117 of the Central Bank Act 1989 and applies to all business lending by regulated entities.

28 Statutory Instrument 127 of 2010 – Guidelines issued under Section 210(1) of the National Asset Management Agency Act 2009 regarding lending practices and procedures and relating to the review of decisions of Participating Institutions to refuse credit facilities

29 The banks to which the operations of the CRO currently apply are AIB (including EBS), Bank of Ireland and IBRC.

- reduced demand for borrowing by SMEs reported by the banks and observed in both a review of lending demand commissioned by the Department and recent Central Bank reporting
- borrowers paying down debt rather than seeking new loans
- tighter credit conditions being applied by banks.

**3.54** The CRO report stated it had noted that banks' processing of SME credit applications lacked a primary focus on assessing performance fundamentals and that banks' priorities appeared to have shifted excessively to squeezing out credit risk in their assessment of many cases. The report noted that this was particularly evident in micro enterprise and the smaller end of the medium business sector.

*Appeal Applications to the CRO*

**3.55** From 1 April 2010 to end March 2012, the CRO received a total of 197 review applications.[30] Of these, the CRO had made a decision in 117 cases, of which the banks' decision was upheld in 41% of cases – the lending requested in those cases amounted to €4.1 million. The banks' decision was disputed by the CRO in 59% of cases and credit was subsequently provided by the banks. The credit sought in these cases amounted to €6.9 million. In a further 16 cases, the banks' internal appeal procedures had overturned the original refusal and credit had been provided.

**3.56** In 64 instances, the applications were awaiting an eligibility decision, were proceeding through the review process or had been withdrawn.

### *SME Lending Demand Study*

**3.57** In July 2012, the Department published a report, the ***SME Lending Demand Study***, which presented the results of a survey of 1,500 SMEs. The survey covered the period from October 2011 to March 2012. An earlier survey had covered the period from April 2011 to September 2011. The conclusions from the 2011/2012 survey included the following

- 38% of those surveyed had requested credit of which 28% were declined (excluding those where a decision was pending).
- Criteria and conditions for approval remained largely similar to those found by the previous study, with respondents indicating that the requirement to maintain regular management accounts and the provision of personal guarantees were the conditions most frequently stipulated by banks.
- In 81% of cases where a formal application for credit was declined, the SME applicant did not agree with the reason provided by the bank.
- The timeframe associated with banks making credit decisions was continuing to lengthen. The code of conduct requires lenders to notify an SME of a decision within 15 business days of receiving all information to support the request. The study suggested that only 60% of applications are processed within 15 working days. The report noted that this is construed as a constructive refusal which can be reviewed by the CRO.

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30 96 applications were in respect of AIB and 101 were in respect of Bank of Ireland.

- In the main, where it is being sought, credit is requested by SMEs to fund working capital and cash flow rather than to invest in company development, expansion, capital investment or entry into new markets. The report noted that this is a continuing trend and may, in the long term, represent a risk to the economic viability of these entities if survival and consolidation, rather than development and expansion, remain the focus. The report also noted that it is apparent that a bank is more likely to decline a request for development and expansion purposes than for working capital purposes, thereby reducing the incentive for an SME to apply for development-type credit.
- Although base numbers were low, it was apparent that banks were more likely to refuse growth or expansion-related borrowing proposals from micro SMEs than for other SMEs.[31] For this reason, the report suggested that alternative sources of capital for expansion and growth type activities of micro SMEs are required.

**3.58** In June 2012, the Minister for Jobs, Enterprise and Innovation published the Microenterprise Loan Fund Bill 2012, under which it is proposed a Microenterprise Loan Fund Scheme will be established. The Department of Jobs, Enterprise and Innovation stated that the scheme, which is expected to be operational from early autumn 2012, would initially facilitate €40 million in additional lending over the next five years to businesses employing not more than 10 people.

**3.59** The Credit Guarantee Act 2012 which came into force in July 2012, provides for a credit guarantee scheme for SMEs.

31 A micro enterprise has less than ten employees.

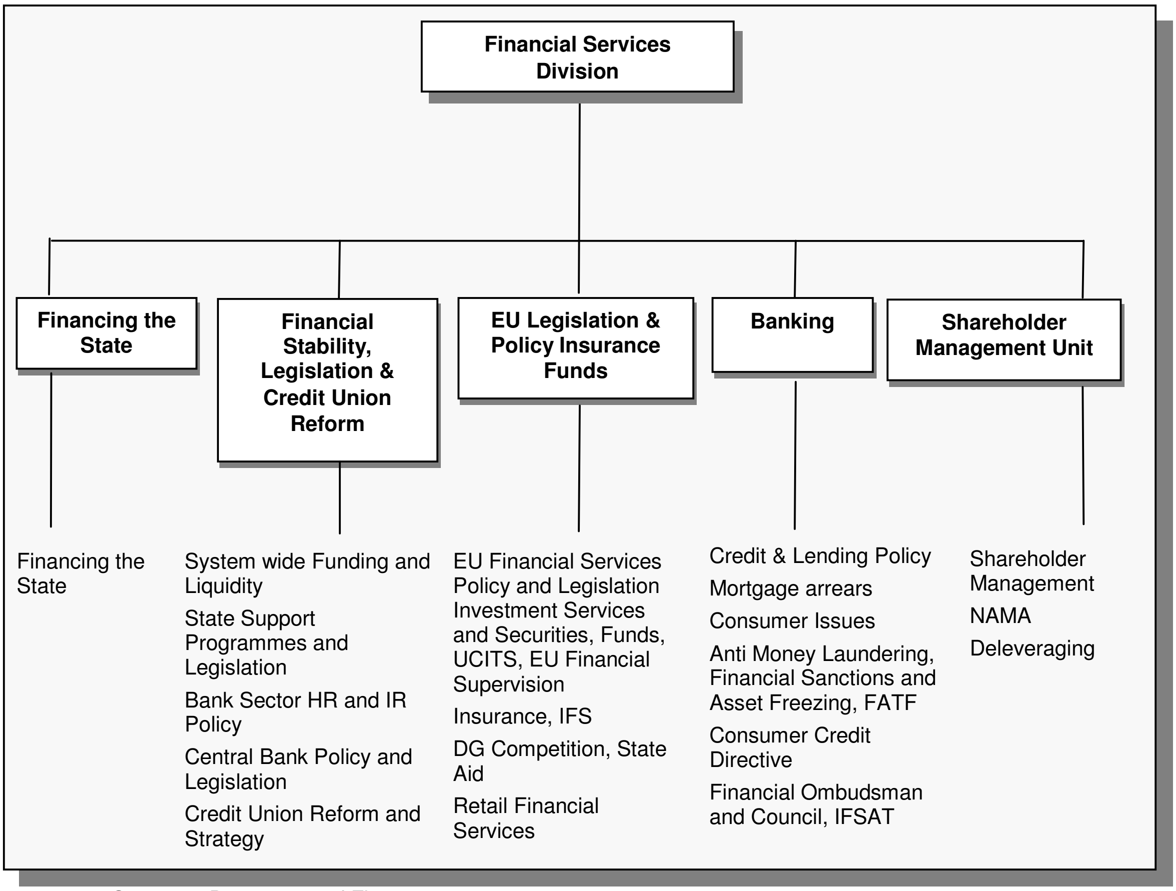
## Framework for Managing the State’s Investments

**3.60** Both the Department and the Central Bank have responsibilities in relation to banking oversight. Overall responsibility for managing the State’s investment in financial institutions lies with the Department.

### *Financial Services Division*

**3.61** In March 2010, the Minister delegated certain banking functions to the NTMA.[32] The NTMA established a dedicated banking unit to carry out this function. In August 2011, the delegation order was revoked and those banking functions are now the responsibility of the Department.[33] The Department established a Banking Division to focus on banking-related issues and to manage the State’s interest in the financial institutions that have received financial support from the State. The NTMA banking unit was seconded to the Banking Division in the Department.[34] Following the appointment of a new Secretary General in 2012, a further reorganisation incorporated the banking division into the Financial Services Division. The structure and function of the Financial Services Division is outlined in Figure 3.5.

**Figure 3.5 Department of Finance Financial Services Division Structure and Role July 2012**




Source: Department of Finance

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32 Statutory Instrument 115 of 2010, National Treasury Management Agency Act 1990 (Delegation of Banking System Functions) Order 2010 and a Ministerial direction of 19 March 2010 in relation to the NTMA’s functions under the statutory instrument.

33 Statutory Instrument 395 of 2011.

34 Costs incurred by the NTMA in respect of banking unit staff in the period August to December 2011 was €6.3 million.

**3.62** In the period since the 2008 guarantee scheme for banks in Ireland was approved, there have been a number of EU Commission approvals (some temporary) for recapitalisation and restructuring plans of covered institutions. Assistance provided was required to be consistent with EU State Aid rules (see Figure 3.6)

**Figure 3.6 EU Provision on State Aid for Banking**

Article 107 of the EU Treaty provides that State aid is, in principle, incompatible with the common market. However, the article also provides that aid that remedies a 'serious disturbance in the economy' can be approved by the European Commission. The Commission's Banking Communication of October 2008 set out three criteria that must be met before approval will be granted. The aid must be

- appropriate – well targeted in order to achieve effectively the objective of remedying a serious disturbance in the economy
- necessary – the minimum amount necessary to reach the objective
- proportionate – designed in such a way as to minimise negative spill-over effects on competitors, other sectors and other member states.

In relation to nationalisation of banks, state aid approval is not necessary because under EU rules, the Commission does not distinguish between ownership of banks i.e. whether private or State investment. However, even with full State ownership, any subsequent recapitalisation requires EU approval.

When approval is received, there can be conditions attached e.g. implementation of a restructuring plan and the Commission, through the Director General of Competition, oversees compliance with conditions.

### *Relationship Frameworks*

**3.63** The Memorandum of Economic and Financial Policies of February 2012 agreed in the context of the EU/IMF programme committed the State to the finalisation of relationship frameworks with the covered banks in order to ensure that their core businesses would be run on a commercial, cost effective and independent basis to ensure the value of the banks as an asset to the State.

**3.64** On 30 March 2012, the Department published relationship frameworks for each of the banks in which the State has acquired an interest in the context of the financial crisis – AIB, Bank of Ireland, Irish Life and Permanent and IBRC. The purpose of the frameworks is to provide the basis on which the relationship between the Minister and the banks is governed. The frameworks confirm that existing obligations imposed upon each of the banks under legislation and existing agreements between the State and each bank continue to apply.

**3.65** The frameworks also provide that each bank will continue to operate at arm's length from the State. Each will have its own independent board and management team with independent powers of decision. In addition, the board of each bank will determine the bank's strategy and commercial policy including the adoption of its business plan and budget. The State will not intervene in the day-to-day operations of the banks or their management decisions including pricing and lending decisions.

**3.66** The relationship frameworks identify the actions for which Ministerial consent is required, when the banks must consult with the Minister and when they have an obligation to notify the Minister. The Department stated that the frameworks are proportional to the size of the State's shareholding in each bank. A summary is provided in Figure 3.7.

**3.67** Key provisions include

- IBRC requires consent from the Minister prior to undertaking a significant number of actions.
- AIB and Irish Life and Permanent are required to consult with the Minister on a wide range of issues but Ministerial consent is required only for the appointment or removal of the Chairman or the Chief Executive Officer.
- The Bank of Ireland framework provides for less extensive consultation with the Minister.

**Figure 3.7 Relationship Frameworks for Banks**

| **Issue** | **AIB and Irish Life and Permanent** | **IBRC** | **Bank of Ireland** |
|---|---|---|---|
| Appointment / removal of Chairman or CEO | Consent | Consent | N/A |
| Appointments to the Board | *Consult* | Consent | N/A |
| Senior executive appointments | Notify | Consent | N/A |
| Certain remuneration related issues | N/A | Consent | N/A |
| Material transactions | *Consult* | Consent | N/A |
| Certain other reserved matters such as transactions other than on a normal arm's length basis or certain legal proceedings | *Consult* | Consent | N/A |
| Annual updating and adjustment of the business plan | *Consult* | *Consult* | Notify |
| Sectoral lending policy | *Consult* | N/A | Notify |
| Other material matters | Notify | Notify | N/A |

Source: Department of Finance

Note: N/A indicates that the issue is not provided for in the relationship framework.

### *Appointment of Bank Auditors*

**3.68** A key governance issue for the financial institutions is the appointment of auditors. This is a matter for their Boards and the relationship frameworks do not give the Minister any role in the matter.

**3.69** In response to concerns that the independence of auditors may be threatened by the fees to be earned from the provision of non-audit services and by familiarity with clients arising from reappointment of the same auditor firms for long periods, the European Commission published a draft regulation on auditing in November 2011. This proposes, inter alia, that

- There would be a prohibition on the provision of non-audit services by firms carrying out the audit of public interest entities.[35] This is designed to address the need to reinforce audit independence and professional scepticism.

35 Public interest entities are those that are of significant public relevance because of the nature of their business, their size or their number of employees, in particular companies whose securities are admitted to trading on a regulated market, banks and other financial institutions and insurance undertakings.

- There would be mandatory rotation of audit firms after a maximum period of 6 years (or 9 years where there are joint auditors) with a view to addressing the threat of familiarity that results from public interest entities appointing and re-appointing the same audit firm for decades.

**3.70** The Commission proposals are proceeding through the legislative process at EU level and the regulation will not come into force until 2013 at the earliest.

## Exchequer Advances to the Insurance Compensation Fund

**3.71** The Insurance Compensation Fund was established under the Insurance Act, 1964 to make arrangements to meet certain liabilities of insolvent insurers.[36] The Act provides for the Minister to make grants and loans to the Fund and for contributions to the Fund by insurers.

**3.72** The Fund is maintained and administered under the control of the President of the High Court acting through the Accountant of the Courts of Justice. Amounts are paid from the Fund, with the approval of the High Court, to a person in relation to an insurer in liquidation or administration, in respect of claims under policies issued by the insolvent insurer in circumstances where it seems unlikely that the claims can be met otherwise.

**3.73** The Accountant is, in respect of the amount paid out of the Fund, a creditor of the insolvent insurer which has received the funds. The Accountant provides a statement on the Fund to the Department and the Central Bank annually.

**3.74** In the period since the early 1980s, the Fund has advanced monies to Primor plc (formerly PMPA Insurance Company) and Icarom plc (formerly Insurance Corporation of Ireland). At the end of 2010, the Fund statement showed that it had debtors amounting to €381 million (Primor plc €150 million and Icarom plc €231 million). During 2011, the Fund advanced a further €11 million to Icarom plc, and Primor plc returned €10 million in unused funds following which the Fund held €40 million in assets.[37]

### *Sale of Quinn Insurance Business*

**3.75** In March 2010, by order of the High Court following an application by the Financial Regulator, joint administrators were appointed to Quinn Insurance Limited (QIL).

**3.76** In April 2011, the joint administrators agreed to sell the Irish business of QIL to Liberty Mutual Direct Insurance Company Limited (Liberty Direct), a joint venture between Liberty Mutual and Tutelana Ltd. The latter is, in turn, a joint venture between IBRC and QIL. The sale transaction provided that Liberty Direct's total investment would be capped at €102 million with an additional €98 million investment from Tutelana Ltd. Under the agreement, Liberty Direct assumed liabilities of €51 million in excess of the assets transferred to it by QIL – referred to as the target deficit.[38]

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36 The 1964 Act was amended in 2011. Payments to companies that entered administration before the Act was amended are made under the original provisions of the 1964 Act.

37 The Fund received a contribution from AIB for the same amount.

38 Total liabilities were estimated to be around €860 million.

**3.77** Ultimately, the liabilities of QIL at the time of transfer will be determined by the level of claims on policies written by QIL prior to the transfer. When the sale was agreed, it was envisaged that within three months of the sale being completed, a review of the liabilities would be carried out and any necessary financial adjustments made in order to ensure that the net liabilities equalled the target deficit. The joint administrators, however, subsequently negotiated revised terms of sale with Liberty Direct whereby, over a 36 month period, there would be quarterly reviews of the transferred Irish book. If reserves are deemed to be inadequate during this time, then QIL (and ultimately the Fund) will be required to put in extra funding. At the end of this period, there will be what is referred to as a 'true-up', i.e. any shortfall in the overall reserves to meet the claims obligations will be met by a payment from QIL to Liberty Direct or, if excess reserves have been paid to Liberty Direct, it will be required to make a refund.

**3.78** As part of the sale agreement, all employees of QIL transferred to Liberty Direct, and Liberty Direct provides services to QIL in relation to its policies in Northern Ireland and the UK. Under the terms of the sale agreement, Liberty Direct has an option, exercisable at any time until December 2012, to acquire the renewal rights to the UK and Northern Ireland policies.

**3.79** In October 2011, the High Court approved the sale of QIL's Irish business to Liberty Direct. The joint administrators reported to the High Court that the sale closed on 11 November 2011.

### *Advances from the Insurance Compensation Fund*

**3.80** The actuarial process of estimating the liabilities expected to arise in respect of future liabilities is referred to as reserving. In the case of QIL, any shortfall between reserves and assets will be met from the Fund in respect of

- claims arising on Irish policies up to the date of the sale to Liberty Direct and
- claims on policies written in the UK and Northern Ireland until such time as the business ceases or is sold to another party.

**3.81** The joint administrators have provided the High Court on a number of occasions with estimates of the total amounts that QIL may require from the Fund. In October 2011, the joint administrators informed the High Court that an estimated €738 million would be required from the Fund. In December 2011, when the joint administrators made a further report to the High Court, the estimate was revised upwards by €37 million to €775 million.

**3.82** In July 2012, the joint administrators made a further report to the High Court in which they stated that the previous estimate of €775 million had increased to a possible requirement for €1,650 million due to

- an increase in the best estimate by the actuaries of the ultimate claims cost (an additional €208 million)
- inclusion of a further €300 million as an 'adverse deviation provision' in reserves
- a provision of €215 million against currency movements and
- a further €152 million in respect of a write-down of the QIL investment in Tutelana Ltd, an expected decrease in asset values and higher trading losses in the future.

However, the joint administrators stated that if they were to remove the various accounting adjustments they had made and instead use a 'best estimate' calculation, then the call on the Fund was likely to be in the range of €1.1 billion to €1.3 billion.

**3.83** In the July 2012 report, the joint administrators also indicated that they wished to cease underwriting business in the UK and Northern Ireland but that they were obliged to continue underwriting until Liberty Direct either exercised its option to acquire the renewal rights to those businesses or the option period expired at the end of December 2012.

### *Funding by the State*

**3.84** In accordance with Section 5 of the 1964 Act, in the event that the Fund does not have sufficient funds to meet a payment approved by the High Court, the Minister may, on the recommendation of the Central Bank, advance monies to the Fund from the Exchequer to enable payments out of the Fund to be made promptly and on the terms and conditions that he decides to be appropriate.

**3.85** By the end of June 2012, €786 million had been advanced from the Fund to QIL while the State had lent almost €730 million to the Fund (see Figure 3.8).

**Figure 3.8 Insurance Compensation Fund Transfers October 2011 to June 2012**

| Date of Approval by the High Court | Date of Payment | Total Transfer to QIL € million | Exchequer Loans € million |
|---|---|---|---|
| October 2011 | November 2011 | 320 | 280 |
| December 2011 | January 2012 | 210 | 210 |
| December 2011 | March 2012 | 40 | 40 |
| March 2012 | April 2012 | 166 | 166 |
| March 2012 | August 2012 | 50 | 34 |
| | **Total[a]** | **786** | **730** |

Source: Department of Finance (rounded to € million)

Note: a The difference of €56 million between the loans from the Exchequer and the amount transferred to QIL was funded by €40 million in the Fund at the time of the initial advance (November 2011) and levy contributions of €16 million from the first quarter of 2012.

### *Insurance Premiums*

**3.86** The Central Bank has responsibility under the 1964 Act (as amended) for determining whether the Fund requires financial support and the level of any contribution to be paid to the Fund by insurers. The contribution may not exceed 2% of the gross premiums paid to each insurer for policies issued in respect of risks in the State. While the Act provides that insurers are liable to pay the levy, in practice it is passed on to policyholders.

**3.87** A levy came into effect on 1 January 2012. The Central Bank set the levy at the maximum 2% of the gross premiums paid. The Department estimates that the levy will generate approximately €65 million per annum. The levy sums are payable quarterly in arrears by insurers to the Revenue Commissioners who have responsibility for its collection and subsequent transfer to the Fund.

## Conclusions

### *Investments in financial institutions*

**3.88** The State has provided enormous financial support for the banking sector. By mid-2012, the State had made an investment of just over €65 billion in four Irish financial institutions. The State now owns all, or almost all, of Allied Irish Bank, Permanent TSB and IBRC while it owns 15% of Bank of Ireland.

**3.89** By the end of June 2012, the State has received a financial return of around €4.3 billion in cash from the stabilisation measures – over €0.9 billion from the investments in the banks and almost €3.4 billion in fees from the liability guarantee schemes. An additional €1.1 billion was payable as dividends but was received in the form of ordinary shares.

**3.90** While no timeframe has been set for the State's withdrawal from its ownership of banks, there is a prospect that the State may in time recover some of its capital investment. The core tier one capital of the banks (excluding IBRC) is projected to be between €13.7 billion and €21.4 billion by the end of 2013. The adequacy of the capital injected by the State to meet the banks' capital requirements depends on the net losses incurred by the three banks in the period 2011 to 2013 not exceeding those projections by the Central Bank.

**3.91** The amount recouped from the purchase of Irish Life, for which the State paid €1.3 billion, will be primarily dependent on the financial performance of the company and market conditions when it is sold. The residual value in IBRC, if any, will depend on both its financial performance and the amounts realised from the disposal of its assets.

### *Advances to Insurance Compensation Fund*

**3.92** A significant additional funding requirement for the Exchequer arises from the administration of QIL, which has a requirement for funding currently projected at up to €1.65 billion. Up to the end of June 2012, a total of just under €730 million had been advanced from the Exchequer to the Insurance Compensation Fund to allow it to meet its obligations in relation to QIL. While levy receipts on insurance sales will ultimately be available to repay the Exchequer, substantial additional advances are likely to be required in the short to medium term.

### *Deleveraging*

**3.93** At the end of 2011, AIB and Bank of Ireland had achieved interim LDR targets that had been set by the Central Bank. They reduced their LDRs further by mid-2012. A decision was taken to postpone the disposal of a subsidiary of Irish Life and Permanent and it did not achieve its interim LDR target for 2011.

**3.94** Some of the steps taken by the banks to achieve these target ratios may be having unintended consequences - both the Department and a report by the IMF noted that the amount of deleveraging of core assets (loans in the domestic economy) was higher than targeted. The IMF report also noted that increased deposit interest rates had undermined bank income, and that potential large scale deleveraging by European banks may reduce the prices at which assets can be sold in the deleveraging process.

**3.95** The Department has indicated that excessive deleveraging of core portfolios will be avoided so as not to impair the flow of credit to the economy. It is intended that banks' deleveraging will be assessed based on existing nominal targets for reduction in non core assets in line with the 2011 Financial Measures Programme and an advanced monitoring framework for funding and liquidity will be established.

### *Ongoing requirement for liquidity support*

**3.96** State financial support has facilitated the restructuring of the banking system and the solvency of the institutions in which the investments have been made. Deleveraging of the banks has also improved the stability of their funding position. Nevertheless, the banks continue to depend on liquidity support from the State and the ECB. In mid-2012, liquidity support for the covered institutions advanced by the Central Bank through Eurosystem monetary policy operations and by way of exceptional liquidity assistance stood at over €106 billion. In addition, the State had guaranteed liabilities and deposits of covered financial institutions to a total of €164 billion at the end of June 2012.

### *Lending to small and medium enterprises*

**3.97** Review of credit availability for small and medium enterprises suggest that there are continuing difficulties in that regard and that normal access to credit has not been restored.

**3.98** While the two main banks have been meeting lending targets set as a requirement of their recapitalisation by the State, an IMF report following a review of the EU/IMF programme noted that the faster than planned run-off of the Irish banks' core portfolios potentially constrained domestic credit. In addition, reports by the Credit Review Office and a study of lending demand conducted on behalf of the Department of Finance highlight continuing difficulties experienced by smaller enterprises in obtaining credit, and that the bulk of lending is for working capital rather than for development and expansion. Recent policy initiatives may help to address credit availability for small and medium enterprises.

**3.99** Given the apparent capacity of the main banks to comply with lending targets while lending difficulties persist for businesses, the usefulness of setting performance targets for the banks in terms of gross lending to SMEs as a measure of credit availability may be limited.

# 4 National Pensions Reserve Fund

**4.1** The National Pensions Reserve Fund (NPRF or the Fund) was established in 2001 with the objective of providing a fund of money to meet a portion of the future costs of social welfare and public service pensions. An independent National Pensions Reserve Fund Commission (the Commission) was established to control and manage the NPRF. The functions of the Commission include

- determining the investment strategy for the Fund, implementation of that strategy and control, management and investment of the assets of the Fund in accordance with the Fund investment strategy
- the appointment of investment managers and custodians for the Fund.

**4.2** The National Pensions Reserve Fund Act, 2000 (the Act) requires the Commission to appoint a manager, through which it performs its functions and to which it may delegate functions. The National Treasury Management Agency (NTMA) was appointed manager in 2001 for a period of 10 years and was reappointed, with the approval of the Minister for Finance, in 2011 for a period of five years. As manager of the Fund, the NTMA procures services including specialist investment managers, transition managers and the global custodian to carry out certain functions on behalf of the Commission.

**4.3** This chapter reviews

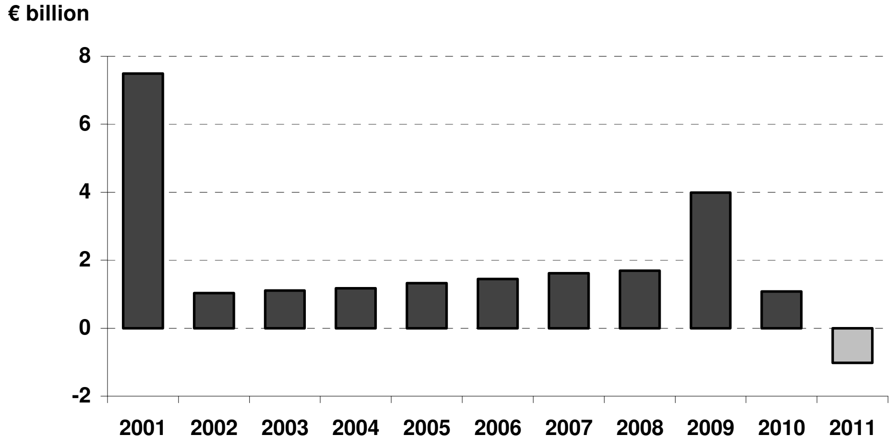
- the change in value in the NPRF in 2011 and
- payments for transition manager services provided by one of the managers appointed by the NTMA to liquidate NPRF assets during a portfolio restructuring during 2011.

## Contributions to the Fund

**4.4** The Exchequer annual contribution to the Fund, in accordance with the Act, is 1% of Gross National Product. During 2009, €3 billion was contributed to the Fund for the purposes of recapitalising Bank of Ireland and Allied Irish Banks. During 2009 and 2010, the pension fund assets of six universities and ten non-commercial semi-state bodies totalling €2.1 billion were transferred to the NPRF. These payments of €5.1 billion met the funding for the Exchequer contribution to the Fund for the years 2009 to 2011. In 2011, on direction of the Minister, the Commission transferred €1 billion from the Fund to the Exchequer. The Credit Institutions (Stabilisation) Act 2010 provides that the Minister may order that no contribution be paid into the Fund in 2012 and 2013.

**4.5** Figure 4.1 sets out the contributions to and withdrawals from the Fund since its establishment, including assets transferred from pension schemes.

**Figure 4.1 Exchequer Contributions to/Withdrawals from the NPRF 2001 to 2011**




Source: National Pensions Reserve Fund Financial Statements

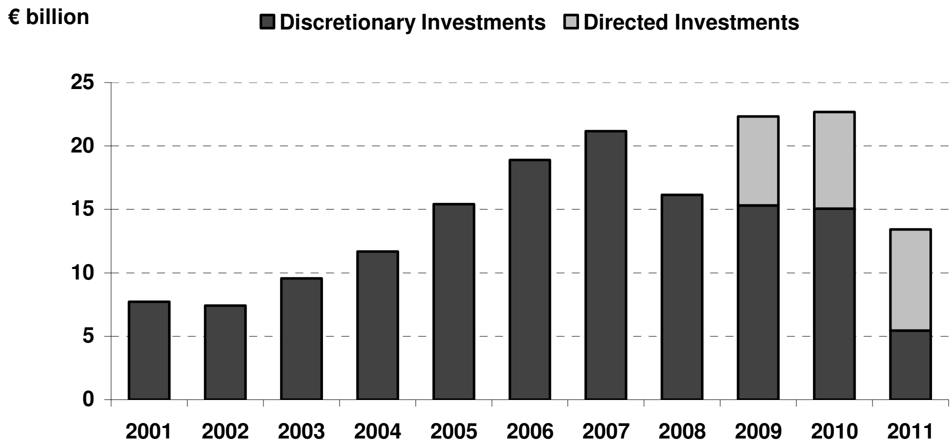
## Value of the NPRF

**4.6** The NPRF holds two types of investments

- Discretionary investments whereby investments are controlled and managed by the Commission in accordance with the NPRF's investment policy as defined in the Act and with an investment strategy determined by the Commission.
- Directed investments whereby the Minister may direct the Commission to invest in credit institutions or to underwrite share issues in those institutions.[1] The Minister may also direct the Commission with regard to the management and disposal of any such investments.

**4.7** The value of the Fund for the period 2001 to 2011 is set out in Figure 4.2.

**Figure 4.2 Value and composition of NPRF at year end 2001 to 2011**




Source: National Pensions Reserve Fund Financial Statements

Note: Cash was transferred from the discretionary investments to fund the acquisition of directed investments as follows: 2009 - €4 billion; 2010 - €3.7 billion; 2011 - €10 billion.

1 These powers were given to the Minister in the Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009.

**4.8** The value of the NPRF stood at €13.4 billion at 31 December 2011. This comprised discretionary investments of €5.4 billion and directed investments of €8.0 billion, valued on a fair value basis. Figure 4.3 sets out the movement in the NPRF for the year ended 31 December 2011.

**Figure 4.3 Movement in the Value of the NPRF 2010 and 2011**

| | 2010 | 2011 |
|---|---|---|
| | €m | €m |
| **Value of the NPRF at 1 January** | 22,336 | 22,687 |
| **Movements in year** | | |
| Assets transferred from pension schemes | 1,079 | 1 |
| Income and gains on discretionary investments | 1,824 | 181 |
| Income from directed investments | 1,192 | 469 |
| Loss on directed investments | (3,721) | (8,903) |
| Taxation and administration costs | (23) | (2) |
| Withdrawal by the Exchequer | —- | (1,018) |
| **Value of the NPRF at 31 December** | 22,687 | 13,415 |
| Of which | | |
| ▪ discretionary investments | 15,060 | 5,453 |
| ▪ directed investments | 7,627 | 7,962 |

Source: National Pensions Reserve Fund

**4.9** At the end of 2010, the value of the discretionary portfolio was €15.06 billion. In February and April 2011, the Minister issued directions to the Commission to hold a total of €10 billion in cash or debt instruments.[2] The Minister stated that the purpose of the directions was to facilitate a proposed contribution of €10 billion from the NPRF to the EU/IMF programme of financial support for Ireland.

**4.10** On foot of these directions from the Minister, the Commission liquidated assets from its discretionary portfolio to the value of €5.5 billion in March 2011 and €4.5 billion in April 2011. Following these transactions, the value of the discretionary portfolio was €5.32 billion. This had increased to €5.45 billion by the end of 2011. The discretionary portfolio earned a return of 2.1% in 2011.

### *Investments in Banks*

**4.11** In July 2011, under directions from the Minister, the Commission invested the €10 billion that had been raised from the disposal of assets in the discretionary portfolio in Allied Irish Banks plc (AIB) and Bank of Ireland.

**4.12** The total investment in the two banks, including reinvestment of dividends received in the form of ordinary shares in the period 2009 to 2011, and following the disposal of shares in Bank of Ireland was €20.59 billion. By the end of 2011, the value of the investments had fallen to €7.96 billion. At 31 December 2011, 59% (2010: 34%) of the NPRF's resources were devoted to capitalisation of Irish banks. The key events in the Fund's investments are set out in Figure 4.4.

2 It was a requirement that such instruments be issued or guaranteed by Eurozone governments and be rated AA or better with a maturity in 2012.

**Figure 4.4 Summary of NPRF Investments in Bank of Ireland and Allied Irish Banks plc**

| Date | Key investment events | Cost |
|---|---|---|
| | **Bank of Ireland** | **€m** |
| March 2009 | Preference shares | 3,500 |
| February 2010 | Dividend on preference paid in ordinary shares | 250 |
| April 2010 | Conversion of €1.66 billion preference shares to ordinary shares | __ |
| July 2011 | Purchase of ordinary shares[a] | 1,229 |
| July 2011 | Sale of ordinary shares[b] | (1,052) |
| | **Total investment at cost at December 2011** | **3,927** |
| | **Allied Irish Banks plc** | |
| March 2009 | Preference shares | 3,500 |
| May 2010 | Dividend on preference shares paid in ordinary shares | 280 |
| December 2010 | Ordinary shares[c] | 3,818 |
| April 2011 | Conversion of convertible non-voting shares to ordinary shares | - |
| May/July 2011 | Dividend on preference shares paid in ordinary shares | 289 |
| July 2011 | Purchase of ordinary shares | 5,000 |
| July 2011 | Capital contribution | 3,771 |
| | **Total investment at cost at December 2011** | **16,658** |

Source: National Pensions Reserve Fund

Notes: a This is the amount net of underwriting and other fees received by the NPRF.

b This is the proceeds before transaction fees paid by the NPRF.

c 675 million ordinary shares and 10,489 million convertible non-voting shares were acquired in December 2010. The net cash invested was €3,700 million following receipt of €118 million in cash from fees and the sale of equity warrants (see Figure 4.5).

**4.13** At the end of 2010, the NPRF held 36% of the ordinary shares in Bank of Ireland. In 2011, the Commission, under direction of the Minister, underwrote a rights issue by Bank of Ireland and took up the rights attaching to its shareholding at a total cost of €1.23 billion (10 cents per share) bringing its total investment in Bank of Ireland to €4.98 billion. Following the investment, the NPRF held just over 15 billion ordinary shares in Bank of Ireland at an average cost of 20.9 cents each.

**4.14** On 24 July 2011, the Minister directed the Commission to sell part of its shareholding in Bank of Ireland following the rights issue to a group of institutional shareholders for €1,052 million. The net proceeds of the sale, which amounted to €1,018 million after costs of €34 million were deducted, were remitted to the Exchequer on the direction of the Minister. Following the disposal, the NPRF held 15.1% of the ordinary share capital in Bank of Ireland.

**4.15** At the end of 2010, the NPRF held 49.9% of the ordinary shares in AIB as well as 10.5 billion convertible non-voting shares which were converted into ordinary shares in April 2011. As a result, it increased its holding of ordinary shares from 49.9% to 92.8%.

**4.16** In May and July 2011, AIB paid the dividend due on the Fund's preference shares in the form of ordinary shares and the NPRF received over 1.2 billion ordinary shares. This included a penalty for late payment as the full dividend was payable in May. The value of the shares issued was €289 million.

**4.17** In July 2011, the Commission, under direction of the Minister, invested a further €5 billion by purchasing 500 billion ordinary shares at a price of €0.01 per share and also made a capital contribution of €3.77 billion. This contribution did not entitle the NPRF to any shares in AIB. Following this transaction, the NPRF's holding was 512.6 billion shares, amounting to 99.8% of AIB's ordinary share capital.

### *Return on Investments*

**4.18** During 2009, 2010 and 2011, the NPRF received income and gains of just under €1.8 billion from its investment in the institutions, comprising cash and non cash elements, as set out in Figure 4.5. Cash receipts amounted to €936 million.

**Figure 4.5 Income and Gains on Investments 2009 to 2011**

| Income and gains | Bank of Ireland | Allied Irish Banks | Total |
|---|---|---|---|
| | €m | €m | €m |
| Transaction fees | 94.2 | 95.9 | 190.1 |
| Cancellation of preference share warrants[a] | 478.9 | 52.5 | 531.4 |
| *Dividends on Preference Shares* | | | |
| - paid in the form of ordinary shares | 250.4 | 569.0 | 819.4 |
| - paid in cash | 214.4 | — | 214.4 |
| **Total** | **1,037.9** | **717.4** | **1,755.3** |

Note: a Issued in 2009 in conjunction with preference share purchases.

**4.19** In the first half of 2012, the NPRF received dividends on its preference shares as follows

- On 20 February 2012, Bank of Ireland paid a dividend due of €188.3 million in cash.
- On 14 May 2012, AIB paid the dividend due (€280 million) in the form of ordinary shares. Based on the market value of 7.7 cents per share, the NPRF received just over 3.6 billion shares.

### *Valuation of Directed Investments*

**4.20** In its financial statements for the year ended 31 December 2009, the Commission valued the directed investments at cost under a direction of the Minister. From 31 December 2010 onwards, having sought and received a revised direction from the Minister, the Commission valued the directed investments at fair value in line with Irish generally accepted accounting principles (GAAP).

**4.21** As the preference shares held as part of the directed investments are not quoted on the market (unlisted and not traded), the NTMA, on behalf of the Commission, engaged Goodbody Corporate Finance to provide independent valuation advice on the fair value of the NPRF's holdings as at 31 December 2011. That valuation resulted in the Fund's financial statements indicating that

- The preference shares in Bank of Ireland increased marginally in value during 2011 to €1.47 billion (2010: €1.46 billion). This is around 20% below their value when they were acquired in 2009.
- The preference shares in AIB increased in value by around 8% to €2.22 billion (2010: €2.05 billion), around 37% below their value when they were acquired in 2009.

**4.22** The fair value of ordinary shares is generally the closing market price on the primary exchange or market where they are quoted. For Bank of Ireland ordinary shares, the market price at 31 December 2011 was taken as the fair value of the shares.[3]

**4.23** The Commission decided that as the NPRF holds almost all of the shares in AIB, the market price of the remaining shares is not a reliable indicator of fair value due to the low level of shares traded. Consequently, for the holdings in AIB ordinary shares at year end, the assessment of the fair value was based on independent valuation advice, provided by Goodbody and based on GAAP, which concluded that their fair value was 0.76 cents per share.

**4.24** At the end of 2011, the NPRF had invested almost €20.6 billion in the two banks net of the proceeds of share disposals in Bank of Ireland (see Figure 4.6). At that date

- the value of the investments was just under €8 billion – a fall in value of just over €12.6 billion
- the NPRF had received income, gains and proceeds from the sale of warrants totalling €1,755 million.

**Figure 4.6 NPRF Directed Investments – Summary at 31 December 2011**

| | Bank of Ireland | Allied Irish Banks Plc | Total |
|---|---|---|---|
| | €m | €m | €m |
| Investment at cost | *4,979* | *16,658* | *21,637* |
| Disposals | *(1,052)* | — | *(1,052)* |
| Net investment cost | 3,927 | 16,658 | 20,585 |
| Valuation of shares | 1,843 | 6,119 | 7,962 |
| *Decline in value to December 2011* | *2,084* | *10,539* | *12,623* |
| Income, gains and sale of warrants | 1,038 | 717 | 1,755 |
| *Net decline in value to December 2011* | *1,046* | *9,822* | *10,868* |

Source: National Pensions Reserve Fund

3 By the end of June 2012, the value of ordinary shares in Bank of Ireland had increased by 22% from 8.2 cents to 10.0 cents.

### *Conclusions – Value of the NPRF*

**4.25** The National Pensions Reserve Fund (NPRF) was valued at €13.4 billion at the end of 2011 – a decrease of €9.3 billion (41%) from the 2010 valuation. €1 billion of the reduction was due to the withdrawal of monies from the Fund by the Minister.

**4.26** At the end of 2011, the NPRF held 41% of its assets in its discretionary portfolio. These are the investments that are controlled and managed by the Commission in accordance with an investment policy defined in the Act and with a strategy determined by the Commission itself. The balance of the assets was invested in Irish financial institutions under directions from the Minister for Finance. The discretionary portfolio earned a return of 2.1% in 2011.

**4.27** The main development in 2011 was the transfer of €10 billion from the discretionary portfolio for further investment in Allied Irish Banks and Bank of Ireland. This transfer formed part of the EU/IMF programme of financial support for Ireland.

**4.28** Following that 2011 investment and the disposal of shares to the value of €1 billion in Bank of Ireland (the proceeds of which were remitted to the Exchequer), the NPRF has invested a total of €20.6 billion in the two banks. The investment includes €0.8 billion of dividends received in shares in the two banks. By the end of 2011, the value of the investment had fallen by 61% to just under €8 billion. When income, gains and sales of warrants of €1,755 million are taken into account, the net write down is €10.9 billion or 53% of the investment.

## Payment for Transition Manager Services

**4.29** On behalf of the Commission, the NTMA, as manager of the Fund, appoints a range of service providers to manage Fund assets and to undertake necessary transactions. The main services are depicted in Figure 4.7.

**4.30** In 2007, the NTMA created a panel of three transition managers following a tender competition conducted under EU procurement rules and operating under a framework agreement. When it needs to carry out a transition, it conducts restricted tender competitions in which the firms from the transition manager panel are invited to tender.

### *Transition Number 14*

**4.31** As required under the 2010 EU/IMF Programme of Financial Support for Ireland and having received directions from the Minister, the Commission took steps to have €10 billion in Fund assets readily available for investment on receipt of further directions from the Minister. The Commission planned to meet some of its commitment from its cash resources, but required other assets to the value of around €6.8 billion, across a range of asset classes, to be liquidated.

**4.32** In December 2010, the NTMA awarded contracts, following a restricted tender competition, to two firms from the transition manager panel to manage the transition (transition number 14) on its behalf. One transition contract was awarded to London-based State Street Bank Europe Ltd (SSBE), for the disposal of assets for a management fee based on the value of the assets disposed.[4] No other compensation, other than certain foreign exchange costs, was to be paid to SSBE.[5]

**4.33** Between February and May 2011, SSBE disposed of NPRF assets to the value of €4.7 billion, and the fee payable under the contract amounted to €698,000.

### *Additional charges on transition number 14*

**4.34** In October 2011, the NTMA became aware through media reports that two senior executives, one based in the United Kingdom and one based in the United States, had departed from the transition team of SSBE. The NTMA requested further information from SSBE.

**4.35** In response, on 12 October 2011, SSBE wrote to the NTMA explaining that it had reimbursed a UK client following the application of a commission that had not been expressly agreed with the client, had taken appropriate internal steps to guard against further occurrences of that nature and was conducting a comprehensive review of the small number of other transitions in Europe from earlier in 2011 in which it had agreed to apply a management fee only. One of the transitions being reviewed was the NPRF's transition 14.

**4.36** On 28 October 2011, the NTMA wrote to SSBE informing it that, in the light of the ongoing SSBE review of other transitions, it was suspending SSBE from the NPRF transition manager panel. This suspension remains in place.

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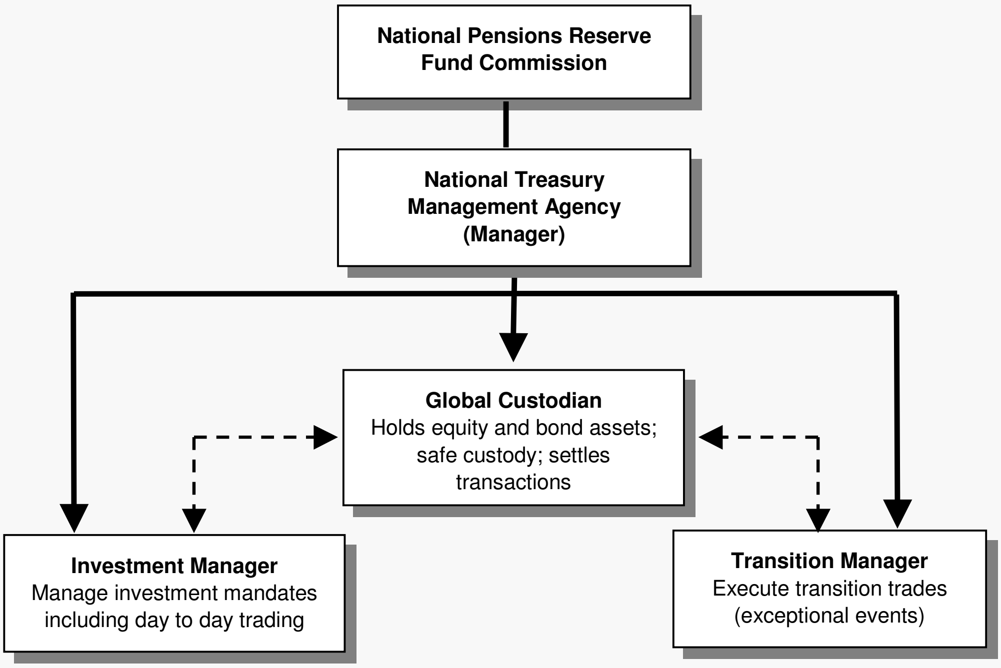
4 1.65 basis points (0.0165%) of the value of the majority of the assets, and 1.25 basis points (0.0125%) for the remainder.

5 State Street Bank Europe Ltd (SSBE) is authorised and regulated by the UK Financial Services Authority.

**Figure 4.7 Services Contracted by NTMA for Management of Listed Equities and Bonds[a]**




***Global custodian role***

The global custodian holds in safe custody securities and other assets in the ownership of the Fund. In addition, the global custodian has other functions including transaction settlement, collection of income and dividends on assets including the conversion of foreign currency receipts, claiming tax refunds, cash management, daily valuation of securities and provision of data to support the Fund's accounting and performance measurement functions.

***Investment manager role***

The Fund's strategic asset allocation is broken down for investment purposes into a number of investment mandates by type (e.g. equities) and by geographical location (e.g. Europe). The management of these mandates is outsourced to specialist investment management institutions (investment managers). Investment managers manage portfolios, including day-to-day trading, within guidelines and parameters set down by the Commission. At the end of 2011, the Fund was using the services of 11 investment managers.

***Transition manager role***

A transition refers to the restructuring of the Fund's portfolio, typically either when investment management passes to new firms, where there is a change in asset allocation strategy or where there are large injections or withdrawals from the discretionary portfolio that result in the need for significant trading in listed markets. The Fund engages transition managers to purchase or sell, on behalf of the Fund, the securities required or being disposed. A transition manager seeks to minimise the costs of market impact through careful timing of the execution of trades. In addition the transition manager co-ordinates all of the various participants involved including investment managers, the global custodian and NTMA. The purpose therefore of the arrangement is to enable the market risks, operational risks and costs incurred to be managed systematically.

Note: a Certain assets of the Fund are not managed through the arrangements set out in Figure 4.7 including property, private equity, commodities and hedge fund investments which are managed by third party managers and cash and some bond assets which are managed directly by the NTMA.

**4.37** On 14 November 2011, SSBE wrote again to the NTMA stating that, following its review, it had concluded that a commission for which there was no contractual agreement had been applied to the NPRF transactions in transition number 14. In December 2011, SSBE paid the NPRF €2.65 million which was SSBE's estimate of the aggregate amount of the mark-ups applied.

**4.38** In January 2012, SSBE informed the NTMA that a small number of its other clients in the UK also were charged fees that were not consistent with their contractual arrangements and that were not transparent to the client. PwC Boston was engaged by SSBE to independently review the fees, commission and spreads charged in respect of transition number 14 using a methodology that had been agreed by PwC with the NTMA. In March 2012, PwC reported that it had recalculated the charges and had concluded that the amount owed by SSBE was marginally lower, at €2.61 million, than the rebate paid to the NPRF. It had been agreed in advance with SSBE that the NPRF would not be required to make any repayment under these circumstances.

### *Basis of Trading*

**4.39** In its tender submission for transition number 14, SSBE stated that it would act as agent of the NPRF in relation to equity trading. The NTMA has stated that agency, rather than principal, trading represented a critical aspect in its evaluation of SSBE's tender submission and contributed to its final score in the tender evaluation. (Figure 4.8 explains the trading bases.) However, in July 2012, SSBE wrote to the NTMA reporting that, arising from a continued review of transitions undertaken in 2010 and 2011, it had determined that it had acted as a 'riskless principal' in connection with the liquidation of certain NPRF shares in transition number 14, which would be inconsistent with its duties as agent to NPRF, and that it had made a profit of around $787,000 on the transactions without taking any risk of loss. SSBE offered to repay this amount.[6]

**4.40** On 21 August 2012, the NTMA wrote to SSBE noting that upon reviewing the matter, the Commission would accept SSBE's offer of a rebate of $787,279 but that this was subject to the understanding that acceptance of the payment was not a full and final settlement of the amount due to the NPRF and was without prejudice to its right to the conduct of a full investigation into the matter by an independent professional firm, to be paid for by SSBE, in order to confirm the amount due. On 24 August 2012, SSBE paid this amount to the Fund.

### *Earlier Transitions*

**4.41** The NTMA had 16 transitions carried out under the framework agreement. SSBE had previously been involved in two other NPRF transitions (numbers 3 and 4), both of which were carried out in 2009, and in light of the experience on transition number 14, the NTMA asked SSBE to review these.

**4.42** On 23 February 2012, the NTMA received a letter of attestation from SSBE stating that its compliance department had conducted a review of the two transitions and had not found any issues with either. Following review of the supporting trade data for the transitions, the NTMA wrote to SSBE on 21 August 2012 raising an issue with the conclusions of the SSBE review in respect of transition number 4. This matter is the subject of ongoing engagement.

**4.43** The NTMA has written to other transition managers contracted on behalf of the NPRF requesting confirmation that no unauthorised commissions have been applied in the course of any transitions managed on behalf of the NPRF.

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6 The profits of $787,000 amount to around €630,000 at 24 August 2012.

### *Reporting to Relevant Regulator*

**4.44** The UK Financial Services Authority (FSA) is the primary regulator of SSBE. The NTMA stated that, while neither it nor the Commission had any legal or regulatory obligation to inform the FSA about the charging issues that had arisen in relation to its dealings with SSBE, the Commission requested on 29 June 2012 that the FSA be notified. This was done on 7 August 2012 by the NTMA. SSBE had informed the NTMA in writing on 26 January 2012 that it had notified the FSA of the issue.

**Figure 4.8 Selected Asset Trading Terms**

***Principal Trading***

Principal trading (also called proprietary trading) occurs when a financial institution or broker (trading firm) trades on its own account rather than on behalf of a customer.

***Agency Trading***

Agency trading takes place when the trading firm trades on behalf of a client and the trading is governed by the terms of the contractual agreement between the client and the trading firm.

A risk that arises is that of a conflict of interest where a trading company carries out both proprietary trading and also acts as an agent for clients with gains that should accrue to the client being allocated instead to the benefit of the trading company.

***Implementation Shortfall***

Standard market practice is that the performance of a transition manager is measured by an 'implementation shortfall' outcome. This is calculated by measuring the difference between the performance of the transition manager in disposing of a transition portfolio over a period and what would hypothetically have been achieved if the portfolio had been sold instantly. Implementation shortfall represents the "all in" cost of trading and comprises bid/ask spread costs, market impact (e.g. the impact on price of disposing of a large portfolio) and explicit costs (e.g. taxes and commissions).

The implementation shortfall is estimated in advance of each transition and is expressed as a specific estimate (for example 20 basis points, 0.2%) together with a standard deviation (for example plus or minus 50 basis points, +/-0.5%).

The standard deviation of the implementation shortfall represents the normal expected variability in outcome around the central pre-trade estimate due to the risk arising from uncertain market conditions. Any outcome within plus or minus one standard deviation of the pre-trade estimate would be regarded as 'normal'.

***Best Execution***

Best execution refers to a broker's obligation to obtain the best trade for a customer taking into account price, costs, speed of execution, settlement and any other relevant factors.

### *Controls over Transition*

**4.45** The NTMA stated that it manages the inherent risks arising with transitions through

- using large regulated organisations of scale and substance as transition managers

- robust contractual terms with the transition managers, which include the ability to engage auditors to audit the books, accounts and other financial statements of the transition manager as they relate to services provided to the NPRF
- constant interaction with the transition manager and with the NPRF's global custodian during the days leading up to and during the transition, and
- comprehensive review of post transition results.

**4.46** The transition managers are required to carry out transitions in conformity with framework agreements with the NTMA including a requirement to confirm annually policies in relation to trading, best execution and conflicts of interest and that there had been no material breaches of these policies. Because transitions occurred frequently, this confirmation was effectively obtained on the occasion of each tender competition when a transition manager confirmed in its tender response that there had not been any material adverse change to its business model, transition management product or capabilities, transition management performance, key people, systems or operational standards.

**4.47** Standard market practice is that transition managers' performance is measured by the implementation shortfall outcome for each transition (see Figure 4.8). The NTMA reviews the prices reported by the transition managers in their implementation shortfall reports focusing, in particular, on explanations for variations in implementation shortfall as compared with the pre-trade estimate and with the pre-trade standard deviation. The NTMA stated that prior to the transition, SSBE had estimated that the implementation shortfall would be around 35 basis points (0.35%) with a standard deviation of ±73 basis points (0.73%), implying a 'normal' result would fall within the range of a gain of 38 basis points and a cost of 108 basis points. The implementation shortfall reported was 20 basis points. The additional commissions charged equated to 7 basis points, meaning the correct implementation shortfall should have been 13 basis points. The additional commissions charged (0.07%) were not material to the transition's overall financial outcome, which was below the pre-trade estimate, and which was well within the variability that might arise in a 'normal' markets scenario.

*Proposed Actions*

**4.48** The NTMA stated that it is proposing to take additional steps to mitigate risks specifically associated with activities similar in nature to those encountered on transition number 14.

- The NTMA will seek to improve the visibility of transition agency trades on behalf of the Fund so as to ensure that any attempts at price manipulation would be discovered in the settlement process. Towards that end, instead of agency trades being settled through a broker account of the transition manager, they would be settled directly with the third party market counterparty. Such an arrangement would enable the Fund's global custodian to directly match the price of the trade with the market counterparty and therefore would prevent any improper alteration of trade price data within the transition manager organisation.
- On sizeable transitions, where it considers it cost effective to do so and where there is no reasonable alternative method of obtaining assurance in relation to trade prices and commission charges, the NTMA will engage the Fund's internal auditor to audit the books of the transition manager as they relate to the NPRF transition.
- The NTMA will, where feasible and practical, seek to promote the development of improved market standards and practices within the transition management industry with the objective of improving levels of transparency, third party transaction validation and general oversight.

*Risk of incorrect charging by Investment Managers*

**4.49** Whereas transition managers undertake large-scale one-off trades on behalf of the NPRF, investment managers have responsibility for trades on an ongoing basis in the course of their management of investment mandates on behalf of the NPRF.

**4.50** In relation to the risk of unauthorised charges occurring, the NTMA highlighted a number of points around the control of investment managers

- Trades by investment managers are advised to the global custodian and settled by them directly with a third party broker. This differs from standard market practice in transition management.
- All prices achieved by investment managers are submitted to a third party independent firm that monitors and analyses trading activity seeking to identify any instances where best execution may not have been achieved. The independent firm reports quarterly to the NTMA and identifies any instances where its analysis indicates that best execution may not have been achieved or where brokerage costs appear high.
- Each investment manager must provide quarterly statements from its compliance department that it has met the terms of its investment management agreement and must also provide annually a report from an external auditor that reports on the control environment related to investment management services including trade order and execution processes. The trade execution controls are audited to provide reasonable assurance that transactions are properly authorized, executed and allocated in a timely and accurate manner. Market practice to date has developed to the point that while such external auditor reports have become quite widely available in respect of investment managers, they are not yet generally provided in respect of transition managers.

### *Overview of Chief Executive*

**4.51** The NTMA's Chief Executive stated that transition management is a complex financial process requiring significant trading and markets expertise as well as technology and project management capabilities to co-ordinate and execute extremely large volumes of securities transactions. The Chief Executive pointed out that there have been significant economic benefits to the NPRF arising from the transition manager panel and that, in particular, use of transition managers has facilitated the liquidation at low cost and with minimal market impact of a very substantial proportion of assets to facilitate over €20 billion of the Fund's assets being available for investment as directed in AIB and Bank of Ireland. The NTMA manages the risks arising through robust contractual arrangements with regulated organisations of scale and substance and through constant interaction with the transition manager before, during and after the transition.

**4.52** The NTMA expects the highest standards of probity from firms it engages and considers the Fund's experience in relation to transition number 14 to be entirely unacceptable.

**4.53** In this case, the amendments improperly applied to trade data were never visible to the NTMA or to the global custodian. It would appear also that they were not identified by SSBE's internal controls or procedures or by its internal audit or compliance functions. The NTMA understands that the overcharging was discovered because a UK client of SSBE was able to identify that the sale price reported by the market in respect of specific trades of 'trace eligible' securities did not correspond with the price reported to it by SSBE.[7] None of the assets held by NPRF were 'trace eligible' and the NTMA could not have used this technique to discover the correct trade prices.

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7 Certain securities traded by the client were 'trace eligible' US bonds – where the market standard is that individual trades are reported publicly in full detail.

**4.54** SSBE has promptly repaid the NPRF in respect of transition number 14 and has implemented or agreed to implement arrangements to provide independent validation of the amounts repaid. In light of the experience on transition number 14, NTMA decided to conduct a further review of previous transitions carried out by SSBE for the NPRF. Arising from this review one further issue was identified as outlined at paragraph 4.42 above and discussions in this regard are ongoing.

**4.55** In reviewing the issues that have arisen in respect of transition number 14, the NTMA has identified actions that it proposes to take, as set out in more detail in paragraph 4.48 above.

### *Conclusions and Recommendations – Payment for Transition Manager Services*

**4.56** In the course of 2011, the NPRF liquidated assets in order to meet its commitment to provide €10 billion under the EU/IMF Programme of Financial Support for Ireland. As part of that process, SSBE liquidated assets to the value of €4.7 billion for a management fee of €698,000. However, SSBE also applied commissions of €2.6 million for which there was no contractual agreement and also earned profits of €0.6 million on the sale of NPRF's holding in an index fund while acting as a principal but without taking any risk of loss.

**4.57** SSBE has refunded the NPRF in respect of the unauthorised commissions and the principal trading profits.

**4.58** While the additional charges represented a small percentage of the assets sold on behalf of the NPRF by SSBE (0.07%), the effect was to increase the amount earned by SSBE to over 5.5 times the contractual fee.

**4.59** The NTMA carried out a post-transition review designed to gain assurance that the outturn from the transition was within its pre-transition estimates. The results of the post-transition review were satisfactory and were within the range expected. However, while implementation shortfall is a sound basis for benchmarking and evaluating the performance of transitions, its sensitivity for checking commission costs is questionable. Reliance on the internal controls of regulated service providers may not prevent or detect the application of unauthorized commissions or profit-taking on the disposal of NPRF holdings.

**4.60** The NTMA should implement the steps it has proposed to mitigate the risks of overcharging by managers. In addition, the following are recommended

**Recommendation 4.1:** While having regard to the proposal to obtain post-transition compliance statements from transition managers, the NTMA should consider submitting the prices achieved by transition managers, perhaps on a random sample basis, to an independent third-party firm to review and report any instances where it appears that best execution may not have been achieved or where brokerage costs appear high.

**Chief Executive's Response:** The NTMA will consider this recommendation. However, in the context of the specific issues arising in respect of transition number 14, the NTMA believes that changing the operational structure of transitions as described above so that the Fund's global custodian matches transition trades directly with the third party counterparty would be more effective.

**Recommendation 4.2:** Review whether contracts should include terms for penalties to be payable to the NPRF, in addition to recompensing the NPRF for losses, in circumstances where a manager fails to fulfil a material contractual obligation.

**Chief Executive's Response:** The NTMA will carry out such a review. Our preliminary legal advice is that the Fund's entitlement to damages under existing framework agreements with transition managers together with general principles of contract law address this point and that imposing penalties in contracts that significantly exceed losses (and whose primary purpose is to deter a party against breach of contract) may not be enforceable subsequently by the courts.

**Recommendation 4.3:** Notwithstanding that it may not have a legal obligation to report certain matters to regulatory authorities, the Commission should, as a matter of policy, in instances of suspected failure to conduct business appropriately on the part of a firm it has engaged, promptly report such instances to the relevant regulatory authorities for their consideration.

**Chief Executive's Response:** The NTMA accepts this recommendation. It should be pointed out that on this occasion the Commission reported the matter to the relevant regulator even though no legal obligation existed.

**Recommendation 4.4:** The NTMA should review the usefulness of the implementation shortfall as the primary performance measure and control check in relation to the costs of transitions.

**Chief Executive's Response:** In relation to evaluating the overall performance of a transition, implementation shortfall is the market standard. As regards the specific issues raised by transition number 14, the NTMA will put in place the measures identified in 4.48 and those arising from addressing the C&AG's recommendations.

# 5 EU Financial Transactions

**5.1** Arising from its membership of the European Union (EU), Ireland is obliged to contribute to the EU's budget. However, it also benefits from a wide range of payments made by the EU.

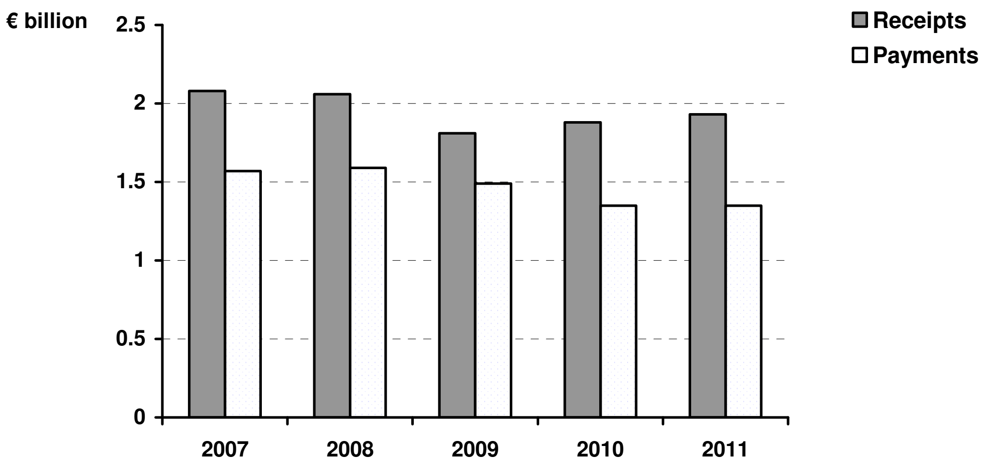
**5.2** Ireland's contribution to the EU budget and payments received into the Central Fund are accounted for in the Finance Accounts. Most EU Funding is paid directly to implementation agencies and beneficiaries. EU funding provided through Government departments is noted in the appropriation account of the relevant votes. This chapter has been compiled to present an overview of the financial transactions between Ireland and the EU, the procedures for the allocation of EU funds and the various audit arrangements relating to those transactions.

**5.3** The information in this chapter was obtained from the Departments of Finance, Public Expenditure and Reform, Education and Skills, and Agriculture, Food and the Marine. Verification testing was carried out on payments to the EU, receipts from the EU and their application in those Departments. Where applicable, the receipts were also verified with departments' appropriation accounts.

## Net Receipts from the EU

**5.4** Ireland is a net beneficiary of EU funding. In 2011, Ireland contributed €1.35 billion to the EU budget and benefited from EU budget expenditure totalling €1.93 billion. Between 2007 and 2011, Ireland has benefited from net EU receipts of €2.4 billion. Receipts from and payments to the EU budget over the past five years are shown in Figure 5.1.

**Figure 5.1 Ireland's Receipts from and Payments to the EU Budget 2007 to 2011**




Source: Department of Finance

## Contribution to the EU Budget

**5.5** The budget of the EU is mainly financed by own resources contributions from each member state. These comprise

- 'traditional own resources' – principally customs duties collected on behalf of the EU. 75% of the amount collected is paid over to the EU with the balance retained by the member state to fund the costs of collection and administration.
- a VAT-related payment of 0.3% of the established VAT base.[1]
- a payment based on a percentage of each member state's Gross National Income (GNI).

**5.6** The component elements of Ireland's contribution in each of the last four years are shown in Figure 5.2.

**Figure 5.2 Ireland's Contribution to EU Budget 2008 to 2011**

| Contribution element | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| | **€m** | **€m** | **€m** | **€m** |
| Traditional own resources | 202 | 176 | 186 | 200 |
| VAT-based contribution | 260 | 163 | 194 | 194 |
| GNI-based contribution | 984 | 1,001 | 908 | 895 |
| UK correction mechanism | 141 | 115 | 56 | 53 |
| Netherlands/Sweden GNI reduction | — | 31 | 8 | 8 |
| **Total** | **1,587** | **1,486** | **1,352** | **1,350** |

Source: Department of Finance

1 The value of goods and services to which VAT was applicable with compensating adjustments to harmonise the VAT base among all EU countries. The base is subject to a cap level equal to 50% of Gross National Income. That is the sum of incomes of residents of an economy in a given period and is conceptually similar to Gross National Product.

## Receipts from EU Budget Funds

5.7 Receipts of €1.93 billion from the EU in 2011 were sourced from various EU funds and programmes. The source of receipts in each of the last four years is set out in Figure 5.3.

**Figure 5.3 Ireland's Receipts of EU Funds 2008 to 2011**[a]

| Source of EU Receipts | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| | €m | €m | €m | €m |
| ***Agriculture and rural development funds*** | | | | |
| European Agricultural Guarantee Fund (EAGF) | 1,450 | 1,319 | 1,305 | 1,298 |
| European Agricultural Fund for Rural Development (EAFRD) | 355 | 329 | 381 | 348 |
| | 1,805 | 1,648 | 1,686 | 1,646 |
| ***Structural funds*** | | | | |
| European Regional Development Fund (ERDF) | 129 | 60 | 70 | 50[b] |
| European Social Fund (ESF) | 80 | 43 | 52 | 112 |
| Cohesion Fund | — | 23 | — | 9 |
| | 209 | 126 | 122 | 171 |
| ***Other funds/receipts*** | | | | |
| European Globalisation Adjustment Fund | — | — | 25 | 36 |
| Veterinary Fund | 8 | 6 | 14 | 20 |
| European Energy Plan for Recovery (EEPR) | — | — | 33[c] | 18 |
| European Fisheries Fund (EFF) | 3 | 3 | 15 | — |
| Education Programmes | 14 | 11 | 15 | 14 |
| EU Solidarity Fund Flood Relief[d] | — | — | — | 13 |
| TENs/EEA[e] | 2 | 12 | 1 | 1 |
| Other receipts | 25 | 7 | 7 | 16 |
| | 52 | 39 | 110 | 118 |
| **Total** | **2,066** | **1,813** | **1,918** | **1,935** |

Source: Departments of Agriculture, Food and the Marine, Finance, Public Expenditure and Reform, and Education and Skills

Notes:
a An estimated €85 million was paid in 2011 directly to beneficiaries under the Framework Programme for Research and Technological Development. As this amount has not been verified by the National Authorities, it is not included in the receipts figures.

b Includes receipts from the Programme for Peace and Reconciliation of €9.6 million and €9 million in respect of the Ireland-Wales Territorial Cooperation programme.

c Figure has been restated from 2010 chapter to reflect direct payment received in relation to electricity interconnection that was not notified to Department of Finance until November 2011.

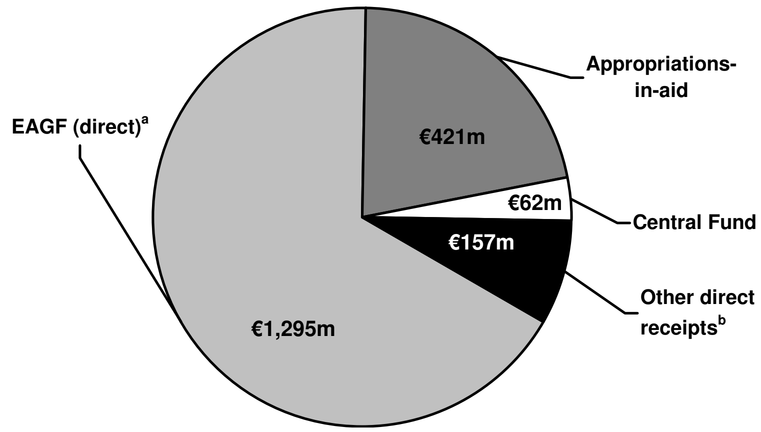
d These receipts relate to a grant from the EU Solidarity Fund following flooding in Ireland in 2009.

e These receipts relate principally to transport, energy and telecommunication projects.

**5.8** Funds received are routed to final recipients in a variety of ways, as set out in Figure 5.4

- The majority of European Agriculture Guarantee Fund receipts of almost €1.3 billion are held separately from State or voted funds and comprise reimbursement of amounts that have been previously paid directly to beneficiaries.
- A substantial amount (€421 million) is received as appropriations-in-aid of various votes.
- Receipts received directly into the Central Fund accounted for only 3% of the total received in 2011.

**Figure 5.4 Ireland's 2011 Receipts of EU Funds by Source**




Source: Departments of Agriculture, Food and the Marine, Finance, Public Expenditure and Reform, and Education and Skills

Notes: a €3 million of EAGF receipts are included in vote receipts.

b Includes ESF receipts into the National Training Fund, and European Globalisation Adjustment Fund receipts held in a suspense account.

## Management of EU Funds

**5.9** EU funding is generally allocated for multi-annual programming periods. The current programme period is 2007–2013. An associated financial framework for this period was agreed between the European Parliament, the EU Council and the European Commission (the Commission) under an inter-institutional agreement adopted in May 2006. An annual EU budget of expenditure and receipts governs the allocation of funds in each year within the programming period.

**5.10** The annual EU budget is decided by the EU Council and the European Parliament on the basis of a budget proposal from the Commission, which is also responsible for implementing it. The two principal elements of the 2011 budget were payments for

- agriculture and rural development – which accounted for around 45% of the budget
- sustainable growth – which includes structural and cohesion funding and accounted for a further 42% of the budget.

**5.11** Each of the EU funds is governed by different rules for financial management, control and accountability. A principal difference is that independently certified annual accounts of expenditure must be submitted each year for the agriculture and rural development funds, whereas for structural funds certified accounts must be submitted at the end of the programme period.

### *Agriculture and Rural Development Funds*

**5.12** EU expenditure on agriculture and rural development is financed out of two funds

- the European Agricultural Guarantee Fund (EAGF) which, with a few exceptions, fully funds direct aid payments to farmers as well as a range of market support measures and
- the European Agricultural Fund for Rural Development (EAFRD), which came into operation in 2007 and is used for co-financing measures implemented under Ireland's Rural Development Programme 2007–2013.

**5.13** EAGF and EAFRD expenditure is paid by accredited paying agencies in member states.[2] In Ireland, the Department of Agriculture, Food and the Marine is the sole accredited paying agency for EAGF and EAFRD and is the managing authority for the EAFRD.[3] The authority to make rural development payments in respect of specific measures of the EAFRD relating to LEADER is delegated to the Department of the Environment, Community and Local Government.[4]

**5.14** At year-end, independently certified annual accounts of EAGF and EAFRD expenditure must be submitted to the Commission. The Secretary General of the Department of Agriculture, Food and the Marine is required to provide annually a statement of assurance regarding the EAGF and EAFRD accounts and control systems. Also, in the case of EAFRD, the Department submits an annual report on its implementation.

**5.15** The Commission clears the annual accounts of both EAGF and EAFRD in two stages – by an annual clearance decision based on the independent certification of the annual accounts and by ad-hoc clearance decisions arising from follow-up audit work by the Commission. The Commission undertakes an annual programme of audits on specific schemes and areas following certification of the annual accounts. It conducted three audit missions in Ireland in 2011.

### *Structural Funds*

**5.16** The regulations governing the structural funds require member states, in conjunction with the Commission, to prepare and agree operational programmes to implement strategic priorities and impose financial management and control requirements relating to the implementation of co-funded assistance.

**5.17** Each member state is required under the regulations to designate a managing authority, a certifying authority and an audit authority for each operational programme. The functions and responsibilities of these bodies include the following

- The **certifying authority** is responsible for drawing up and submitting certified statements of expenditure and applications for payment. It is responsible for ensuring the accuracy and probity of these statements of expenditure.

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2 Paying agencies are accredited by member states if they comply with specific requirements on financial control and accountability over EU expenditure as set out in Community legislation (EU Reg. 885/2006).

3 The managing authority is responsible for managing and implementing the programme in an efficient, effective and correct way.

4 The LEADER initiative is designed to aid the development of sustainable rural communities.

- The **managing authority** is responsible for managing and implementing the operational programme in accordance with the principles of sound financial management and for ensuring that activities selected for funding match the operational programme criteria. It is also responsible for verifying that co-financed projects are delivered, that expenditure declared by the beneficiaries has actually been incurred and complies with EU and national rules, and that an adequate audit trail exists.
- The **audit authority** functions include ensuring that audits are carried out on operations to verify expenditure declared to the Commission and to verify the effective functioning of the management and control systems of the operational programme. It must present an audit strategy to the Commission and also submit an annual control report setting out findings of audits that have been carried out. The control report must provide an annual opinion as to whether the systems function effectively so as to provide reasonable assurance that the expenditure declared is correct and that the underlying transactions are legal and regular.[5]

**5.18** The Department of Public Expenditure and Reform has overall policy responsibility for the structural funds and is also the certifying authority for the ERDF. There are two managing authorities for the ERDF in the 2007–2013 programming period - the Regional Assembly for the Border, Midlands and Western region and the Regional Assembly for the Southern and Eastern region. The Department of Education and Skills, as managing authority and certifying authority, has primary responsibility for the ESF.

**5.19** The Secretary General of each department involved in the implementation of co-financed projects is required to sign a declaration annually and submit it to the Department of Finance to confirm compliance with all applicable EU regulations. An implementation report is submitted annually to the Commission by each managing authority that sets out the financial implementation of the operational programmes in terms of targets and outlines the monitoring and evaluation procedures in place.

## Audit of EU Funds

**5.20** The audit arrangements in place within each of the relevant departments in relation to EU funds are outlined below together with an outline of the roles of the EU Commission, the Office of the Comptroller and Auditor General and the European Court of Auditors (ECA).

### *Departmental Audit Arrangements*

*Agriculture and Rural Development Funds*

**5.21** The Department of Agriculture, Food and the Marine appoints a firm of auditors to provide an independent annual certificate and report on internal controls to the Commission. In addition, the Department's Internal Audit Unit finalised and issued eight system audit reports on the EAGF and EAFRD funded schemes in 2011.

5 Article 62 of General Regulation 1083/2006

*Structural Funds*

**5.22** Audit authorities for ERDF and ESF have been established in the Departments of Public Expenditure and Reform, and Education and Skills respectively. These perform audits of operations on the basis of an appropriate sample to verify eligible expenditure declared to the Commission within managing authorities, intermediate bodies and beneficiaries in operational programmes in the 2007–2013 programming period. [6] The audit activity performed on operations by the ERDF and the ESF units in 2011 is shown in Figure 5.5.

**Figure 5.5 Audit Authority Activity in 2011**

| | Programme period | | | |
|---|---|---|---|---|
| | 2000 – 2006 | | 2007 – 2013 | |
| | ERDF[a] | ESF | ERDF | ESF |
| Number of operations audited in 2011 | — | — | 18 | 34 |
| Claims verified in 2011[b] | — | — | €34m | €17m |
| Cumulative verified claims at 31 December 2011 | €495m | €284m | €167m | €82m |
| Cumulative eligible claims at 31 December 2011 | €4,155m | €1,981m | €226m | €465m |
| *Verification Rate* | *12%* | *14%* | *74%* | *18%* |

Source: Departments of Public Expenditure and Reform, and Education and Skills

Notes: a The ERDF audit authority is also responsible for performing 15% verification on eligible expenditure from the Cohesion Fund. At 31 December 2011, it had verified €318 million or 41% of cumulative expenditure of €779 million declared to the Commission.

b No verification audit activity was undertaken in 2011 in respect of the 2000 – 2006 round as the final claims for the various operational programmes were submitted in 2010 and were closed in 2011 or awaiting closure.

**5.23** System-based audits are also performed at each level in accordance with the EU regulations and a Commission guidance document on a common methodology for the assessment of management and control systems.[7] The ERDF audit authority carried out these system-based audits in respect of ERDF operations from the certifying authority level down to the public beneficiary body level. The ESF audit authority coordinates an annual plan of systems-based audits to be completed by internal audit units in bodies involved in the management and administration of the operational programme.

**5.24** Both the ERDF and the ESF audit authorities concluded that the internal control systems and procedures in the respective managing and certifying authorities were generally satisfactory.

### *Audits by EU Commission*

**5.25** Audit services from the Commission carry out a number of audits annually in member states and have the right to carry out on-the-spot audits or may request a member state to audit specific programmes or projects.

6 Operations are individual co-financed activities or projects implemented by beneficiaries.

7 EU Commission Guidance Document (COCOF 08/0019/01).

### *Audit by the Comptroller and Auditor General*

**5.26** Where a Department or State body audited by the Comptroller and Auditor General is in receipt of EU funds, the receipt and application of the funds are audited in like manner to national funds and to all other transactions by that body. Audit planning has regard to the audit tasks undertaken by others including the ECA, the audit authorities, the independent external certification body for agricultural supports and internal audit units. Audit work includes testing of compliance with national rules that have been transposed from EU directives and regulations. However, the transposition process is outside the remit of the audit.

### *European Court of Auditors*

**5.27** The total EU budget for 2011 was approximately €127 billion representing about 1% of the Gross National Income of the 27 member states. Because Ireland's financial contribution (1% of the total EU budget) is pooled with that of other member states, it shares an interest that the common funds are managed to good effect. At EU level, this assurance is provided by the ECA.

**5.28** The ECA is required to give an annual statement of assurance (an audit opinion) on the reliability of the accounts of the EU and of the legality and regularity of the transactions underlying those accounts. In carrying out these functions, ECA staff visit member states to review management structures, to test systems of control and to examine in detail a sample of applications submitted in support of payments to final beneficiaries.

**5.29** Liaison arrangements provide for ECA visits to Ireland to be organised by the Office of the Comptroller and Auditor General and all correspondence including the ECA audit findings and management responses are addressed to this Office for transmission to the audited body. Ten such visits were carried out in 2011. Following consultation with the relevant national authorities, the findings from those audits will be incorporated into the annual report of the ECA for 2011, which has not yet been completed.

**5.30** The ECA reported on the implementation of the 2010 EU budget in November 2011. The ECA concluded that the 2010 accounts fairly presented the financial position at the end of 2010 and the results of operations for the year. However, the ECA gave an adverse opinion on the legality and regularity of payments underlying the accounts. It concluded that the payments as a whole were materially affected by error and estimated the most likely error rate to be 3.7%. The overall supervisory and control systems were assessed as being partially effective in ensuring the legality and regularity of payments but two policy groups – Agriculture and Natural Resources, and Cohesion, Energy and Transport – were found to be materially affected by error. The ECA's assessment of the supervisory and control systems for EU payments as a whole, together with the estimated level of error for payments under each policy group, is set out in Figure 5.6.

**5.31** The estimated error rate for payments in 2010 of 3.7% represents an increase over the rate for 2009 of 3.3%. Prior to 2010, the estimated error rate had declined in each year since 2006 when it was estimated at just over 7%.

**Figure 5.6 ECA Opinion on Regularity of EU Payments 2010**

| Policy Group | Estimated level of error | Assessment of supervisory and control systems |
|---|---|---|
| Agriculture and Natural Resources | 2.3% | Partially effective |
| Cohesion, Energy and Transport | 7.7% | Partially effective |
| External Aid, Development and Enlargement | 1.7% | Partially effective |
| Research and other Internal Policies | 1.4% | Partially effective |
| Administrative and other Expenditure | 0.4% | Effective |
| **Overall** | **3.7%** | **Partially effective** |

Source: European Court of Auditors, Annual Report 2010

### *Corrections and Recoveries*

**5.32** The EU Commission relies on member states for the implementation of EU programmes that account for over four fifths of the total EU budget. Where errors or irregularities are detected, financial corrections are made by the EU Commission to exclude from EU funding expenditure that is not in accordance with applicable rules and regulations. In some cases, other expenditure may be allowed to replace the excluded expenditure, resulting in no reduction in the overall EU receipt. Financial corrections may also be applied following the detection of serious deficiencies in the management and control systems of member states.

**5.33** The EU Commission reported that it had implemented financial corrections and recoveries totalling €4.4 billion on member states during 2010. Of this EU wide total, just €23 million related to Ireland. This represents just over 1% of Ireland’s EU receipts in 2010. The corrections and recoveries implemented in 2010 can relate to earlier years.

## Conclusions

**5.34** Ireland contributed €1.35 billion to the EU budget in 2011 while €1.93 billion was received from EU funds.

**5.35** Ireland, like other member states, has an interest in how the EU budget is used. The European Court of Auditors gave an adverse opinion on the legality and regularity of payments by the EU in 2010. It estimated that the error rate for EU payments as a whole increased from 3.3% in 2009 to 3.7% in 2010, interrupting a previous downward trend in the error rate.

**5.36** Corrections and recoveries implemented by the EU Commission in 2010 amounted to over €4 billion across all member states with Ireland accounting for €23 million of that total, or 1% of the total amount of EU funds administered by Ireland.

# 6 Financial Commitments under Public Private Partnerships

**6.1** A public private partnership (PPP) is an arrangement between public and private sector partners for the delivery of public infrastructure and/or public services. Commitments under PPPs give rise to financing obligations usually extending over 25 to 30 years. These agreements with private sector partners come in a number of forms (outlined in Annex A).

**6.2** This chapter has been compiled to provide information about the financial commitments entered into by central Government departments and agencies in respect of PPP contracts.

**6.3** A request for information was issued to each department/agency with commitments under PPP contracts. Information sought included expenditure to date, potential commitments under PPP projects, and information on significant developments in 2011. The Department of Public Expenditure and Reform and the National Development Finance Agency were also consulted.

## Summary of Expenditure and Commitments

**6.4** Figure 6.7 (Annex B) lists the major PPP projects, as at the end of December 2011, in respect of which central Government departments and agencies had entered contracts as the sponsoring agency, or otherwise had financial commitments to the projects.[1] A summary of expenditure and outstanding commitments under the contracts at the end of 2011 is set out in Figure 6.1.

**Figure 6.1 Expenditure and Commitments under PPP Contracts at end 2011, by Sponsor**

| Department/Agency | No. of projects | Expenditure | | Outstanding commitment[a] |
|---|---|---|---|---|
| | | Prior to 2011 €m | In 2011 €m | €m |
| Education and Skills | 5 | 206 | 49 | 1,078 |
| Courts Service | 1 | 39 | 20 | 567 |
| Office of Public Works | 1 | 41 | 54 | 658 |
| National Roads Authority | 10 | 1,072 | 213 | 1,689 |
| Environment, Community and Local Government[b] | 20 | 594 | 54 | 37 |
| **Total** | **37** | **1,952** | **390** | **4,029** |

Source: Annex B, Figure 6.7

Notes: a Assumes inflation will average 2% a year over the remaining lives of the contracts.

b Amounts shown in relation to projects sanctioned by the Department of Environment, Community and Local Government are the contributions by the Department towards the capital cost of the local authority PPP projects. They do not include expenditure under the contracts by the relevant local authorities, or the outstanding commitments that will have to be met by the local authorities from their own future budgets.

1 Major projects are those where the capital cost of asset creation was €20 million or more.

**6.5** Expenditure in 2011 under PPP contracts amounted to €390 million. Total expenditure to the end of 2011 was just over €2.3 billion and estimated total outstanding commitments were €4 billion. The total Exchequer expenditure in respect of currently contracted PPPs is therefore projected to be €6.4 billion.

### *Project Cost Increase*

**6.6** Following a dispute between the NRA and a PPP company relating to the completion of works on the N6 Galway – Ballinasloe PPP scheme, a mediator was appointed in July 2011. A settlement agreement was reached in August 2011, under which the PPP company undertook to complete specified works, and the NRA agreed to pay an additional €16 million, most of which was paid in 2011.[2] The overall impact of the settlement is that total payments to the PPP company are projected to be €376.5 million (a 4.4% increase).

## Local Authority PPP Arrangements

**6.7** All PPP agreements entered into by local authorities require prior approval by the Minister for the Environment, Community and Local Government who exercises policy making, sanctioning and oversight roles in local government matters.

**6.8** The costs reported in Figure 6.7 (Annex B) in respect of local authority schemes only include those schemes where there is an Exchequer contribution and associated commitments. Consequently, large-scale PPP arrangements entered into by local authorities in recent years without a direct Exchequer commitment to project costs are not included in the figures.

**6.9** Two PPP projects reached contract stage during 2011. Both were local authority sponsored.

### *Letterkenny Waste Water Treatment Plant*

**6.10** A design, build and operate (DBO) PPP structure is being used to provide a waste water treatment plant and sludge treatment centre, and associated works for Letterkenny. The waste water treatment plant will cater for a population equivalent of 40,000 and the sludge treatment centre will treat up to 2,500 tonnes of dry solids per annum. It has a two-year construction period followed by a 20 year operation and maintenance period. The contract with Response/Severn Trent was finalised on 18 February 2011. Construction commenced in March 2011 and the plant is expected to commence operation in March 2013. The Department of the Environment, Community and Local Government will provide funding of €25.2 million towards the cost of the project.

### *River Barrow Water Treatment Plant*

**6.11** This water treatment plant is also being provided under a DBO PPP structure, with a two-year construction period followed by a 20 year operation and maintenance period. The plant is expected to provide 31 million litres of drinking water per day in south west Kildare. The contract with Veolia Water Ireland Ltd was agreed on 20 April 2011 and the plant is expected to become operational in April 2013. The Department of the Environment, Community and Local Government will provide funding of €24 million towards the capital costs.

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2 At July 2012, approximately €125,000 of this settlement agreement remains outstanding.

### *Review of Value for Money in Water Services*

**6.12** An interdepartmental review of the water services investment programme over the period 2007 to 2009 states that PPP procurement is employed in the water services sector only where it is clearly established that it provides best value for money overall.[3] Water services authorities are obliged to examine all procurement options objectively and to undertake a public sector benchmark (PSB) assessment before awarding a PPP contract.[4] The assessment is designed to enable a cost comparison to be made on a like-for-like basis between traditional and PPP procurement.

**6.13** Where initial project appraisal indicates that a PPP option would be expected to confer benefits, the preferred form of PPP for water services treatment plants is DBO. The review noted that schemes with a capital cost of less than €40 million to €50 million would not currently be suitable for private finance (i.e. DBOF) due to high project set-up costs (due diligence, etc).

**6.14** The review also noted, based on experience to date, that the PPP DBO model in projects involving the provision of a water treatment plant offers the following benefits.

- Infrastructure provision is accelerated because the contractor only becomes eligible for operation-phase payments after the construction is completed, thereby reducing exposure to construction inflation.
- There is greater certainty of final capital cost.
- Responsibility for design, construction, operation and maintenance incentivises the private sector contractors to optimise the whole life cost of the project and to provide reliable robust treatment processes and technologies and associated mechanical and electrical equipment.
- There are incentives to use newer technologies with associated technical and economic advantages.
- Performance and maintenance standards are contractually guaranteed over the operational phase.

**6.15** The Department of Environment, Community and Local Government has stated that when compared to traditionally procured contracts, PPP DBOs represent average savings in the range of 10-20% in relation to project capital costs and 5-10% for operational costs, depending on the scale of the treatment plant. Details are not currently available of the number of projects that have proceeded under traditional procurement methods.

**6.16** A new form of contract for all major public works projects were brought into effect by the Department of Finance in 2007. These have been in place for all water service projects since May 2008. The new contracting arrangements include fixed-price contracts designed to achieve greater cost certainty and better value for money for the Exchequer. A further difference from the traditional approach to contracts is the transfer of all construction-stage risks (other than archaeology) to the contractor, who prices for that risk in the tender bid. Under the previous 'traditional' form of contracting, the employer (such as a local authority) carried virtually all risks associated with the contract. This change in the form of contracting increases the level of certainty of final capital costs for non-PPP projects, and so may have implications for the relative value for money to be achieved under PPP DBO projects.

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3 Report on the ***Value for Money Review of the Water Services Investment Programme 2007-2009***; (2010) see Chapter 5 – Funding and Delivery Model of the WSIP.

4 Public sector benchmarking is required for all PPP projects.

## Impact of Risk Sharing in Roads Projects

**6.17** One of the key drivers of value for money in PPP projects is the assignment of project risks to the (public sector or private sector) partner that is best placed to manage them. There are many potential forms of project risk and different risks may be suitable for transfer (or sharing) in each project. For example, the public sector partner often retains demand risk i.e. the risk that the users of the service may demand more or less service than is envisaged. In some cases, a risk may be shared between the public and private partners with a 'floor' (to put a limit on the potential loss by the private partner) or with a 'ceiling' (e.g. to trigger revenue sharing arrangements). Guaranteed floor levels for demand risk may assist in making the project 'bankable' i.e. capable of attracting project finance.

**6.18** The State's ability to transfer risk is limited by whether or not a sufficient number of potential tenderers are willing to assume a particular risk. In the tolled road PPP schemes put in place by the National Roads Authority (NRA) to date, the following allocations of risk have generally been applied.

- Construction, operational and lifecycle cost risks have largely been transferred to the PPP company.
- Archaeological risks have also been transferred, generally after advance contract archaeological testing and resolution works undertaken by the Authority. In some cases, the Authority continued to carry some construction-phase archaeological risk.
- Inflation risk is shared.
- Traffic risk was transferred to the private sector partner in earlier schemes, and shared in a couple of schemes. More recently, projects have been developed on an 'availability' basis i.e. there is no transfer of traffic risk.
- In some schemes, the Authority also shares risk relating to insurance and revenue.

### *Traffic Risk Sharing*

**6.19** In the case of the Clonee/Kells (M3) and Limerick Tunnel PPPs, the contracts provide for traffic-related guarantee payment mechanisms whereby the NRA is obliged to make payments to the PPP company if traffic falls under a certain level. Payment arises where the average traffic level in any half-year period does not exceed the figures set out in the relevant PPP contract. As both these routes opened during the second half of 2010, amounts due under the guarantees only became payable in 2011. Some €5.2 million was paid by the NRA in 2011.[5]

**6.20** The traffic guarantee threshold in each of the contracts increases over time, as indicated in Figure 6.2

- On the Clonee/Kells (M3) road, the volume of traffic for which revenue is guaranteed in 2012 is 27,250. Thereafter, the guarantee level increases annually until 2019, and continues at that level until 2025.
- The Limerick Tunnel contract provides for a 6% increase in the 2012 level of traffic over 2011. Subsequent increases are smaller but continue until 2035, after which the traffic guarantee will remain unchanged.

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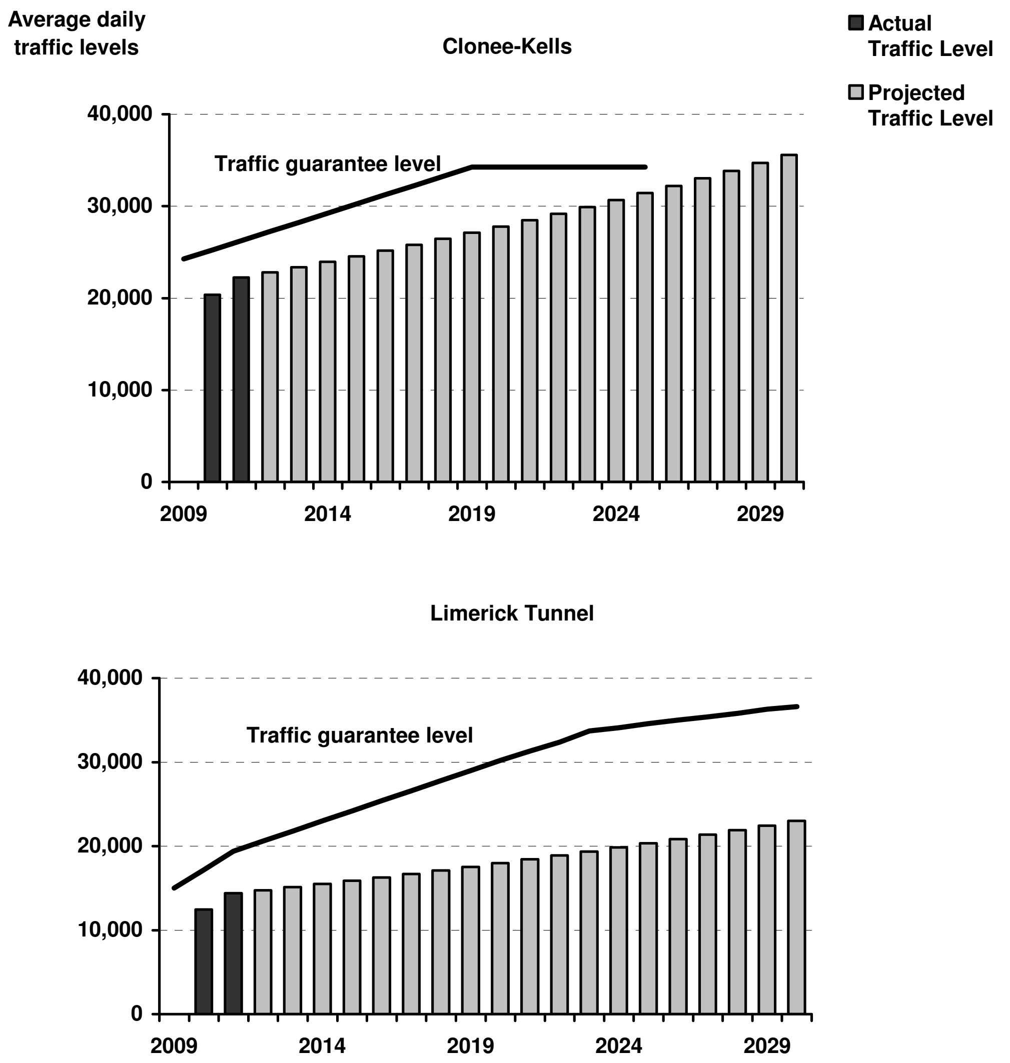
5 2011 payments were in respect of liabilities from the second half of 2010 and the first half of 2011.

**Figure 6.2 Projected traffic on Clonee/Kells and Limerick Tunnel projects**




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

**6.21** The shortfalls in traffic volumes relative to the guarantee thresholds in 2010 and 2011 were significant. The NRA estimates the guarantee-related amount payable in 2012 at €6.7 million, based on the achievement of an assumed 2.5% traffic growth year-on-year.

**6.22** On the assumption that traffic on both routes will grow at an annual average of 2.5% a year, the State will continue to make traffic guarantee payments to the Clonee-Kells PPP company until 2025.[6] On a similar basis, the projected traffic levels using the Limerick Tunnel will not reach the guaranteed traffic levels and the State will make additional payments to the PPP company for the whole duration of the contract (i.e. until 2041).[7]

6 The NRA will continue to make other contracted operational payments (fixed other than in relation to inflation) until 2052.

7 The traffic levels, which are well below the base case scenarios underpinning the PPP contracts, will also have an impact on the PPP companies' returns relative to those envisaged at contract signing.

**6.23** The financial commitments indicated in Figure 6.7 (Annex B) in relation to these projects do not include a provision for traffic guarantee payments over the remaining life of the projects.

### *Revenue Sharing*

**6.24** All tolled NRA PPP contracts have revenue sharing provisions, which effectively means that revenue above threshold traffic levels specified in the PPP contracts is shared.[8] Revenue received for 2011 amounted to €1.18 million.

### *Insurance Risk Sharing*

**6.25** Eight road PPP projects which have reached financial close have an insurance risk-sharing clause. Under this clause, the insurance costs are reviewed every three years, and depending on costs incurred in the period, compensation may be paid to the NRA, or payable by the NRA. A base reference amount for the cost of insurance is provided for in the contract. If the actual costs incurred during a review period exceed the sum of the base costs, the NRA and the PPP company will share the cost of such increased insurance costs.[9] In circumstances where the actual insurance cost incurred is less than the base cost, the NRA and the PPP company will share the benefit of the decreased insurance costs. During 2011, the NRA received a rebate of approximately €0.9 million in relation to insurance risk sharing from the Dundalk and Fermoy PPP projects.

### *Chief Executive's Views*

**6.26** The Chief Executive of the NRA has stated that traffic risks in the context of the underwritten traffic volumes applicable on certain PPP schemes, have, to date, been more than offset by the revenue sharing arrangements in place on other projects. The net variable payments in 2012 will be equivalent to approximately 6% of the total annual payments due in the form of operation/availability payments arising on the PPP contracts. This percentage will increase in future years as the current annual committed payments decline. Because the operational and availability payments extend for decades, variation in inflation rates will be likely to have an impact on overall payment levels. From a risk perspective, any emergence of high inflation would be a concern.

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8 The exception is the M50 upgrade for which the PPP operator does not collect tolls.

9 Subject to defined threshold percentage levels specified in the particular contract being met.

## PPP Projects in Development

**6.27** With the onset of the international financial crisis in 2007/2008, the availability of private finance became severely curtailed. There was limited liquidity in the European PPP market as the majority of large international project finance banks refocused activities on home markets. This led to an absence of international banks in the Irish PPP market. Simultaneously, the needs of the public finances required reductions in Exchequer budgets and the re-prioritisation of resources.

**6.28** The National Development Finance Agency (NDFA) has stated that apart from the financing challenges, other factors also constrain the PPP market in Ireland. Few large international contractors remain active in the Irish market. There are indications that domestic contractors may not be willing to participate in future Irish PPP competitions due to the level of bid costs. Also, a number of the large domestic participants have gone into liquidation and because of a rise in construction bond premia, some construction companies are unable to secure bonds.

**6.29** A number of PPP projects in development were cancelled for various reasons (including on VFM and affordability grounds) and others were deferred to a later period. Some projects continued in preparation over this period but the challenges in securing project funding meant that few could progress to financial close.

**6.30** The NDFA have stated that despite the difficult financing backdrop, detailed discussions on funding of two PPPs (schools bundle 3 and the N11 Arklow-Rathnew/N7 Newlands Cross upgrade) have recently been successfully advanced. Contractual negotiations with the preferred tenderers are now in the final phase with financial close targeted for the last quarter of 2012 for both projects. This confirms the NDFA's view that certain well-defined PPP projects with relatively lower funding requirements retain an interest for the debt and equity funding markets.

**6.31** During 2011, the Department of Public Expenditure and Reform undertook a review of capital investment needs which was followed by the publication, in November 2011, of a Government plan for Exchequer capital investment for the period 2012 to 2016. In addition to setting out the five year programme for Exchequer capital spending, the plan announced that work was underway to develop alternative, non-Exchequer sources of investment for infrastructure, and one of the potential funding channels identified was PPP.

**6.32** The Government announced a capital stimulus package on 17 July 2012. The central feature of the stimulus package was the announcement of phase 1 of a new PPP programme. This sets out the targeted range of PPP projects that the Government now plans to progress in four sectors — education, transport, health and justice — and on which the relevant departments and agencies are working in conjunction with the NDFA. The projects identified will involve an estimated €1.4 billion of investment by non-Exchequer sources. These funding sources include the

- National Pension Reserve Fund, which the Minister for Finance plans to reconstitute as a strategic infrastructure fund
- European Investment Bank
- domestic banks
- other potential sources of private investment.

### *Education Projects*

**6.33** The status of education PPP projects is as set out in Figure 6.3.

**Figure 6.3 Status of Education Projects**

| Project | Current status |
|---|---|
| **School bundle 3:** Comprises eight schools on seven sites - Wexford, Waterford, Galway, Westmeath, Leitrim, Donegal and Limerick | Preferred tenderer stage – financial close expected Q4 2012. |
| **School bundle 4:** Will consist of one primary and five post primary schools on five sites in Clare, Cork, Kildare (2 schools), Louth and Tipperary. | Procurement to commence in 2013. |
| **School bundle 5** | Schools to be included in bundle 5 are being finalised — procurement to commence in 2013. |
| **DIT Grangegorman Campus** | Enabling works to commence in 2013. |

Source: Department of Education and Skills

**6.34** In November 2011, the Dublin Institute of Technology's proposed Grangegorman campus development was postponed although planning was to take place for a PPP project for possible completion in 2017. An Bord Pleanála approved planning permission for the integrated campus in May 2012. The development project has since been identified as a priority project under the July 2012 stimulus package.

**6.35** The Grangegorman site consists of 73 acres which will consolidate the existing DIT accommodation which amounts to approximately 125,000m$^2$ of facilities spread across 39 locations. The project is expected to consist of two main elements – preparatory works on the site and the PPP works. The preparatory works will be funded from direct Exchequer capital resources likely to total around €79 million. (Such preparatory works are usually undertaken outside the scope of the PPP works on value for money grounds).

**6.36** In November 2011, it was announced that three planned bundles of third level education PPP projects would be cancelled. For each of these bundles, the NDFA had procured and provided technical, legal, financial, insurance, and other required services for the PPP process. Total expenditure on these projects was €10.1 million, comprising consultancy costs of €4.4 million and enabling works of €5.7 million.[10] The costs incurred in each of the third level bundles is set out in Figure 6.4 below.

10 Enabling works were conducted for each project to prepare clean, serviced sites for the PPP companies.

**Figure 6.4 Costs of Cancelled Third Level PPP Bundles**

| | | Enabling costs[a] €000 | Consultancy costs[b] €000 |
|---|---|---|---|
| **Bundle 1** | Limerick IT | 144 | 1,980 |
| | University of Limerick | 524 | |
| | Cork IT | 298 | |
| | Dun Laoghaire | 163 | |
| **Bundle 2** | Waterford | 2,915 | 1,599 |
| | IT Tallaght | 1,318 | |
| **Bundle 3** | NUI Maynooth | — | 780 |
| | Carlow IT | 48 | |
| | Galway | 312 | |
| **Total** | | **5,722** | **4,359** |

Source: a Department of Education and Skills
b National Development Finance Agency (excludes VAT)

### *Transport Projects*

**6.37** The status of PPP roads projects in development is summarised in Figure 6.5. Three projects have been in development for some time. A further project was added as part of the July 2012 stimulus package.

**Figure 6.5 Status of Roads Projects, July 2012**

| Projects | | Current status |
|---|---|---|
| ***Existing*** | N11 Arklow-Rathnew and N7 Newlands Cross junction upgrade (one bundle) | Preferred tenderer stage/award of contract due by end 2012 |
| | N17/18 Gort –Tuam | Preferred tenderer stage/award of contract |
| | N11 Gorey-Enniscorthy/N25 New Ross bypass | Tendering to recommence in 2012 |
| ***New*** | N6 Galway City bypass | New project announced July 2012<br>Progression contingent on the outcome of pending legal proceedings |

Source: National Roads Authority

**6.38** Three public transport PPP projects in development over a number of years have been postponed. The status and expenditure to date of each is outlined in Figure 6.6. The status of the projects when they were postponed is reflected in the level of costs incurred. Metro West was postponed at railway order application process stage, Dart Underground at pre-qualification of bidders stage and Metro North at the short listing of bidders stage.

**Figure 6.6 Expenditure on Cancelled Public Transport Projects to end December 2011**

| Expenditure categoy | Metro North | Dart Underground | Metro West |
|---|---|---|---|
| | €000 | €000 | €000 |
| Property acquisition | 25,668 | — | — |
| Design & PPP procurement | 31,673 | 19,921 | 5,328 |
| Enabling works | 51,058 | — | — |
| Legal, financial, commercial and insurance advisors | 20,670 | 4,668 | 37 |
| Railway order application/preparation | 10,477 | 1,435 | 10,173 |
| Oral hearing | 5,510 | — | 918 |
| Other/overheads | 9,418 | 17,086 | 2,079 |
| **Total** | **154,474** | **43,110** | **18,535** |

Source: Department of Transport, Tourism and Sport

**6.39** In the case of Metro North, a total of 13 properties were purchased by the Railway Procurement Agency (RPA) and these properties continue to be held by them. The costs of these properties, including advice and other property related costs, amount to €25.7 million. No lands were purchased in the case of Dart Underground and Metro North.

**6.40** As part of the PPP tender competition for Metro North, it was agreed to compensate the underbidders for their verifiable tendering costs up to a maximum of €1 million each in the event of the PPP procurement process being deferred. The RPA have paid one of the bidders € 1 million in compensation and it is awaiting further information to support the compensation claim of €1 million from the other.

### *Health Projects*

**6.41** The provision of 20 primary care centres, in two bundles of ten, by means of PPP procurement was announced as part of the new PPP programme. The HSE has commenced a site selection process. No expenditure has been incurred to date.

**6.42** The national plan for radiation oncology units was proposed for PPP-based delivery, but is no longer progressing by that route. Costs of €4.1 million have been incurred in developing the PPP project to date. The HSE's draft capital plan for 2012 to 2016 includes provision for financing the plan by traditional means.

### *Justice Projects*

**6.43** The new PPP programme for the justice sector will involve the refurbishment and extension works of existing courthouses at Cork, Mullingar and Waterford with new courthouses being provided at Drogheda, Letterkenny, Limerick and Wexford. Other projects include two new Garda divisional headquarters and a new State pathology laboratory.

## Programme and Project Monitoring

**6.44** Government departments are required to disclose certain information in relation to PPP projects in a note to their appropriation accounts. In addition to overall (unitary) charges incurred on the vote each year, the accounts also include a note stating the capital commitment outstanding at the year end i.e. excluding any future payments for recurrent operating and maintenance costs, or financing costs. There are no fixed requirements on the level of disclosure to be made about PPP projects by other central Government bodies in their financial statements.

**6.45** The Department of Public Expenditure and Reform maintains a website for information on the PPP process in Ireland. Information on this site includes a list of all PPP projects with a capital value over €20 million. The list was intended to summarise the current state of major PPP projects across the public sector but has not been updated since March 2010. There is no central record of PPPs (including those at planning stage or those that were deferred or cancelled) with information on associated costs to date, work undertaken to date and work required to completion.

## Conclusions and Recommendations

**6.46** PPP projects involve State bodies entering into long-term legally binding financial commitments. It is important that these are fully recognised and monitored on an ongoing basis. The total outstanding commitments of central Government departments and agencies in respect of contracted PPP projects at end 2011 is estimated at just over €4 billion. Based on expenditure incurred to end 2011 and the estimated outstanding commitments, the aggregate Exchequer expenditure in respect of the currently contracted PPP projects is projected to be €6.4 billion.

**Recommendation 6.1:** The Department of Public Expenditure and Reform should maintain and publish up to date listings of major projects under contract, or in development. This should indicate the State's expected financial commitment under legally binding PPP contracts. The relevant commitment should be reported in the annual Finance Accounts.

**Accounting Officers' Responses:**

**Department of Public Expenditure and Reform** – The Department has recently completed a review of the PPP website and updated as appropriate the information contained therein. This website now contains an up to date list of major PPP projects under contract, and in development. Details are also published on individual project costs to date and projected total expenditure to project end. The Department is currently reviewing the suite of guidance on PPPs with a view to updating the content where necessary. The Department is working with the Department of Finance to consider how best to include PPP commitments in the annual Finance Accounts.

**Department of Finance** – The Department is happy to include a new statement in the Finance Accounts in regard to expenditure commitments under PPPs. The timely production of the Finance Accounts is dependent on the timely availability of the information included in the supporting statements and adding new disclosures increases risks which may be outside the direct control of the Department. The Department is concerned that the collection of the necessary information may militate against efforts to bring forward the date for completion of the Finance Accounts.

**6.47** Significant costs have been incurred on cancelled PPP projects. Some of this expenditure is sunk cost that has delivered no effective benefit. In other cases, assets have been acquired that may be usable in the future if projects recommence.

**6.48** Appropriate sharing of project risks is a requirement if PPP projects are to deliver value for money. Outturns in some road projects have resulted in additional costs to the State, relative to what was originally projected. Post implementation evaluation of the value for money achieved in major projects is desirable (once projects have 'bedded down') so that lessons can be learned for future projects.

**Recommendation 6.2:** The NRA should re-evaluate the value for money now likely to be achieved under the Limerick Tunnel and the Clonee-Kells projects, with a primary focus on learning lessons about projections of traffic levels and optimum risk sharing. Relevant findings should be incorporated into the structure of the contracts for future planned projects.

**National Roads Authority CEO's Response:** The NRA's project appraisal guidelines provide for post project reviews to be undertaken and the NRA will complete reviews in due course. In relation to risk transfer and specifically the downside traffic risk transfer arrangements, such options are no longer available. The risk transfer mechanism has been effective from a State perspective, but PPP companies are no longer willing to risk the losses they have incurred in previous schemes. On the matter of traffic forecast levels, the impact of the recession has already been addressed in demographic and traffic forecasts.

**6.49** The approach to 'traditional' procurement of capital infrastructure has changed as a result of revised forms of contracts and more recourse to design-build procurement contracts. This has increased the level of price certainty on capital procurements.

**6.50** VFM appraisals are carried out for all proposed major public investments and a PPP cannot proceed unless it is found likely to deliver better value than traditional procurement. However, few value for money reviews of PPP projects have been published. Publication of value for money assessments (including situations where projects have been cancelled) would help to improve public understanding of the factors that influence the achievement of value for money in public investment projects.

**Recommendation 6.3:** Evaluations of the value for money expected to be achieved through procurement of projects by means of PPP should be published.

**Department of Public Expenditure and Reform's Response:** The Department has some concerns regarding the publication of information which may be commercially sensitive and which may have implications for the State's negotiating position for future similar projects.

# Annex A Types of PPP Arrangements

Typically, a PPP project involves a formal contract between a Government agency and a private partner, where the latter undertakes to deliver specified facilities and/or services over the life of the contract. This is usually 25 to 30 years, although some contracts in the roads sector may be up to 45 years in duration. Project risks, which are a feature of all long-term projects, are allocated between the public and private sector partners, depending on which partner is in the best position to manage them. Under the PPP process, the State retains ownership of the assets throughout the contract period. At the end of the contract period, the sponsoring Government agency assumes responsibility for the ongoing maintenance and operation of the assets.

The structure put in place to compensate the private sector partner for developing the assets and delivering the required services varies, with different implications in terms of the financial commitments involved for the sponsoring public bodies. In many cases, the public sponsors of the project take on contractual commitments to make regular payments to the private sector partner over the life of the project. In other cases, projects are designed on a concession basis, whereby the private sector partner receives some or all of the compensation in the form of charges imposed on the users of the service.

### *Unitary Payment Projects*

This is where the sponsoring public agency makes regular payments (monthly, quarterly or annually) over the term of the contract to the private sector partner, subject to satisfactory performance in providing agreed facilities to the required standard. Typically, part of this unitary (or all-in) payment amount is fixed over the life of the contract, with the remainder varying in line with price fluctuations (usually the Consumer Price Index). The split between the fixed and variable elements varies from project to project. Deductions are made to the unitary payment for non-performance and/or unavailability of the project.

### *Up-front Capital Payment Projects*

In the water and wastewater sector, many PPP projects are procured on a design, build, operate and maintain (DBOM) basis. In these cases, the Exchequer provides up-front capital funding (as with traditional procurement), so there are no capital or financing costs to be paid back over the life of the project. Annual operating costs (paid by the relevant local authorities) are typically based on the volume of waste water arriving for treatment or the volume of drinking water produced.

### *Concession Projects*

In concession projects, the users of the service pay fees to the private sector partner e.g. motorists using toll roads. The State may pay a contribution towards the capital costs of providing the infrastructure, and may also pay operating subventions during the contract period. Where user payments exceed projected levels, there may be scope for the additional income to be shared between the public and private sector partners.

### *Asset-based Schemes*

In this kind of project, the public sector contribution to the project includes provision of an asset (usually land), with the private partner developing the asset e.g. social/affordable/private housing projects. Ultimately, much of the funding for this kind of project depends on sales or rentals on the open property market, and the ongoing difficulties in the property market have made many proposed developments unviable. Such projects are usually of shorter duration (five to seven years) than concession or unitary payment projects.

# Annex B Expenditure up to end 2011 and outstanding commitments on large PPP project contracts, by public sector agency and by project

The table lists the individual projects reported by the respective department or agency. Only commitments and expenditure in relation to projects which have an estimated capital development value of €20 million or more are included.

A summary outline of the individual projects contracted up to the end of 2008 was included in the Comptroller and Auditor General's Report on the Accounts of the Public Services 2008 (pages 29 to 34). Summary outlines of other projects were included in the Report on the year of contract.

### *Inflation*

The commitment amounts are projected based on the assumption that inflation will average 2% a year over the remaining life of each project. All amounts include VAT (unless otherwise stated).

### *Scope of PPP projects*

The private sector elements contributed to each project are indicated as follows

**D Design** of service/infrastructure

**B Build**/construct/extend/renovate capital assets

**F** Provide **finance** (e.g. provide/secure private equity and borrowing; collect user charges)

**O Operate** assets (e.g. facilities management; employment of services staff)

**M Maintain** assets over contract life.

## Figure 6.7 Expenditure and Commitments under PPP Contracts at end 2011

| Sponsoring authority/project name | Scope of project | Key project dates | | | Expenditure | | | |
|---|---|---|---|---|---|---|---|---|
| | | Contract signed | Service commencement | Contract end | Pre 2011 | 2011 | Future commitments | Projected total expenditure |
| **Department of Education and Skills** | | | | | | | | |
| Pilot PPP Schools Bundle | DBFM | November 2001 | 2002 | 2027 | 96.6 | 10.7 | 177.7 | 285.0 |
| Maritime College | DBFM | February 2003 | 2004 | 2029 | 62.9 | 8.6 | 127.7 | 199.2 |
| Cork School of Music | DBFM | September 2005 | 2007 | 2032 | 36.4 | 7.9 | 185.9 | 230.2 |
| First bundle PPP schools | DBFM | March 2009 | 2010 | 2035 | 10.2 | 8.1 | 248.7 | 267.0 |
| Second bundle PPP schools | DBFM | June 2010 | 2011 | 2036 | - | 13.9 | 338.4 | 352.3 |
| **Courts Service** | | | | | | | | |
| The Criminal Courts of Justice | DBFOM | October 2007 | 2009 | 2035 | 38.9 | 19.5 | 567 | 625.4 |
| **Department of Transport, Tourism and Sport/Office of Public Works** | | | | | | | | |
| National Conference Centre [a] | DBFOM | April 2007 | 2010 | 2035 | 41.0 | 54.2 | 658.1 | 753.3 |
| **National Roads Authority [b]** | | | | | | | | |
| Kilcock/Kinnegad [c] | Concession | March 2003 | 2005 | 2033 | 171.2 | 0.8 | 7.3 | 179.3 |
| Dundalk Western Bypass [c] | Concession | February 2004 | 2004 | 2034 | 2.6 | 0.2 | 3.8 | 6.6 |
| Rathcormack/Fermoy [c] | Concession | June 2004 | 2006 | 2034 | 103.5 | 5.9 | 40.6 | 150.0 |
| Waterford City Bypass [c] | Concession | April 2006 | 2010 | 2036 | 110.8 | 7.8 | 82.0 | 200.6 |
| Limerick Tunnel [cd] | Concession | August 2006 | 2010 | 2041 | 185.5 | 12.3 | 59.3 | 257.1 |
| Clonee/Kells [cd] | Concession | April 2007 | 2010 | 2052 | 311.6 | 23.0 | 379.8 | 714.4 |
| Galway/Ballinasloe [c] | Concession | April 2007 | 2010 | 2037 | 72.0 | 111.1 | 193.4 | 376.5 |

| Sponsoring authority/project name | Scope of project | Key project dates | | | Expenditure | | | |
|---|---|---|---|---|---|---|---|---|
| | | Contract signed | Service commencement | Contract end | Pre 2011 | 2011 | Future commitments | Projected total expenditure |
| Portlaoise/Cullahill [c] | Concession | June 2007 | 2010 | 2037 | 46.3 | 6.3 | 32.9 | 85.5 |
| M50 Upgrade [de] | DBFOM | September 2007 | 2007 | 2042 | 42.0 | 24.0 | 889.4 | 955.4 |
| Motorway Service Areas [c] | Concession | October 2009 | 2010 | 2034 | 25.9 | 21.2 | — | 47.1 |
| **Department of Environment, Community and Local Government**[f] | | | | | | | | |
| ***Waste water treatment plants*** | | | | | | | | |
| Dublin Bay[g] | DBOM | March 2001 | 2003 | 2024 | 220.3 | 7.6 | — | 232.6 |
| Wexford | DBOM | July 1999 | 2004 | 2026 | 18.4 | — | — | 18.4 |
| Cork | DBOM | December 2001 | 2004 | 2027 | 68.1 | — | — | 68.1 |
| Balbriggan/Skerries | DBOM | September 2004 | 2006 | 2028 | 19.0 | 1.6 | — | 20.6 |
| South Tipperary | DBOM | March 2003 | 2007 | 2029 | 13.4 | — | — | 13.4 |
| Dungarvan | DBOM | April 2004 | 2007 | 2029 | 12.2 | — | — | 12.2 |
| Sligo | DBOM | September 2006 | 2008 | 2030 | 17.0 | — | — | 17.0 |
| Donegal | DBOM | June 2006 | 2008 | 2030 | 25.2 | — | — | 25.2 |
| Waterford | DBOM | September 2006 | 2011 | 2031 | 22.5 | 3.0 | 0.6 | 26.1 |
| Portlaoise | DBOM | December 2006 | 2009 | 2031 | 20.1 | — | — | 20.1 |
| Meath Villages[g] | DBOM | October 2007 | 2010 | 2032 | 23.1 | — | — | 25.5 |
| Mullingar | DBOM | April 2008 | 2010 | 2032 | 16.5 | — | — | 16.5 |
| Castlebar | DBOM | September 2008 | 2010 | 2032 | 11.4 | — | — | 11.4 |
| Bray/Shanganagh | DBOM | September 2008 | 2011 | 2031 | 55.3 | 1.1 | — | 56.4 |
| Wicklow | DBOM | September 2007 | 2009 | 2031 | 14.4 | — | — | 14.4 |
| Portrane/Donabate/Rush/Lusk | DBOM | February 2010 | 2012 | 2032 | 16.8 | 10.4 | 7.0 | 34.2 |

| Sponsoring authority/project name | Scope of project | Key project dates | | | Expenditure | | | |
|---|---|---|---|---|---|---|---|---|
| | | Contract signed | Service commencement | Contract end | Pre 2011 | 2011 | Future commitments | Projected total expenditure |
| Tullamore | DBOM | April 2010 | 2012 | 2032 | 4.8 | 10.3 | 0.6 | 15.7 |
| Letterkenny | DBOM | February 2011 | 2013 | 2033 | — | 13.7 | 11.5 | 25.2 |
| ***Water treatment services*** | | | | | | | | |
| Clareville | DBOM | December 2006 | 2010 | 2030 | 16.7 | — | — | 16.7 |
| Barrow Abstraction-Srowland | DBOM | April 2011 | 2013 | 2033 | 0.0 | 6.7 | 17.3 | 24.0 |

Source: Listed departments/sponsoring agency provided information

Notes:
a Pre 2011 and 2011 expenditure figures include VAT and rates. Future commitments include unitary charge only.
b Excludes VAT.
c The Authority benefits from a share of revenue from these schemes. This share of revenue is dependent on traffic and sales volumes on the various schemes and is payable throughout the concession period.
d Clonee/Kells and Limerick Tunnel provide for the NRA to make payments if traffic levels fall under specified levels. Expenditures to date include such payments. Traffic-related payments are not included in the future commitments.
e The M50 is tolled between Junctions 6 and 7. The revenue arising from the M50 tolling accrues to the Authority.
f Expenditure/commitments exclude those of local authorities.
g The Department has not indicated future commitments in respect of these projects. Funding is under examination in the context of the final accounts. The projected total expenditure column shows the currently approved grants.

# Part 2  Revenue

# 7 Audit of Revenue 2011

**7.1** Under the Comptroller and Auditor General (Amendment) Act 1993 (the Act), the Revenue Commissioners are required to prepare accounts of the receipt by them of revenue of the State. The Act also requires that the accounts are examined by the Comptroller and Auditor General to confirm they are complete and accurate.

**7.2** I form an opinion on the completeness and accuracy of the revenue account on the basis of the examination and testing carried out by my Office on the various receipting, repayment and accounting systems within Revenue. I also take assurance from examinations of Revenue's collection systems, which are carried out on a cyclical basis.

**7.3** I have given a clear report on the revenue account for 2011.

**7.4** The account of revenue for 2011 is attached to this chapter. Chapter 8 provides an overview of the outturn for the year.

## Revenue Collection Systems

**7.5** Under Section 3(7) of the Act, I carry out further examinations in order

- to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenue of the State
- to satisfy myself that the manner in which the systems, procedures and practices are being employed and applied is adequate.

**7.6** On a cyclical basis, I examine Revenue's systems for the assessment and collection of tax. I report on any general matters arising out of my systems examinations that I consider merit consideration by the Committee of Public Accounts of Dáil Éireann.

**7.7** The results of examinations carried out in 2011 are reported in Chapters 8 to 11.

## Presentation of Accounts

**7.8** The Act does not explicitly provide for the presentation of the revenue account to Dáil Éireann, either by the Revenue Commissioners or by the Comptroller and Auditor General.

**7.9** In the absence of a statutory basis for presentation and publication of the revenue account, it has been included as part of the report of the Comptroller and Auditor General on the accounts of the public services for a number of years. In my opinion, it would be more appropriate for the Revenue Commissioners to present the account, following completion of the audit.

> **Recommendation 7.1:** Notwithstanding the absence of a statutory requirement to do so, the Revenue Commissioners should undertake to present the revenue account to Dáil Éireann each year, together with the certificate of the Comptroller and Auditor General.
>
> **Accounting Officer's Response:** Agreed

# Receipt of Revenue of the State 2011

# Receipt of Revenue of the State 2011

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## Statement by Accounting Officer on Internal Financial Controls

### *Responsibility for System of Internal Financial Control*

As Accounting Officer I acknowledge my responsibility for ensuring that an effective system of internal financial control is maintained and operated by the Office. This responsibility is exercised in the context of the resources available to me and my other obligations as Head of Office. Also, any system of internal financial control can provide only reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely manner. Maintaining the system of internal financial controls is a continuous process and the system and its effectiveness are kept under ongoing review.

The position in regard to the financial control environment, the framework of administrative procedures, management reporting and internal audit is as follows:

### *Financial Control Environment*

I confirm that a control environment containing the following elements is in place:

- financial responsibilities have been assigned at management level with corresponding accountability
- reporting arrangements have been established at all levels where responsibility for financial management has been assigned
- formal procedures have been established for reporting significant control failures and ensuring appropriate corrective action
- there is an Audit Committee to advise me in discharging my responsibilities for the internal financial control system.

### *Administrative Controls and Management Reporting*

I confirm that the framework of administrative procedures and regular management reporting is in place including segregation of duties and a system of delegation and accountability and, in particular that

- there are regular reviews by senior management of periodic and annual financial reports which indicate financial performance against forecasts
- a risk management system operates within the Office
- there are systems aimed at ensuring the security of the ICT systems.

### *Internal Audit*

I confirm that the Office has an internal audit function with appropriately trained personnel, which operates in accordance with a written charter which I have approved. Its work is informed by analysis of the financial risks to which the Office is exposed and its annual internal audit plans, approved by me, are based on this analysis. These plans aim to cover the key controls on a rolling basis over a reasonable period. The internal audit function is reviewed periodically by me and the Audit Committee. I have put procedures in place to ensure that the reports of the internal audit function are followed up.

***Josephine Feehily***
***Accounting Officer***
***Office of the Revenue Commissioners***
***28 February 2012***

## Comptroller and Auditor General

## Report for presentation to the Houses of the Oireachtas

# Account of the receipt of revenue of the State collected by the Revenue Commissioners

I have examined the financial statements relating to the receipt and disposal of revenue of the State collected by the Revenue Commissioners during the year 2011 under Section 3(7) of the Comptroller and Auditor General (Amendment) Act 1993.

The financial statements, which have been prepared under the accounting policies stated therein, comprise the accounting policies, the account of the receipt of revenue of the State collected by the Revenue Commissioners and the related notes.

**Responsibilities of the Revenue Commissioners**

The Revenue Commissioners are responsible for preparing the financial statements and for ensuring the regularity of transactions.

**Responsibilities of the Comptroller and Auditor General**

My responsibility is to examine the financial statements in accordance with the relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements are properly presented in accordance with the accounting policies. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my examination.

**Basis of Opinion**

In the exercise of my function as Comptroller and Auditor General, I conducted my examination of the financial statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board and by reference to the special considerations that attached to State bodies in relation to their management and operation.

My examination was conducted on a test basis that reviewed evidence relevant to the amounts, disclosures and regularity of the financial transactions included in the financial statements. It also included an assessment of the significant estimates and judgements made in the preparation of the financial statements, and of whether the accounting policies were appropriate, consistently applied and adequately disclosed.

I planned my examination so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion, I also evaluated the overall adequacy of the presentation of information in the financial statements.

**Opinion**

In my opinion, the financial statements properly present the receipt and disposal of the revenue collected for the year ended 31 December 2011 and the residual balances at that date.

In my opinion, proper books of account have been kept by the Revenue Commissioners. The financial statements are in agreement with them.

**Seamus McCarthy**
**Comptroller and Auditor General**

**15 September 2012**

## Accounting Policies

**1.** This Account presents the collection and allocation of taxes and duties by the Revenue Commissioners, and the transfer of the proceeds to the Exchequer. The Account has been prepared pursuant to Section 3(9) of the Comptroller and Auditor General (Amendment) Act 1993.

**2.** No charge is included in this Account for the administration or operational costs of the Office of the Revenue Commissioners. Funds for this purpose are voted by the Oireachtas and accounted for in the annual Appropriation Account for Vote 9 - Office of the Revenue Commissioners.

**3.** Amounts received in respect of penalties and interest imposed by the Revenue Commissioners are brought to account with the related tax and duty settlements. Court fines and penalties are brought to account as appropriations-in-aid of Vote 9.

**4.** The Account also presents the receipts collected by the Revenue Commissioners for other Government departments and agencies as follows:

- Department of Social Protection (PRSI contributions and Health Levy)
- Health Service Executive (Tobacco Levy)
- Department of Environment, Community and Local Government (Environmental Levy on plastic bags)
- Department of Jobs, Enterprise and Innovation (Employment and Training Levy)
- Commissioners of Irish Lights (Light Dues)
- Department of Finance (Fee Stamps in respect of Registry of Deeds, Arbitration Fees, Companies' Registration Fees and Nursing Home Support Scheme payments).

**5.** A charge is levied by the Revenue Commissioners for the collection of PRSI contributions, the Environmental Levy on plastic bags, Light Dues and Nursing Home Support Scheme payments. A charge is also levied by the Commissioners on customers who opt to pay their tax liabilities by credit card. Amounts received in respect of those charges are not included in this Account but are accounted for as appropriations-in-aid of Vote 9.

**6.** The Account has been prepared on a cash basis in accordance with the principles of Government accounting. The Account shows the actual amounts received and paid in the year. Where further amounts of taxes, duties, etc. are received in subsequent years or where amounts received in the current or earlier years are repaid, such items are recorded in the year of receipt or repayment.

**7.** The gross receipts and repayment figures for each taxhead include offsets i.e. cases where the repayment is not directly paid to the taxpayer but offset against other outstanding taxes.

# Account of the Receipt and Disposal of Revenue Collected 2011

| | Notes | 2011<br>€000 | 2010<br>€000 |
|---|---|---|---|
| **Gross Receipts** | | | |
| Taxes and duties collected | 1 | 40,490,231 | 38,338,924 |
| Receipts collected on behalf of other departments/agencies | 2 | 7,937,133 | 9,220,222 |
| **Total gross receipts of revenue collected** | | **48,427,364** | **47,559,146** |
| **Repayments** | | | |
| Repayment of taxes and duties | 3 | (6,269,477) | (6,420,498) |
| Repayment of receipts collected on behalf of other departments/agencies | 4 | (58,157) | (86,190) |
| **Total repayments** | | **(6,327,634)** | **(6,506,688)** |
| **Net Receipts** | | | |
| Taxes and duties collected | 5 | 34,220,754 | 31,918,426 |
| Receipts collected on behalf of other departments/agencies | 7 | 7,878,976 | 9,134,032 |
| **Total net receipts of revenue collected** | | **42,099,730** | **41,052,458** |
| **Disposal of Net Receipts** | | | |
| Taxes and duties transferred to the Exchequer | 6 | (34,026,878) | (31,752,074) |
| Transfer of Tobacco Levy to Health Service Executive | 6 | (167,605) | (167,605) |
| Transfer of receipts to other departments/agencies | 7 | (7,887,340) | (9,141,581) |
| **Total disposal of receipts of revenue collected** | | **(42,081,823)** | **(41,061,260)** |
| Net receipts retained at year end | | 17,907 | (8,802) |
| Opening balance on the account of receipt and disposal of revenue at 1 January | | (129,060) | (120,258) |
| **Closing balance on the account of receipt and disposal of revenue at 31 December** | | **(111,153)** | **(129,060)** |

The Accounting Policies and Notes 1 to 13 form part of this Account.

William Funnell
Accountant General
Office of the Revenue Commissioners

28 February 2012

Josephine Feehily
Accounting Officer
Office of the Revenue Commissioners

28 February 2012

# Statement of Balances at 31 December 2011

| | Notes | 2011 €000 | 2010 €000 |
|---|---|---|---|
| **Assets** | | | |
| Cash at bank and in hand | 8 | 289,521 | 56,255 |
| Accrued income | 9 | — | 16 |
| Advances for revenue purposes | 10 | 17 | 56 |
| Amounts due from Government departments | 11 | 282 | 609 |
| **Total assets** | | **289,820** | **56,936** |
| **Liabilities** | | | |
| Amounts awaiting receipting and allocation | 12 | (290,131) | (42,132) |
| Deposits held | 13 | (110,842) | (143,864) |
| **Total liabilities** | | **(400,973)** | **(185,996)** |
| **Net liabilities** | | **(111,153)** | **(129,060)** |
| ***Represented by:*** | | | |
| **Closing balance on the account of receipt and disposal of revenue** | | | |
| Balance of taxes and duties owing from the Exchequer | 6 | (106,628) | (132,899) |
| Balance of receipts collected and due (from)/to other departments/agencies | 7 | (4,525) | 3,839 |
| | | **(111,153)** | **(129,060)** |

The accounting policies and notes 1 to 13 form part of this account.

William Funnell
Accountant General
Office of the Revenue Commissioners

28 February 2012

Josephine Feehily
Accounting Officer
Office of the Revenue Commissioners

28 February 2012

# Notes to the Account

## Note 1 Gross Taxes and Duties collected

| | 2011 | 2010 |
|---|---|---|
| | €000 | €000 |
| Income Tax | 16,411,501 | 13,945,794 |
| Value Added Tax | 12,356,164 | 12,743,817 |
| Excise Duty | 4,924,991 | 4,888,819 |
| Corporation Tax | 4,448,689 | 4,919,889 |
| Stamp Duties | 1,400,848 | 984,791 |
| Capital Gains Tax | 453,722 | 383,240 |
| Capital Acquisitions Tax | 253,582 | 242,675 |
| Customs Duty | 240,734 | 229,899 |
| | **40,490,231** | **38,338,924** |

## Note 2 Gross Receipts collected on behalf of other Departments/Agencies

| | 2011 | 2010 |
|---|---|---|
| | €000 | €000 |
| Department of Social Protection (DSP) | 7,915,090 | 9,008,403 |
| Health Service Executive (HSE) | —[1] | 187,793 |
| Department of Environment, Community and Local Government | 16,026 | 19,218 |
| Commissioners of Irish Lights | 4,308 | 4,284 |
| Department of Jobs, Enterprise and Innovation | 270 | 523 |
| Department of Finance (Miscellaneous Revenue and Nursing Home Support Scheme) | 1,439 | 1 |
| | **7,937,133** | **9,220,222** |

[1] With effect from 1 January 2011 all Health Levy receipts are payable to DSP instead of HSE.

### Note 3 Repayment of Taxes and Duties

| | 2011 | 2010 |
|---|---|---|
| | €000 | €000 |
| Value Added Tax | (2,603,611) | (2,641,300) |
| Income Tax | (2,597,387) | (2,680,217) |
| Corporation Tax | (948,312) | (976,302) |
| Excise Duty | (53,178) | (54,211) |
| Capital Gains Tax | (37,631) | (38,118) |
| Stamp Duties | (18,196) | (23,206) |
| Capital Acquisitions Tax | (10,369) | (6,170) |
| Customs Duty | (793) | (974) |
| | **(6,269,477)** | **(6,420,498)** |

### Note 4 Repayment of Receipts collected on behalf of other Departments/Agencies

| | 2011 | 2010 |
|---|---|---|
| **Department** | **€000** | **€000** |
| Social Protection | 58,145 | 86,184 |
| Environment, Community and Local Government | 10 | 6 |
| Finance (Miscellaneous Revenue and Nursing Home Support Scheme) | 2 | — |
| | **58,157** | **86,190** |

### Note 5 Net Receipts of Taxes and Duties

| | Gross Receipts | Repayments | Net Receipts | Net Receipts |
|---|---|---|---|---|
| | 2011 | 2011 | 2011 | 2010 |
| | €000 | €000 | €000 | €000 |
| Income Tax | 16,411,501 | (2,597,387) | 13,814,114 | 11,265,577 |
| Value Added Tax | 12,356,164 | (2,603,611) | 9,752,553 | 10,102,517 |
| Excise Duty | 4,924,991 | (53,178) | 4,871,813 | 4,834,608 |
| Corporation Tax | 4,448,689 | (948,312) | 3,500,377 | 3,943,587 |
| Stamp Duties | 1,400,848 | (18,196) | 1,382,652 | 961,585 |
| Capital Gains Tax | 453,722 | (37,631) | 416,091 | 345,122 |
| Capital Acquisitions Tax | 253,582 | (10,369) | 243,213 | 236,505 |
| Customs Duty | 240,734 | (793) | 239,941 | 228,925 |
| | **40,490,231** | **(6,269,477)** | **34,220,754** | **31,918,426** |

### Note 6 Taxes and Duties Transferred to the Exchequer

| | Balance at 1 January 2011 | Net Receipts | Total Transfers | Balance at 31 December 2011 |
|---|---|---|---|---|
| | **€000** | **€000** | **€000** | **€000** |
| Income Tax | (13,052) | 13,814,114 | (13,797,532) | 3,530 |
| Value Added Tax | 1,978 | 9,752,553 | (9,740,525) | 14,006 |
| Excise Duty | (149,005) | 4,871,813 | (4,845,205)[1] | (122,397) |
| Corporation Tax | 15,984 | 3,500,377 | (3,520,193) | (3,832) |
| Stamp Duties | 8,681 | 1,382,652 | (1,391,289) | 44 |
| Capital Gains Tax | 584 | 416,091 | (415,974) | 701 |
| Capital Acquisitions Tax | 572 | 243,213 | (243,507) | 278 |
| Customs Duty | 1,359 | 239,941 | (240,258) | 1,042 |
| | **(132,899)** | **34,220,754** | **(34,194,483)** | **(106,628)** |

[1] The amount of €4,845,205,000 includes €167,605,000 which was paid from the proceeds of Tobacco Excise Receipts to the Health Service Executive under Section 3 of the Appropriation Act 1999 as amended by the Appropriation Act 2005.

### Note 7 Transfer of Receipts to other Departments/Agencies

| | Balance at 1 January 2011 | Net Receipts | Total Transfers | Balance at 31 December 2011 |
|---|---|---|---|---|
| | **€000** | **€000** | **€000** | **€000** |
| Department of Social Protection (DSP) | 3,527[1] | 7,856,945 | (7,865,289) | (4,817) |
| Department of Environment, Community and Local Government | 162 | 16,016 | (15,976) | 202 |
| Commissioners of Irish Lights | 86 | 4,308 | (4,328) | 66 |
| Department of Jobs, Enterprise and Innovation | 63 | 270 | (311) | 22 |
| Department of Finance (Miscellaneous Revenue and Nursing Home Support Scheme) | 1 | 1,437 | (1,436) | 2 |
| | **3,839** | **7,878,976** | **(7,887,340)** | **(4,525)** |

[1] The amount shown of €3,527,039 includes €1,607,028 owing to the HSE at 1 January 2011.

### Note 8 Cash at Bank and in Hand

| | 2011 | 2010 |
|---|---|---|
| | **€000** | **€000** |
| Balance in revenue accounts at Central Bank | 17,888 | 9,990 |
| Cash in hand | 271,633 | 46,265 |
| | **289,521** | **56,255** |

Cash at bank and in hand represents amounts held in Revenue bank accounts pending completion of processing through Revenue's accounting systems. The 2010 comparative figures have been restated to reflect a more accurate allocation of these amounts.

### Note 9 Accrued Income

Accrued income represents amounts due to Revenue in the year of account for which payment was received after the year-end.

### Note 10 Advances for Revenue Purposes

Advances for revenue purposes arose due to the operation of a local accounting procedure in districts for Customs and Excise Duties whereby a shortfall in the collection of monies arising from items such as an unpaid cheque was temporarily met through the mechanism of an 'advance' drawn on a Revenue account. The advance was cleared when payment was received subsequently from the trader. This practice no longer exists. The balances remaining in the Account date back to 2007 and are currently subject to legal proceedings.

### Note 11 Amounts due from Government Departments

Where a liability arises as a result of the importation of goods by Government departments, the goods are released without immediate payment of duties or taxes and the Department is subsequently charged for the amount due.

### Note 12 Amounts Awaiting Receipting and Allocation

| | 2011 | 2010 |
|---|---|---|
| | **€000** | **€000** |
| Unallocated Tax Deposits | (22,968)[1] | (17,177) |
| Tax receipts awaiting transfer and allocation | (267,125) | (41,368) |
| Miscellaneous | (38) | 16,413 |
| | **(290,131)** | **(42,132)** |

[1] Unallocated Tax Deposits (UTD) comprise mainly of payments made on account during tax audits and audit settlements for which accounting instructions have not been completed. Consequently, the payments cannot be allocated to the appropriate taxheads and are held by Revenue in a UTD account in the Central Bank.

### Note 13 Deposits Held

| | 2011 | 2010 |
|---|---|---|
| | €000 | €000 |
| Deposits held under Criminal Justice Act 1994 | (4,102) | (4,638) |
| Customs and Excise Collectors | (883) | (973) |
| Automated Entry Processing system Deposits | (105,857) | (138,253) |
| | **(110,842)** | **(143,864)** |

Deposits held under Criminal Justice Act 1994 relate to money seized under the Act and held on deposit pending court proceedings. The 2010 comparative figure for Customs and Excise Collectors has been restated to reflect these deposits. All other deposits represent amounts paid by taxpayers for Customs and Excise liabilities falling due after 31 December and brought to account when the appropriate return is filed. These deposits have been surrendered to the Exchequer at 31 December as part of Customs and Excise Duty transfers in Note 6.

# 8 Revenue Outturn 2011

**8.1** Revenue's primary function is the collection of taxes for central government. These amounts are collected and paid into the Exchequer account of the Central Fund. Revenue has also been assigned responsibility for the collection of a range of duties and levies which are payable to other departments and agencies, including Pay Related Social Insurance (PRSI) which is paid into the Social Insurance Fund.

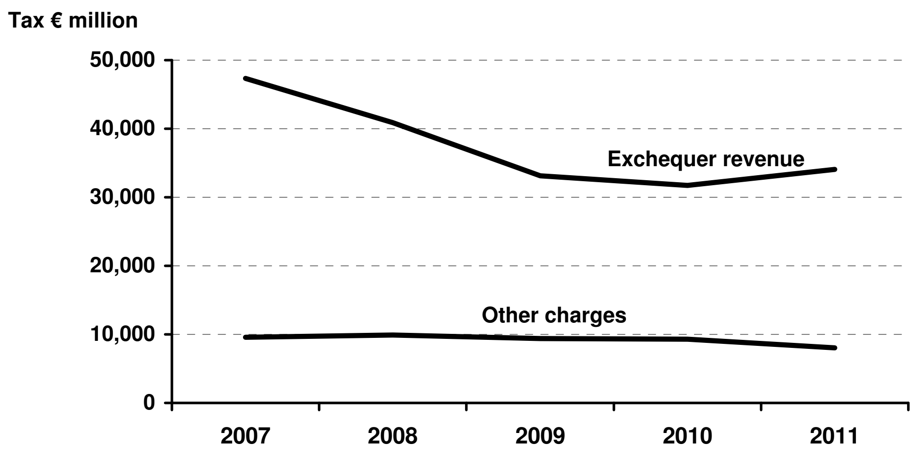
**8.2** Revenue is responsible for ensuring that taxable persons register for tax purposes, submit accurate tax returns and pay all taxes and duties as they become due. Repayments of tax are also a feature of the collection system. For example VAT is repaid to a trader where, in a particular VAT period, the VAT arising on purchases from suppliers exceeds the VAT charged on sales to customers. Refunds are also issued where preliminary tax paid exceeds the total tax payable or the taxpayer is entitled to tax reliefs or allowances not claimed at the time the tax return was made.

**8.3** This chapter examines key trends in the amounts collected between 2007 and 2011.

## Revenue Collected

**8.4** Figure 8.1 summarises the total amounts collected between 2007 and 2011 broken down between taxes collected for transfer to central government and charges payable to other departments and funds.

**Figure 8.1 Exchequer Revenue and Other Charges 2007 to 2011**




Source: Accounts of the Receipt of Revenue of the State 2007 to 2011

**8.5** Between 2007 and 2010, the total collected by Revenue decreased each year. However, in 2011, the total collected increased by €1 billion – an increase of 2.6% over 2010. In the main, this (net) increase is accounted for by the introduction of the Universal Social Charge and the levy on pension schemes, offset by decreases in receipts from Corporation Tax and VAT.

**8.6** The total tax collected and subsequently transferred to the Exchequer as well as amounts collected on behalf of other agencies for the years 2007 to 2011 are summarised in Figure 8.2.

**Figure 8.2 Collection and Repayment of Revenue 2007 to 2011**

| | 2007 €m | 2008 €m | 2009 €m | 2010 €m | 2011 €m | *Change 2010 to 2011* |
|---|---|---|---|---|---|---|
| **Gross amount collected** | 66,148 | 60,061 | 50,744 | 47,559 | 48,427 | *+1.8%* |
| Repayments of taxes and duties | (9,137) | (9,178) | (8,148) | (6,420) | (6,269) | *-2.4%* |
| Repayments of other charges | (75) | (71) | (82) | (86) | (58) | *-32.5%* |
| **Net amount collected** | **56,936** | **50,812** | **42,514** | **41,053** | **42,100** | ***+2.6%*** |
| Of which: | | | | | | |
| Income Tax | 13,582 | 13,195 | 11,839 | 11,265 | 13,814 | *+22.6%* |
| Value Added Tax | 14,519 | 13,432 | 10,638 | 10,102 | 9,752 | *-3.5%* |
| Excise | 5,835 | 5,432 | 4,734 | 4,667 | 4,704 | *+0.8%* |
| Corporation Tax | 6,393 | 5,071 | 3,890 | 3,944 | 3,500 | *-11.2%* |
| Stamp duties | 3,244 | 1,763 | 1,001 | 962 | 1,383 | *+43.8%* |
| Capital Gains Tax | 3,097 | 1,424 | 544 | 345 | 416 | *+20.6%* |
| Capital Acquisitions Tax | 391 | 343 | 256 | 237 | 244 | *+3.0%* |
| Custom duties | 273 | 245 | 208 | 229 | 240 | *+4.8%* |
| **Exchequer revenue** | **47,334** | **40,905** | **33,110** | **31,751** | **34,053** | ***+7.3%*** |
| Pay Related Social Insurance | 9,404 | 9,707 | 9,207 | 9,110 | 7,857 | *-13.8%* |
| Tobacco Levy[a] | 168 | 168 | 168 | 168 | 168 | — |
| Environmental Levy | 22 | 26 | 24 | 19 | 16 | *-15.8%* |
| Other | 8 | 6 | 5 | 5 | 6 | *+20.0%* |
| **Other charges** | **9,602** | **9,907** | **9,404** | **9,302** | **8,047** | ***-13.5%*** |

Source: Account of the Receipt of Revenue of the State 2007 to 2011

Note: a Section 3 of the Appropriation Act 1999 (as amended) provides that each year an amount determined by the Minister for Finance shall be paid to the Health Service Executive from the proceeds of Tobacco Excise.

### *Universal Social Charge*

**8.7** Income Tax receipts increased by a net €2.5 billion in 2011 when compared to 2010. These increases were due to

- the collection in 2011 of €3.1 billion in respect of the Universal Social Charge, which was introduced with effect from 1 January 2011
- an offsetting reduction due to the abolition of the income levy (Revenue collected €1.45 billion of income levy in 2010)
- other increases arising mainly as a result of reductions in tax credits and a lowering of tax bands.

**8.8** The Universal Social Charge, is payable if an individual's income exceeds €10,036 per year.[1] The rates are 2% in relation to the first €10,036, 4% on the next €5,980 and 7% on the balance. These rates are modified in certain circumstances in relation to individuals aged 70 or over or those that hold a full medical card. The Universal Social Charge replaced both the income levy and the health levy (also known as the health contribution).[2]

**8.9** The amount of PRSI collected by Revenue on behalf of the Department of Social Protection decreased by a net €1.3 billion between 2010 and 2011. This reduction arose as a result of the combined impact of

- a reduction in amounts collected due to the abolition of the heath levy – Revenue had previously collected the health levy as part of PRSI and these amounts were paid over to the Department of Social Protection as a composite amount (in 2010, the Social Insurance Fund received €1.9 billion in respect of the health levy)[3]
- increases due to changes in PRSI rules and rates announced in Budget 2011 – the changes included the abolition of the annual earnings ceiling and an increase of the rate for self employed persons – from 3% to 4%.

### *Levy on Pension Schemes*

**8.10** Stamp duty receipts increased by a net €421 million in 2011. This included €463 million arising as a result of a levy on pension schemes. A stamp duty levy of 0.6% of the value of assets under the management of pension schemes was introduced in 2011.

**8.11** The levy will operate for each year 2011 to 2014 with a view to raising €470 million per year to fund the various measures set out in the Jobs Initiative.

### *Changes in Other Taxes*

**8.12** In 2011, receipts of Corporation Tax were €444 million (11%) lower than in 2010. Revenue noted that €251 million in Corporation Tax payments – equivalent to 7% of the receipts in 2011 – were received into one of Revenue's commercial bank accounts on 28 December 2011 but were not available for transfer to the Exchequer until early January 2012. As a result, those receipts will be reported in the 2012 account.

**8.13** Receipts from VAT fell by €350 million (3.5%). Some of the reduction may be due to the decrease of the VAT rate for certain goods and services mainly related to the hospitality industry, which was reduced from 13.5% to 9% in July 2011.

**8.14** The remainder of the increase in other taxes and duties including Capital Gains Tax and Excise duties accounted for €126 million.

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1 Effective from 1 January 2012. In 2011, the Universal Social Charge was payable where an individual's total income exceeded €4,004.

2 The income levy was applied at a rate of 2% on income up to €75,036; 4% on income between €75,037 and €174,980 and 6% on income above €174,980. The health levy rate was applied at a rate of 4% on income up to €75,036 and 5% on income above €75,036.

3 Accounts of the Social Insurance Fund at 31 December 2010.

## Tax and National Output

**8.15** The relationship between the amounts collected by Revenue and Gross Domestic Product (GDP) is set out in Figure 8.3.[4]

**Figure 8.3 Amounts collected by Revenue and GDP 2007 to 2011**

| | Gross Domestic Product (current prices) €m | Net receipts collected by Revenue[a] €m | Net receipts as a % of GDP |
|---|---|---|---|
| **2007** | 189,933 | 56,936 | 30.0% |
| **2008** | 179,990 | 50,812 | 28.2% |
| **2009** | 160,596 | 42,514 | 26.5% |
| **2010** | 155,992 | 41,053 | 26.3% |
| **2011** | 156,438 | 42,100 | 26.9% |

Source: Central Statistics Office Quarterly National Accounts, Quarter 4 2011(Preliminary); Account of the Receipt of Revenue of the State

Note: a Includes net tax receipts, PRSI and other charges (see Figure 8.2).

**8.16** The proportion of GDP collected by Revenue in the form of taxes and levies also declined from a rate of about 30% in 2007 to a level of around 27% between 2009 and 2011.

**8.17** In commenting previously on the relationship between tax and GDP, the Accounting Officer noted that the composition of GDP in Ireland changed between 2001 and 2007 as property and construction related activities grew faster than other components that make up GDP. She noted that the construction and property sectors yielded relatively high levels of tax receipts compared to other sectors in this period. The decline in the proportion of GDP collected as tax and levies is largely attributed to the decline in those high tax yielding sectors.

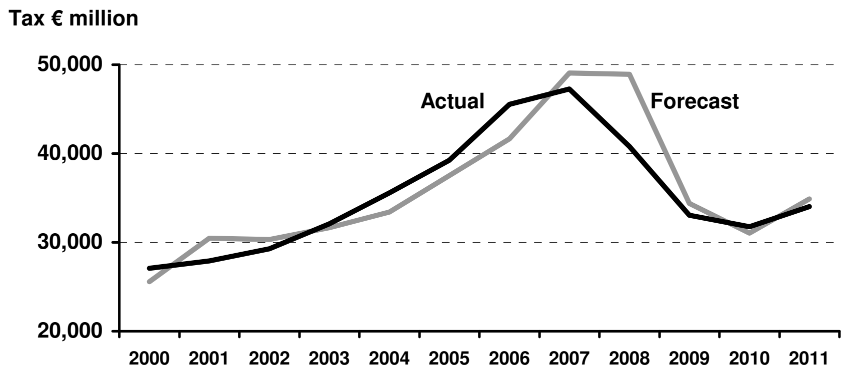
## Revenue Forecasting

**8.18** Exchequer tax forecasts are prepared by the Department of Finance with the assistance of Revenue. Forecasting of tax receipts includes adjusting the previous year's receipts to take account of once-off factors which are not likely to re-occur, estimating the growth in individual tax heads by reference to macroeconomic projections and capturing the impact of changes to tax rates.

**8.19** In 2011, the forecast for taxes and duties receivable by the Exchequer was €34.9 billion. Overall, tax revenues in 2011 were below the levels forecast by €873 million, or 2.5%. The difference between actual and forecast tax receipts in the period 2000 to 2011 is set out in Figure 8.4.

4 Gross Domestic Product measures the total output of the economy in a period i.e. the value of income generating work done by employees, companies, and self-employed persons.

**Figure 8.4 Tax Transferred to the Exchequer Compared to Forecast 2000 to 2011**




Source: Department of Finance

**8.20** Some significant variances between forecast and actual amounts occurred over the period. Tax revenues were below forecast in 2007 and 2008 by 3.7% and 16.6% respectively. Between 2009 and 2011, actual tax collected has been within 2.3% and 3.9% of the amounts forecast.

**8.21** A report of a tax forecasting methodology group completed in 2008 examined tax revenue forecasting over the period 1996 to 2006.[5] While the report concluded that other countries also had difficulty in accurately forecasting tax receipts, it found that the level of forecasting error in Ireland over the period examined was high by international standards. The report noted the following factors which made accurate forecasting in Ireland more difficult.

- Substantial structural changes within the economy and within the tax system meant that relevant tax bases and their economic drivers may have changed over time. It noted that establishing a 'steady state' relationship during a transitional period of deep structural change may be highly problematic. For example, the report noted that the responsiveness of tax receipts to changes in GDP averaged at just over 1:1 over the period 1999-2006 but was estimated at 0.3:1 for 2002 and almost 2:1 in 2006.[6]
- The Irish economy is one of the smallest and most open within the OECD with output concentrated in a relatively small number of sectors. As a result, overall economic activity and the tax revenue this generates is potentially more volatile than in larger more sectorally diversified countries.

### *Views of the Department of Finance*

**8.22** The Department of Finance noted that tax revenue forecasting relies on a number of inputs, the most important of which are the macroeconomic variables which largely drive the tax revenue forecasts. The heightened uncertainty, in 2007 and 2008, led to increased risks to economic and fiscal forecasting. For example, the International Monetary Fund published its macroeconomic forecasts in its World Economic Outlook in October 2008 but was forced to publish new forecasts in November 2008, followed by an update in January 2009. The outturn in 2008 was 16.6% below the target set in the 2008 budget largely as a result of extraordinary developments affecting both the international and domestic economies at that time. Also, the economic volatility over the past five years, in particular the extremely large and sudden decline in the Irish economy, were key factors underpinning deviations from profiled tax revenues.

5 Report of the Tax Forecasting Methodology Review Group, February 2008.

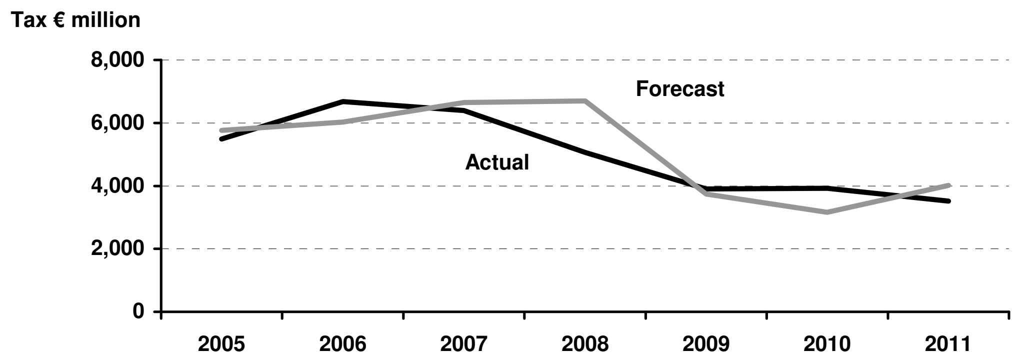
6 The report estimated the tax:GDP elasticity at 1.1:1. This means that for every 1% rise in GDP, tax revenues rise by 1.1 %.

## Forecasting Corporation Tax Receipts

**8.23** The 2008 tax forecasting methodology report noted that Corporation Tax receipts recorded the largest forecasting error of the four largest tax heads between 1999 and 2006. The report concluded that given the scale of multinational operations relative to the size of the domestic economy, it was not surprising that this tax head proved difficult to forecast with any degree of accuracy. The report noted that other jurisdictions (the UK for instance) had experienced similar problems in accurately forecasting Corporation Tax receipts.

**8.24** Between 2007 and 2011, Corporation Tax receipts varied by between 4% and 24% from forecast amounts. Corporation Tax as a proportion of the total tax take has decreased from 15% in 2006 to 10% in 2011. Figure 8.5 shows the forecast and actual Corporation Tax receipts for the period 2005 to 2011.

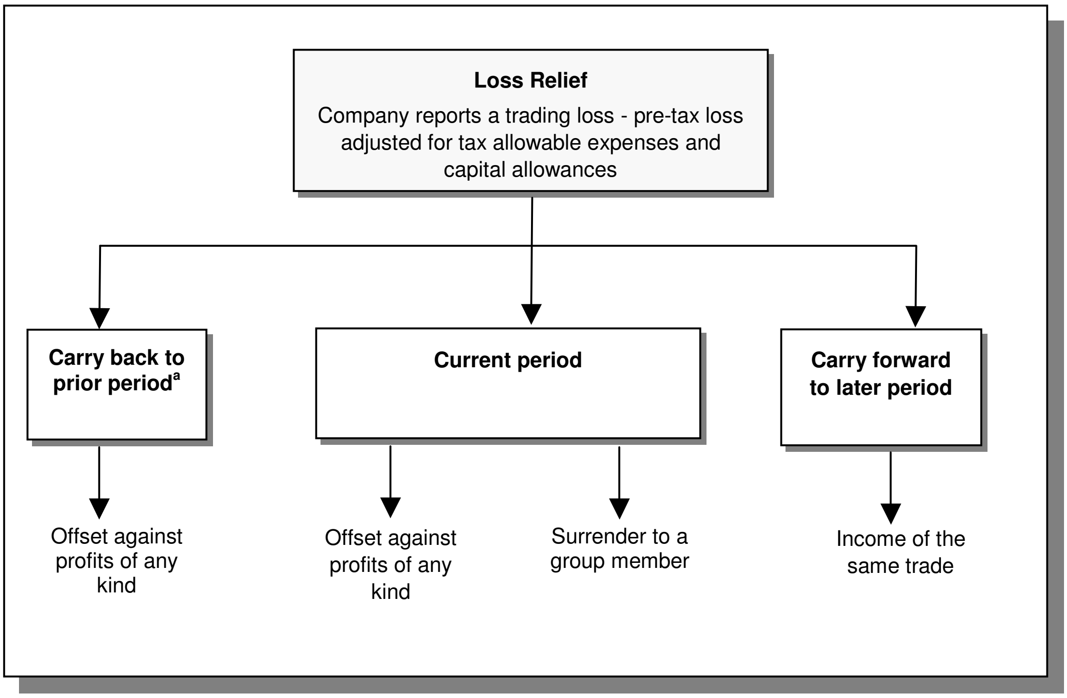
**Figure 8.5 Forecast and Actual Corporation Tax Receipts 2005 to 2011**




Source: Account of the Receipt of Revenue of the State, Department of Finance Cumulative Profile of Expected Tax Revenue Receipts

**8.25** Accurate forecasting of Corporation Tax receipts has become more difficult as a result of the emergence of significant losses which businesses can use to offset against profits. Where a company reports a loss in an accounting period, that loss can be used to obtain relief from the payment of Corporation Tax in a variety of ways. Figure 8.6 shows the different ways a trading loss incurred can be used by a company to obtain relief from Corporation Tax.

**Figure 8.6 Corporation Tax Loss Relief**

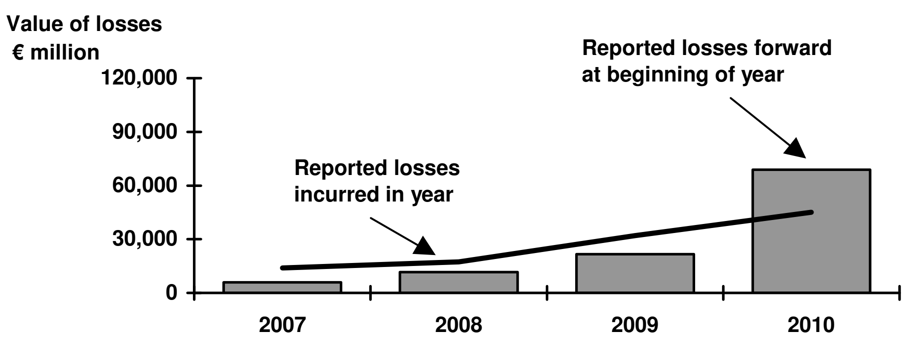



Note: a Where a company ceases to trade and reports a loss in the last twelve months of trade, this loss can be carried back and used to reduce trading income of the same trade in the preceding three years.

**8.26** Historically, Corporation Tax returns did not capture the cumulative value of losses available for offset against future profits. This under-reporting arose because companies making returns (for years up to 2010 inclusive) were only obliged to declare a loss on their return once. They did not have to restate any unused losses in subsequent years, except to the extent that they wished to offset some of the built-up losses against profits in that year. As a result, Revenue does not have complete information in relation to the total value of losses available to companies for future offset.

**8.27** Figure 8.7 shows the trend in reported losses brought forward from earlier accounting periods and declared losses incurred in the accounting periods 2007 to 2010. The information was derived from Corporation Tax returns due in September each year in respect of accounting periods ending in the previous year.

**Figure 8.7 Trend in Losses Forward and Losses Incurred 2007 to 2010**




Source: Corporation Tax returns for accounting periods ending between 2007 and 2010

**8.28** The increase in the reported losses brought forward at the beginning of 2010 is influenced by the fact that, in order to obtain better information, Revenue engaged with a number of the largest loss-making companies to ensure that their 2010 returns included data on cumulative losses being brought forward.

**8.29** Revenue estimate that €119 billion of losses and capital allowances remained unused at the end of 2010 and are available to carry forward for offset in future years. This level of losses may have a significant effect on future Corporation Tax receipts.

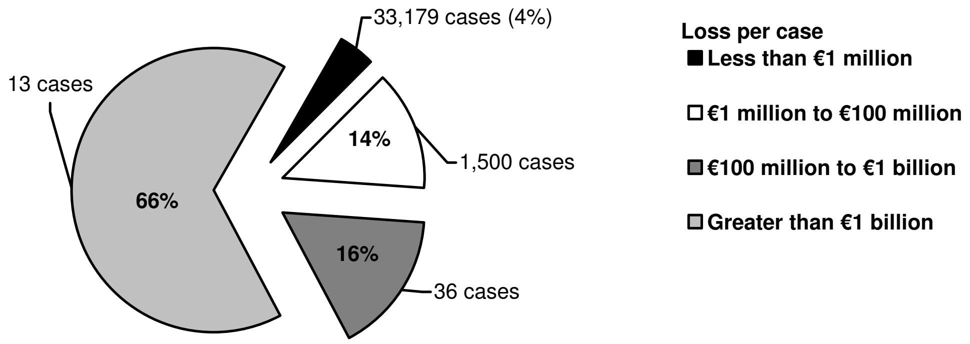
**8.30** Using information derived from the 2010 Corporation Tax returns, Revenue estimate that €22 billion of losses and capital allowances were used to reduce the amount of Corporation Tax payable for 2010. The resulting reduction in Corporation Tax receipts is estimated at around €2.75 billion.

**8.31** While the long term impact of losses on Corporation Tax receipts is difficult to estimate, it is notable that in 2011, while some 36,000 taxpayers paid Corporation Tax, just 129 taxpayers accounted for almost two thirds of total tax receipts. In addition, a large proportion of the losses brought forward is accounted for by a relatively small number of taxpayers.

**8.32** Analysis of the €70 billion losses brought forward in 2010 from earlier accounting periods shows that just 49 cases account for €56 billion (82%) of the total value of the losses as shown in Figure 8.8. This includes

- five financial institutions participating in NAMA, whose combined losses brought forward from earlier accounting periods account for just over a third of the total value (€21 billion) – the extent to which these losses can be used in the future is restricted.[7]
- 44 other companies, whose combined losses brought forward from earlier accounting periods is €35 billion.

**Figure 8.8 Losses Forward by amount 2010**




Source: 2010 Corporation Tax Returns

**8.33** Given the concentration of accumulated losses in a relatively small number of companies, analysis on a case-by-case basis of those companies with large losses available for offset should provide useful information in relation to the potential effect on future tax receipts.

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7 The National Asset Management Agency Act 2009 amended the Taxes Consolidation Act 1997 to restrict the use of losses of participating institutions in accounting periods commencing after the passing of the NAMA Act. The maximum amount of losses carried forward that can be used in each period is half of the excess of group trading profits over group trading losses for that period, so that a minimum of 50% of group trading profits will remain chargeable to tax in each period.

## Refunds and Repayments

**8.34** Entitlement to refunds and repayments is statutorily underpinned.[8] Repayments are subject to a valid claim being made to Revenue within four years from the end of the period to which the claim relates.

**8.35** A total of €6.3 billion was repaid to taxpayers in 2011. These repayments represented 18% of the net taxes and duties collected. The repayment under each tax heading over the past five years is set out in Figure 8.9.

**8.36** Figure 8.10 displays the relationship of tax repayments to net receipts over the period 2006 to 2011 in respect of the taxes that accounted for the greatest repayment levels in recent years.

**8.37** Repayments to customers in 2011 in the case of Corporation Tax and VAT represented over one quarter of the net take under each of those taxheads. Repayments of Income Tax have been decreasing as a proportion of net receipts since 2009 and now stand at 19%.

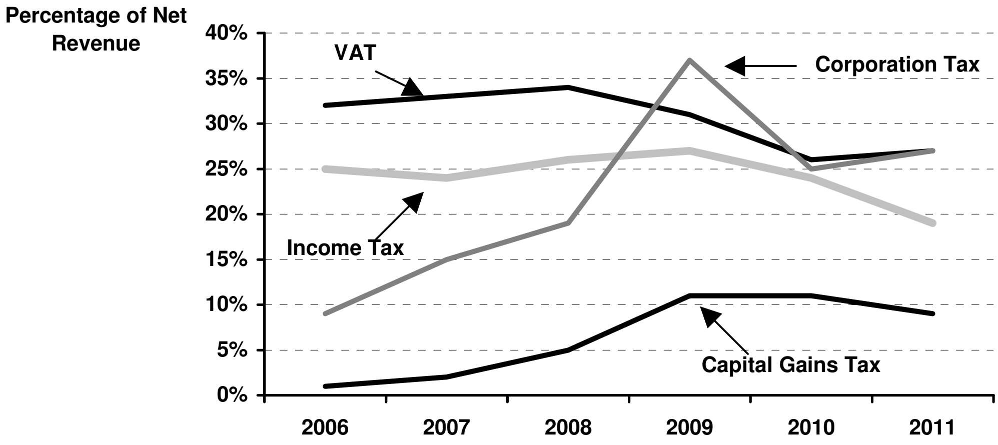
**Figure 8.9 Repayments by Revenue 2007 to 2011**

| **Payments** | **2007** | **2008** | **2009** | **2010** | **2011** |
|---|---|---|---|---|---|
| | **€m** | **€m** | **€m** | **€m** | **€m** |
| Income Tax | 3,206 | 3,398 | 3,229 | 2,680 | 2,597 |
| Value Added Tax | 4,729 | 4,560 | 3,325 | 2,642 | 2,604 |
| Corporation Tax | 936 | 975 | 1,445 | 976 | 948 |
| Excise | 124 | 103 | 48 | 54 | 53 |
| Capital Gains Tax | 64 | 70 | 62 | 38 | 38 |
| Stamp duties | 65 | 49 | 23 | 23 | 18 |
| Capital Acquisitions Tax | 6 | 8 | 12 | 6 | 10 |
| Custom duties | 7 | 15 | 4 | 1 | 1 |
| **Total** | **9,137** | **9,178** | **8,148** | **6,420** | **6,269** |
| ***as % of net yield*** | ***19%*** | ***22%*** | ***25%*** | ***20%*** | ***18%*** |

Source: Account of the Receipt of Revenue of the State 2007 to 2011

8 Section 865, Taxes Consolidation Act 1997.

**Figure 8.10 Tax Repayments as a Proportion of Net Revenue Receipts 2006 to 2011**




Source: Account of the Receipt of Revenue of the State 2006 to 2011

## Methods of Payment

**8.38** Figure 8.11 indicates that taxpayers are increasingly using online mechanisms to pay taxes and duties. In 2011, over three quarters of receipts (in value terms) were processed through the Revenue On-Line Service (ROS). The amount paid by way of cheques and direct debits or giros is decreasing.

**Figure 8.11 Methods of Payment to the Collector General 2009 to 2011**

| Payment Mechanism | Proportion of gross receipts[a] | | |
|---|---|---|---|
| | **2009** | **2010** | **2011** |
| Revenue On Line Service | 61% | 70% | 78% |
| Cheques | 21% | 14% | 9% |
| Direct debits[b] and Giro | 17% | 15% | 12% |
| Sheriff | 0.4% | 0.3% | 0.3% |
| Solicitor | 0.1% | 0.1% | 0.1% |
| **Total** | **100%** | **100%** | **100%** |

Source: Office of the Revenue Commissioners, Collector General's Division

Notes: a This analysis accounts for approximately €40.5 billion (84%) of all revenue receipts, which were collected by the Collector General's Division in 2011. It excludes taxes and duties paid to Revenue Divisions other than the Collector General's Division.

b Includes single debit authority (SDA) payments whereby the taxpayer provides details of his/her bank account on the payslip portion of the relevant tax form. This is valid for a single debit and only for the amount specified.

## Conclusions and Recommendation

**8.39** The amounts collected by Revenue fell by 28% between 2007 and 2010. In 2011, this trend was reversed and the total collected increased by 2.6%. In the main, the net increase in 2011 is accounted for by the introduction of the Universal Social Charge and the levy on pension schemes offset by decreases in receipts from Corporation Tax and VAT.

**8.40** The relationship between tax and national output (GDP) altered between 2007 and 2011. While GDP has fallen each year until 2011, the proportion of GDP collected as tax also fell from 30% in 2007 to 26% in 2010. In 2011, just under 27% of GDP was collected as tax and other charges.

**8.41** Tax forecasting is, in the main, based on macroeconomic projections and estimates of the relationship between tax revenues and GDP. Structural changes within the economy make the task of forecasting future tax receipts more difficult. The emergence of significant Corporation Tax losses complicates the estimation of Corporation Tax receipts further. In 2010, the utilisation of losses is estimated to have reduced potential Corporation Tax receipts by €2.75 billion. A relatively small number of large companies account for over 80% of the losses available for carry forward against future profits.

**Recommendation 8.1:** Given the level of change in national output and the structural change within the Irish economy in recent years, the Department of Finance should review the effectiveness of its tax forecasting methods. Such a review would examine the reasons for tax forecast divergences, review the structural parameters of tax elasticities and make recommendations for changes in the methodology, where appropriate.

**Department of Finance Response:** The Irish economy has undergone significant structural changes since the publication of the Tax Forecasting Methodology Group report in 2008. In that regard, the Fiscal Division in the Department has recently begun an exercise to re-examine the elasticities used in the tax forecasting model. The results of this analysis will help inform whether improvements can be made in the forecasting process. The Department takes its role in macroeconomic and fiscal forecasting very seriously and is determined to ensure this job is done to the highest standard. The Department has recently undergone a significant recruitment campaign at all levels to augment the specialist skills available. Recruitment has concentrated on individuals with high skill levels in economics, tax, human resources and finance.

# 9 Revenue Debt Collection

**9.1** Within Revenue, primary responsibility for debt management rests with the Collector General's Division. That Office is responsible for the collection of taxes and duties and their allocation to the appropriate taxpayer account. The purpose of its debt management function is to ensure the timely collection of the business and personal taxes for which Revenue has responsibility.

**9.2** About 700 Revenue staff are employed in debt collection and compliance activities. In 2011, about 450 staff were deployed to debt collection activity and the remainder were involved in compliance work.

**9.3** Most debt collection work is conducted in 20 debt management units that manage case loads categorised into five tiers according to the average size of the cases.[1] Staff are allocated to the various debt management units based on the value of the tax at risk. Large cases, with the highest value payments have the highest ratio of staff to taxpayers. In addition, five specialist units manage particular categories of cases

- the Commonality Unit manages cases linked by common company directors where the debt exceeds €250,000
- the Phoenix Unit manages cases involving businesses linked through principals involved in previously-failed businesses where the limited liability protection resulted in non-payment of fiduciary taxes
- the Dedicated Enforcement Unit undertakes collection enforcement action of a more complex nature
- two insolvency units have overall responsibility for managing Revenue's response to insolvencies i.e. liquidation, receivership, examinership and bankruptcy cases.

**9.4** This chapter reviews Revenue's debt collection function and, in particular, trends in the value of tax debt outstanding, the collection status and age of the debt, and tax debts written off.

**9.5** In February 2012, Revenue introduced a new debt analysis tool on a pilot basis. The objectives of the new debt analysis tool are to allow case workers to prioritise the recovery of debt by reference to the age of debt and also to determine the type and timing of interventions required in order to maximise the rate of recovery of those debts.

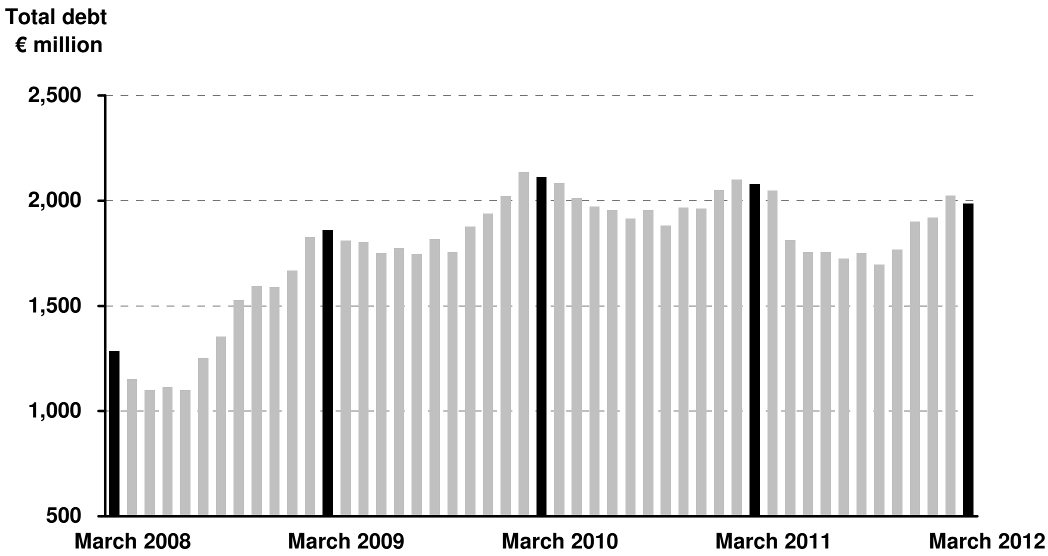
1 Case size is a factor of the average annual tax liability based on a weighted mixture of fiduciary taxes (VAT, Employer PAYE/PRSI, Relevant Contracts Tax), Corporation Tax and Personal Income Tax. Fiduciary taxes are collected by businesses on behalf of Revenue and held in trust until paid to Revenue.

## Outstanding Tax Debt

**9.6** Over the four years to March 2012, the estimated value of tax outstanding increased by 54%. Total tax outstanding at the end of March 2012 was just under €2 billion.

**9.7** The value of tax outstanding varies on a yearly cyclical basis (as depicted in Figure 9.1), largely reflecting the impact of annual filing deadlines in respect of certain taxes, such as Corporation Tax and Income Tax. Peak debt outstanding occurs in February/March each year. The cycle in 2011 was more pronounced than in other years.

**Figure 9.1 Debt Outstanding at Month end, March 2008 to March 2012**




Source: Office of the Revenue Commissioners

**9.8** Figure 9.2 shows the tax outstanding by tax type and summarises the charges raised, the payments made and the amounts written off in the twelve-month period ended on 31 March 2012. The two largest categories of debt outstanding are Income Tax and VAT. Direct taxes outstanding — mainly Income Tax, Capital Gains Tax and Corporation Tax — account for 56% of the total debt, while fiduciary taxes — mainly VAT, PAYE and PRSI — account for 44% of the total.

**9.9** The total debt outstanding at end March 2012 was equivalent to 5.3% of the net charges raised in the year 2011/2012. This is an increase from the level of around 3% of net charges raised in 2007, reflecting a deterioration in the timeliness of payment of taxes.

**Figure 9.2 Movement in Outstanding Taxes and PRSI, 2011/2012[a]**

| Tax or Levy | Outstanding at 31 March 2011 | Net tax charges raised[b] | Tax paid | Tax written off | Outstanding at 31 March 2012 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| VAT | 588 | 8,891 | 8,825 | 140 | 514 |
| PAYE | 139 | 13,677 | 13,622 | 30 | 164 |
| PRSI | 221 | 7,217 | 7,216 | 44 | 178 |
| Income Tax | 468 | 2,732 | 2,546 | 27 | 627 |
| DIRT | — | 499 | 499 | — | — |
| Corporation Tax | 331 | 3,420 | 3,570 | 4 | 177 |
| Capital Gains Tax | 269 | 533 | 497 | 8 | 297 |
| Capital Acquisitions Tax | 3 | 256 | 256 | — | 3 |
| Relevant Contracts Tax | 59 | (14)[c] | 1 | 18 | 26 |
| **Total** | **2,078** | **37,211** | **37,032** | **271** | **1,986** |

Source: Office of the Revenue Commissioners

Notes: a Tax is regarded as outstanding from the date the liability is placed on the taxpayer's record – usually, as a result of the receipt of a return or the raising of an estimate.

b Net charges raised include estimates in cases of non-filing. The corresponding charges in the year to March 2011 were reported by Revenue at €35.5 billion.

c Relevant Contracts Tax net charges raised comprises assessments and declarations relating to principal contractors of €226.63 million, less claims of €240.21 million from sub-contractors.

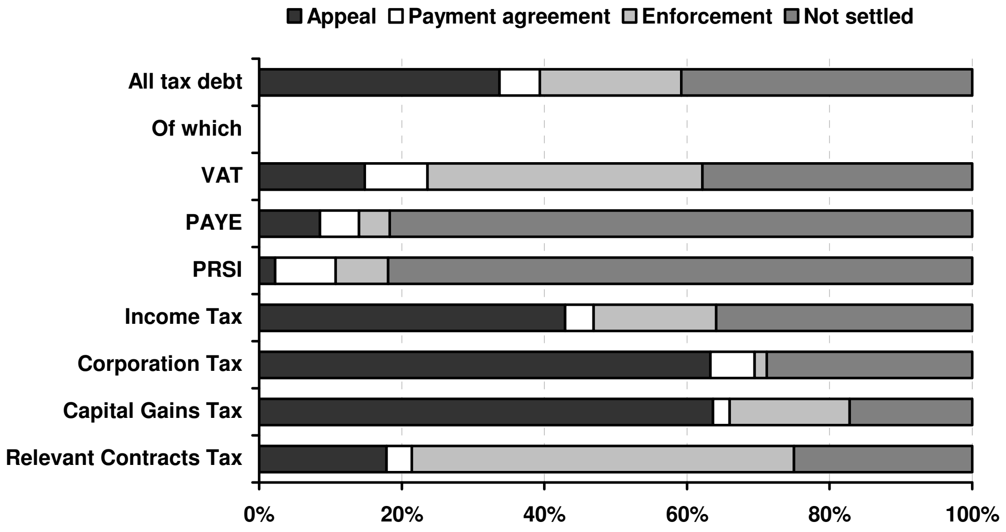
### *Status of Outstanding Debt*

**9.10** Where a taxpayer has appealed the value of the tax assessment, Revenue is precluded from collecting the debt. Debt which is available for collection is categorised between amounts which are subject to ongoing collection activities, are the subject of payment agreements with the taxpayer or are under enforcement with either the sheriff or Revenue's solicitors. The breakdown of the debt outstanding at 31 March 2012 by status is shown in Figure 9.3.

**9.11** Agreement to pay was in place in respect of only 6% of the outstanding debt at end March 2012. About 20% was subject to enforcement action, mostly in relation to VAT and Income Tax debts. About 40% of the outstanding debt (around €800 million) was not settled i.e. deemed to be collectible but neither subject to payment agreement nor to enforcement proceedings.

**9.12** Overall, about one third of the debt was under appeal and therefore was currently regarded as unavailable for collection. The highest proportions of debt under appeal relate to direct taxes. In most cases where a taxpayer lodges an appeal, the debt outstanding is under enforcement or a Revenue audit is ongoing. While the appeal is ongoing, a temporary stay is put on any enforcement activities. 85% of the value of debt under appeal related to 2008 or earlier years of assessment.

**Figure 9.3 Collection status of tax debt, by tax type, March 2012**

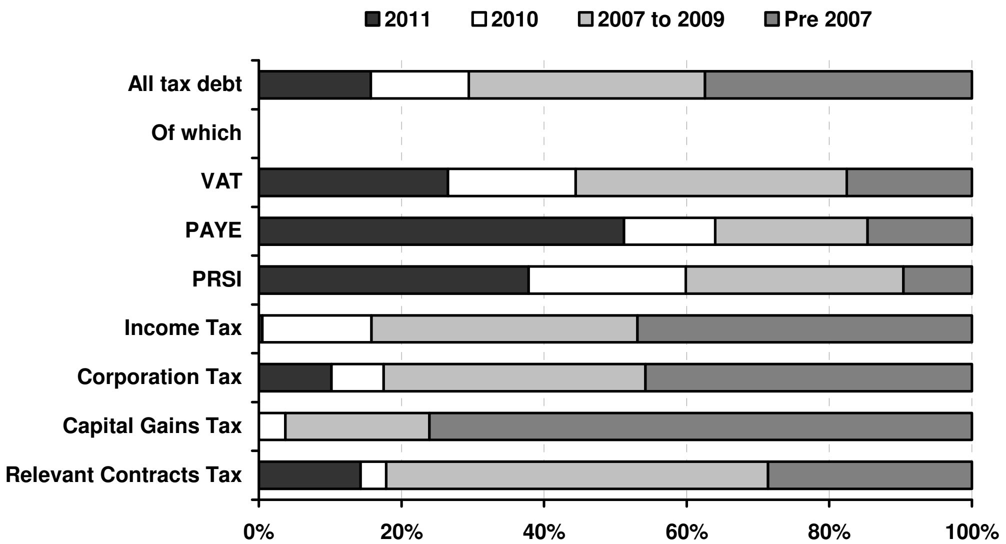



Source: Office of the Revenue Commissioners

### *Age of Debt*

**9.13** Figure 9.4 shows the year of assessed liability of the tax balances outstanding at March 2012. 16% of the amounts outstanding related to 2011 and a further 14% to 2010. The remaining 70% related to tax periods prior to 2010. Fiduciary taxes (mainly VAT, PAYE and PRSI) are, on average, much 'younger' than the direct tax debts. This reflects the greater likelihood of write-offs of fiduciary taxes (discussed in more detail below).

**Figure 9.4 Year of assessed liability[a] of tax debt, by tax type, March 2012**




Source: Office of the Revenue Commissioners

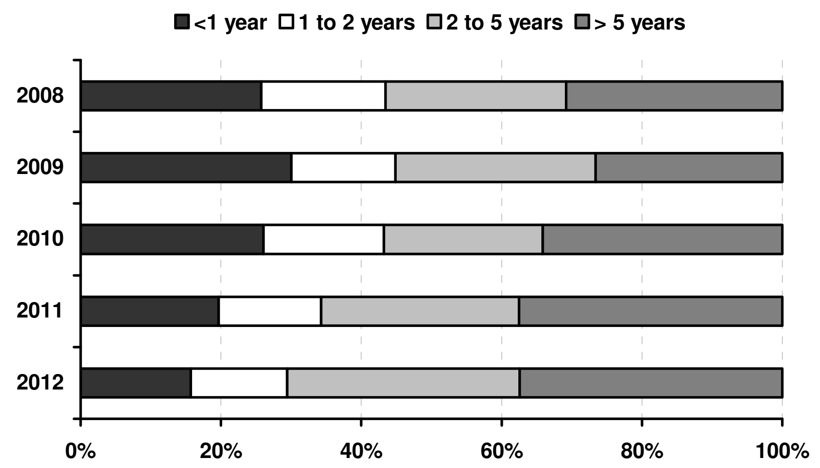
Note: a The year of assessed liability is the tax period the liability relates to.

## Debt Collection Targets

**9.14** Revenue set a target to bring the cash level of its outstanding collectible debt (i.e. excluding debt under appeal) down from €1,389 million at March 2011 to €1,200 million by March 2012 — a target decrease of 13.6%. A reduction of 5.2% was achieved in the year, with the level of outstanding collectible debt at €1,317 million.

**9.15** Without specifying a target, Revenue also set itself an objective of reducing the overall age of the debt outstanding during 2011 but this was not achieved (see Figure 9.5). The proportion of debt which was more than five years old at March 2012 was similar to the proportion in March 2011, but there was a significant increase in the proportion of debt which was between two and five years old.

**Figure 9.5 Age of outstanding tax debt, end March 2008 to end March 2012**




Source: Office of the Revenue Commissioners

## Interest Charged on Tax Debts

**9.16** Revenue charges interest on the taxes paid late as a method of maintaining and improving timeliness of payment compliance. Revenue regards a late payment as one that was not received in the month the payment was due.

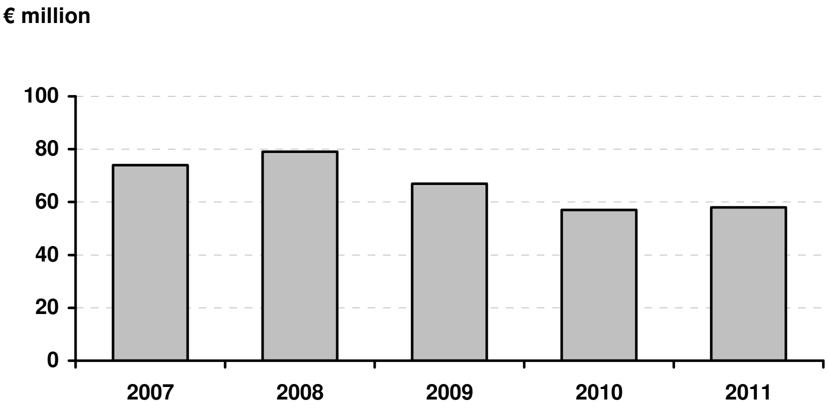
**9.17** Interest is charged as follows

- PAYE/PRSI and VAT – 0.0274% a day
- Income Tax, Corporation Tax and Capital Gains Tax – 0.0219% a day.

**9.18** The interest is charged on a simple interest basis, and is equivalent to a charge of 10% a year for fiduciary taxes, and 8% a year for direct taxes.

**9.19** The amount of interest on late payment levied by Revenue has declined from a level of almost €80 million in 2008 to €58 million in 2011 (see Figure 9.6). This contrasts with the substantially increased debt level in 2011 compared to 2008. The decline in interest levied is due in part to reductions in the interest rates charged by Revenue, with effect from July 2009.[2]

**Figure 9.6 Interest collected on Late Payment of Tax[a], 2007 to 2011**




Source: Office of the Revenue Commissioners

Note: a Excludes interest charged and collected as a result of Revenue's audit and investigation programmes.

**9.20** Revenue is unable to provide information on the proportion of late payments where interest was levied.

**9.21** The Accounting Officer has stated that the application of interest charges on late payments of taxes is not focused on maximising the amount of interest collected but rather on changing the behaviour of taxpayers that have developed a pattern of late payment thereby gaining an unfair competitive advantage. In cases where a late payment pattern is emerging, the business is warned that such behaviour will lead to the imposition of interest charges. Before an interest charge is imposed and activated for collection, the case is examined by a case worker to establish

- that the action is appropriate and account is taken of the general compliance position in the case
- whether there has been a previous warning about Revenue's intention to collect interest in the event of continued late payment or non-payment
- the amount of interest that might be levied and the extent to which the payment has been delayed.

**9.22** The Accounting Officer also stated that, since the downturn in the economy, Revenue's approach has been to work with viable businesses that encounter payment difficulties outside of their direct control and to facilitate those businesses returning to full tax compliance as soon as possible. In some instances, this approach involved an element of mitigation of interest that would otherwise have been payable.

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2 For example, the daily interest rates in relation to Income Tax, Corporation Tax and Capital Gains Tax were reduced from 0.0273% to 0.0219% — a reduction of just under 20%.

## Write-Offs of Tax Debts

**9.23** Tax debts are written off by Revenue mainly in situations where the debts are found to be uncollectible e.g. where a business is liquidated. A total of €321 million of taxes and PRSI was written off during 2011 — an increase of 7% compared to write-offs in 2010. 85% of the total written off was in respect of fiduciary taxes.

**9.24** Almost all of the 2011 write-off was assessed on a case-by-case basis. Small debts due from over 105,300 taxpayers, totalling €1.4 million, were considered uneconomic to pursue and were written off on an automated basis.

### *Write-Offs by Sector*

**9.25** Three economic sectors accounted for 59% of the total tax written off in 2011, with fiduciary taxes accounting for the majority of the write-offs in each sector. The total amounts written off were

- construction sector – €87 million (27% of write-offs)
- wholesale and retail trade sector – €64 million (20%)
- accommodation and food services sector - €37 million (12%).

The majority of taxes written off in these three sectors were due to liquidation and the trade ceasing with insufficient liquid assets.

**9.26** €38.8 million of tax was written off in 2011 in 20 cases where the amount in each case was greater than €1 million (see Figure 9.7). An examination of those cases indicates that 90% of the tax written off was fiduciary tax and that VAT comprised around three quarters of this. The largest single amount written off in 2011 was €7.15 million in respect of VAT.

**Figure 9.7 Tax Write-Offs in excess of €1 million each, by sector, 2011**

| **Sector** | **No. of cases** | **Fiduciary Taxes[a]** | **Direct Taxes[b]** | **Total** |
|---|---|---|---|---|
| | | **€000** | **€000** | **€000** |
| Construction | 9 | 9,831 | 3,027 | **12,858** |
| Wholesale and retail trade | 5 | 12,306 | — | **12,306** |
| Administrative and support service activities | 4 | 8,095 | 850 | **8,945** |
| Accommodation and food service activities | 1 | 1,080 | — | **1,080** |
| Extraterritorial organisations and bodies | 1 | 3,641 | — | **3,641** |
| **Total** | **20** | **34,953** | **3,877** | **38,830** |

Source: Office of the Revenue Commissioners

Notes: a PAYE/PRSI, VAT, Relevant Contracts Tax.

b Income Tax, Corporation Tax and Capital Gains Tax.

### *Special Management Units*

**9.27** The high level of write-offs due to liquidation and trade cessation highlight the importance of Revenue's Commonality and Phoenix Units.

**9.28** The performance of these units is measured in terms of the compliance rate of the companies being monitored. A case is deemed to be substantially compliant under the Commonality Programme where the outstanding liability is nil and, in the case of the Phoenix Programme, where the outstanding liability is less than €5,000. Figure 9.8 shows the number of cases monitored in 2011 and the proportion that were compliant in their tax affairs.

**Figure 9.8 Phoenix and Commonality Programme Compliance Rates, December 2011**

| Debt Management Unit | Cases | Compliant |
|---|---|---|
| Commonality Unit | 3,787 | 71% |
| Phoenix Unit | 658 | 66% |
| **Total** | **4,445** | **70%** |

Source: Office of the Revenue Commissioners, Collector General's Division

### *Write-Off Assurance Procedures*

**9.29** The Internal Audit Branch in Revenue undertakes an annual examination of tax write-offs. Its 2011 audit examined a sample of 246 cases, representing 10% (€32 million) of the total value of write-offs in the year. Internal Audit was satisfied that all the write-offs were in accordance with the prescribed criteria. Internal Audit also examined the results of automatic write-offs in 2011 and verified that the authorised selection criteria were correctly applied.

**9.30** The Accounting Officer stated that Revenue conducts on-going analysis of its debt collection activities in all cases where debts are written out. The Collector General's Division operates a debt management case working quality assurance programme to evaluate adherence to case working guidelines, including the guidelines relating to write-off of uncollectible tax debt. She noted that there is also a requirement in every case for a write-off decision report to be completed. This report requires the case worker to outline

- the tax payments made by the customer and Revenue's actions to effect collection
- whether any extended periods of inactivity arose in case working or enforcement action
- enforcement actions taken to secure payment of the debt before write-off was considered
- information on any previous write-off in the case of businesses linked by common directors
- lessons to be learned arising from the case and how those lessons are being applied to debt collection procedures.

**9.31** This information is considered by the manager responsible for approving the write-off. The Collector General reviews a sample of cases written off across Revenue to ensure that the guidelines have been followed. These reviews consider whether further actions are required to reduce Revenue's exposure in such cases.

## Conclusions and Recommendations

**9.32** There was a significant increase in the amount of debt owed to Revenue between 2008 and 2010. The level of collectible debt outstanding reduced by around 5% during 2011. Revenue had targeted a reduction of over 13% for the year.

**9.33** Direct taxes (self-assessed Income Tax, Corporation Tax and Capital Gains Tax) accounted for 56% of the total debt outstanding at March 2012. Much of this is old debt, relating back to 2009 and earlier years. The balance of the debt (44%) relates to fiduciary taxes, collected by employers and businesses on behalf of Revenue. Debts in these cases are significantly younger, reflecting in part a higher write-off rate due to businesses going into liquidation.

**9.34** Because of the high risk of revenue losses due to businesses going into liquidation, Revenue has established specialist debt management units to target companies that have ongoing direct business links, or where related companies previously went out of business with debts to Revenue (referred to as phoenix companies). Over 4,400 cases in those categories are managed by the specialist debt management units. Around 30% of those cases owed money to the Revenue in 2011. This was down from an estimated 34% debtor cases in 2010.

**9.35** Revenue aimed to reduce the average age of its debt during 2011, but a reduction was not achieved. The increased average age of the debt reflects the net impact of less new debt recorded, relatively higher rates of collection of younger debt and writing off of fiduciary taxes, and a high level of appeal of direct taxes.

**9.36** Lodging an appeal puts a stop on Revenue's efforts to recover the related debts until after the appeal process is completed. 85% of the debt on appeal in March 2012 related to 2008 and earlier years of assessment.

> **Recommendation 9.1:** Revenue should develop more specific performance measures in relation to its debt management function, reflecting the complexity of the underlying factors. For example, it could consider setting separate outstanding debt targets for fiduciary and direct taxes; and differentiating in setting debt age profile targets between collectible debt and debt under appeal.
>
> **Accounting Officer's Response**: Agreed. Since debt is not available for collection until the appeal process is concluded it is not practical to develop targets for that category of debt. In relation to collectible debt, Revenue is developing additional performance measures. An I.T. development which is currently under testing will facilitate enhanced reporting on debt management performance.

**9.37** Revenue does not have sufficient management information to allow it to readily monitor its effectiveness in debt management, and to target its debt collection effort. In February 2012, Revenue commenced piloting the use of a new debt analysis tool.

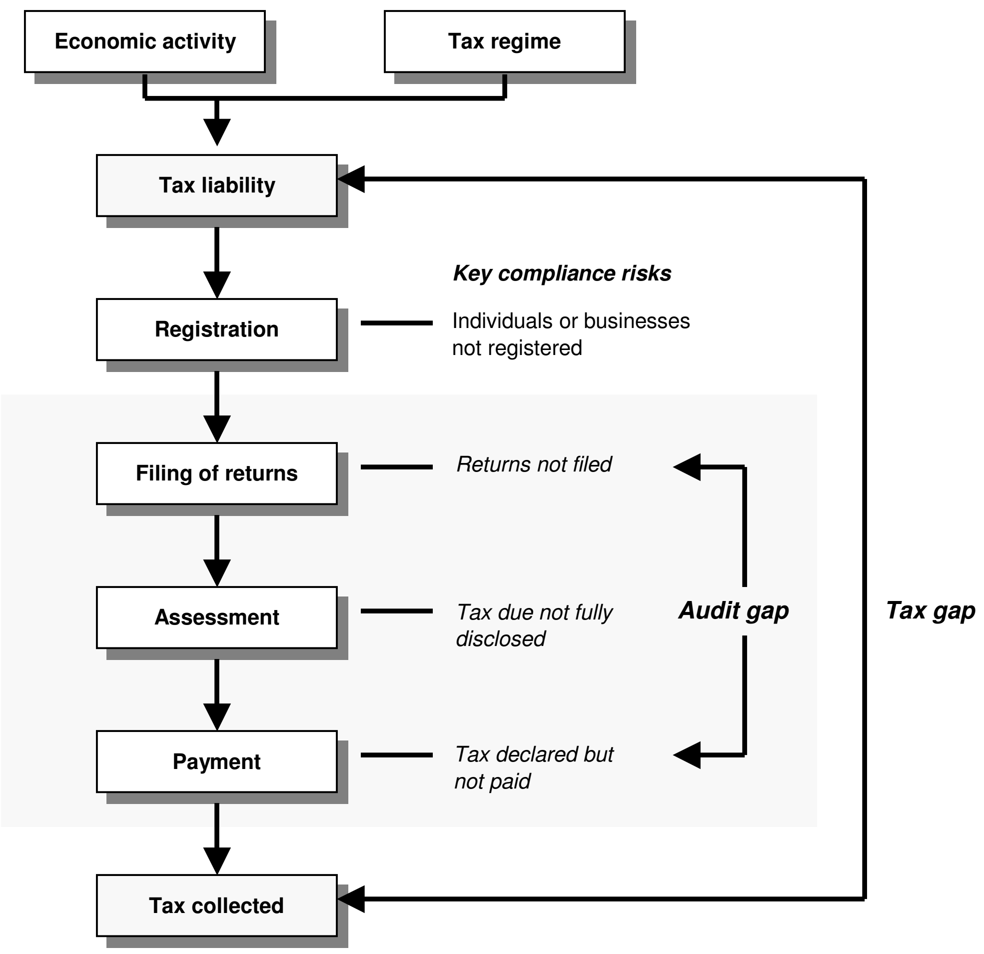
> **Recommendation 9.2:** Revenue should develop its debt management system to include the capacity to generate reports showing the composition in terms of the type and age of debt, the size of the debt by case, and the current status and history of each case. It should also support the generation of relevant debt collection performance measures, including in relation to the rate of appeal, duration of appeal proceedings and appeal outcomes.
>
> **Accounting Officer's Response**: Agreed. The new debt management tool introduced in February 2012 will enhance the information available in relation to outstanding debt. Revenue will continue to enhance its capability in relation to debt management programmes.

# 10 Increasing Tax Compliance

**10.1** Timely compliance by all taxpayers with their due taxation liabilities is important if the tax system is to be equitable and to avoid distortion of trade and business. In a tax system that is based on self-assessment, there are certain risks that tax may not be fully collected (see Figure 10.1). Those risks include

- registration risk — taxpayers do not register for tax when they are required to do so
- filing risk — taxpayers do not file required returns or submit returns late
- assessment risk — tax returns filed do not fully disclose income or taxes due
- payment risk — declared taxes are not subsequently paid.

**Figure 10.1 Tax Compliance Framework — Self Assessment**




**Tax gap** — an economic concept covering all recorded and unrecorded economic activity in the State. It is defined as the difference between tax collected and the tax that should have been collected if every liable person complied with their obligations.

**Revenue audit gap** — a more immediate target for Revenue activity in that it refers to the difference between the amount of tax that would be collected if all registered taxpayers were audited and the amount they voluntarily pay under self assessment. Analysis of the results of cases selected at random for audit provides Revenue with useful information on trends in compliance.

**10.2** In order to manage taxpayer compliance effectively, the Revenue Commissioners need to

- know the underlying extent of non-compliance among taxpayers
- design and implement cost effective activities to detect non-compliance
- ensure taxes due are collected, and penalties imposed, so that there is a clear deterrent effect.

This chapter reviews Revenue's approach to monitoring and managing taxpayer compliance in those key areas.

**10.3** The examination included a review of Revenue's performance information in relation to its audit and assurance work and an analysis of the database used by it to record audit activity. Trends in the numbers of taxpayers prosecuted and the outcomes were also reviewed. Individual taxpayers' files were not examined. Reports prepared by the Organisation for Economic Co-operation and Development (OECD) and HM Revenue and Customs were also reviewed to establish how taxpayer compliance is monitored in other jurisdictions.

## Assessing Taxpayer Compliance

**10.4** The primary measures of taxpayer compliance are the tax gap — the difference between tax collected and the tax that would have been collected if every liable person complied with their obligations — and the revenue audit gap — the difference between the amount registered taxpayers pay under self-assessment and the amount that would be collected if all registered taxpayers were audited. Delay in compliance is also a factor, since there may be an economic benefit to taxpayers by delaying payment for as long as possible after the due date for payment.

### *Estimating the Tax Gap*

**10.5** Revenue collection authorities in many developed economies attempt to quantify the tax gap.[1] For example, HM Revenue and Customs has calculated the tax gap in the UK in order to monitor the effectiveness of its compliance programme and to gauge the effect on Revenue collection of changes in tax rules and in general environmental conditions. Their estimates show that the overall tax gap in the UK was about 8% for the 2009/2010 tax year (see Figure 10.2). The value of uncollected tax was found to be higher for indirect taxes (including VAT and Excise Duty) than for direct taxes.

**10.6** The Accounting Officer stated that Revenue has reviewed methods used elsewhere to estimate the tax gap and the shadow economy. Revenue concluded that due to issues around accurate estimation of the tax gap and concern about its usefulness to Revenue in increasing tax compliance, it has not attempted to measure the tax gap. She noted

- There is no agreed method for measuring the tax gap and significant questions remain about its accuracy in those countries which produce estimates.
- A range of factors determine changes in the tax gap, many of which are beyond the control or influence of the relevant tax administration. It is a high level outcome measure and can be informative for that purpose. However, it does not provide information at an operational level which would inform Revenue's approach to increasing compliance.

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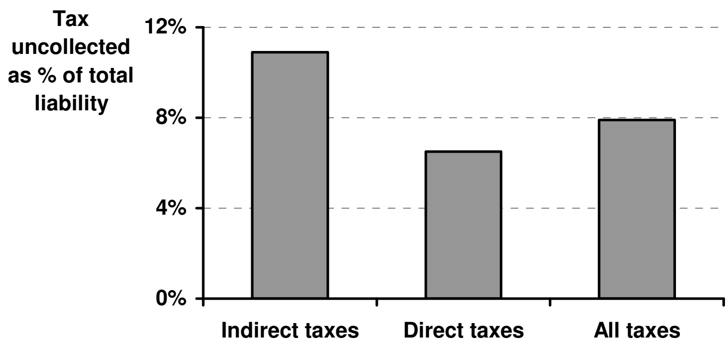
1 OECD Forum on Tax Administration – Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2010).

**Figure 10.2 Estimated United Kingdom Tax Gap Rates 2009 to 2010**




Source: HM Revenue and Customs ***Measuring Tax Gaps, (2011)***

Notes: a Indirect taxes include VAT and Excise Duty.

b Direct taxes include Income Tax, Corporation Tax and Stamp Duty.

**10.7** The Accounting Officer has stated that, while the Revenue Commissioners do not assess the size of the tax gap in Ireland, trends in economic variables across all the major tax heads are examined at a strategic level. In addition, Revenue's economic staff identify key areas of the economy or economic developments that potentially impact on compliance. She noted that current projects include an analysis of the compliance implications of business indebtedness and access to credit difficulties, and a research project examining in detail the contributory factors to changes in Income Tax revenue in 2012.

**10.8** She noted that, at an operational level, research has focused on a variety of topics that provide a more detailed understanding of Revenue's taxpayer base and the implications for compliance. These include profiles of all the major tax heads, analysis of Revenue's register and detailed sectoral analysis.

**10.9** Revenue has completed some preliminary research in linking economic variables to changes in tax collection and explored methods for tracking VAT changes over time and against trends in other variables. However, the Accounting Officer noted that while comparisons of national accounts or other Central Statistics Office data with Revenue data can be useful in identifying trends and divergences, they do not serve as indicators of tax compliance.

### *Estimating the Audit Gap*

**10.10** Effectively, the revenue audit gap relates to tax liabilities unpaid by persons who are duly registered for tax purposes. Revenue has operated a random audit programme since 1993, with around 400 random audits of individual taxpayers and businesses completed annually.[2] Analysis of the outcomes of a well designed random audit programme potentially provide Revenue with a sound basis for valuation of the revenue audit gap.

**10.11** The outcome of the random audit programmes for 2007 to 2011 as at 31 March 2012 is shown in Figure 10.3. This indicates that additional taxes were levied as a result of random audits in about one third of cases, and that this rate has fluctuated very little over the period reviewed.

2 Pay as you earn (PAYE) taxpayers are excluded from selection for audit under the random audit programme.

**Figure 10.3 Proportion of Random Audits Resulting in Additional Yield 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| Number of audits completed | 397 | 397 | 389 | 370 | 326 |
| Number of audits that yielded additional tax | 130 | 119 | 134 | 128 | 106 |
| Yielding cases as % of completed cases | 33% | 30% | 34% | 35% | 33% |

Source: Office of the Revenue Commissioners

**10.12** Random audits review tax returns for a particular year termed the base year.[3] However, the behaviour giving rise to the under-declaration in the base year may also apply to other years so audit yield may also arise in respect of other years. The reported results distinguish between audit yield in the base year and in other years (see Figure 10.4).

**Figure 10.4 Audit Yield from Random Audits 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| Base year yield (€000) | 808 | 1,171 | 1,010 | 818 | 389 |
| Yield for other years (€000) | 1,188 | 1,448 | 1,280 | 1,228 | 377 |
| Total yield (€000) | 1,996 | 2,619 | 2,290 | 2,046 | 766 |
| Average yield for all audits completed | €5,000 | €6,600 | €6,000 | €5,500 | €2,300 |
| Average yield in yielding audits | €15,400 | €22,000 | €17,000 | €16,000 | €7,200 |

Source: Office of the Revenue Commissioners

**10.13** The random audit programme for 2011 has not yet been completed. The experience in previous years has shown that the average yield from random audits increases as more audits are completed, indicating that higher value cases take longer to complete. The results of the 2007 to 2010 programme show that

- the average yield from all audits completed was between €5,000 and €6,600
- when non-yielding cases are excluded, the average yield varied between €15,400 and €22,000.

**10.14** The additional yield from random audit cases cannot be put in the context of the overall tax liability of the cases included in the sample, because this has not been previously captured by Revenue. Consequently, the percentage revenue audit gap is not known. Revenue began capturing this data in July 2012.

### *Timeliness of Compliance*

**10.15** Revenue currently monitors taxpayer compliance rates using a composite indicator that measures the proportion of taxpayers that have submitted either a required tax return or a due payment. This is measured at two points in time

- ‘due month compliance’ means returns submitted and/or payments received in the due month
- ‘due month plus one compliance’ means returns or payments received by one month after the due month.

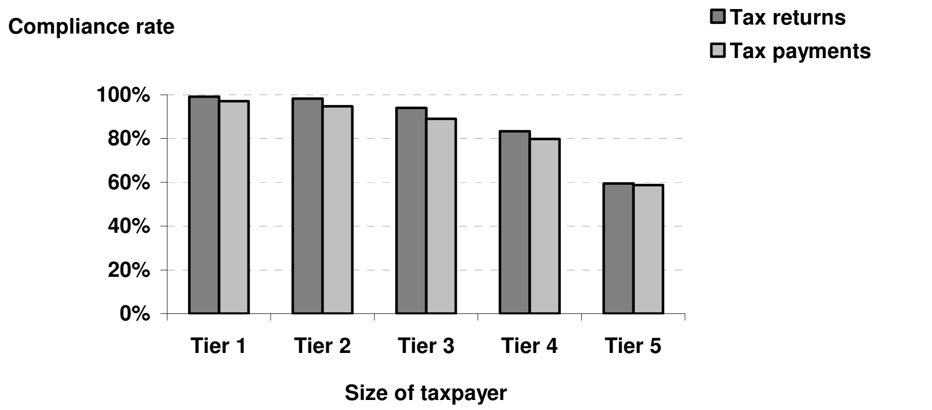
3 The audits completed as part of the 2011 programme focused on a review of 2009 tax returns.

**10.16** In practice, timely payment of taxes due is more important than timely filing of returns. For that reason, measurement and monitoring should focus on payment compliance rates.

**10.17** For the purposes of this examination, Revenue's composite measure was disaggregated in order to identify separately the proportion of taxpayers who had filed a return and the proportion of taxpayers who had transmitted a payment to Revenue in relation to the relevant tax period. In practice, the individual compliance rates are quite similar. For example, 'due month plus one' compliance rates for VAT returns and payments due by 19 March 2012 were 74.1% and 71.6%, respectively. The composite compliance rate was 74.5%.

**10.18** Figure 10.5 shows the deviation between 'due month plus one' compliance rates in respect of VAT returns and payments by size of taxpayers. Filing and payment were most timely for the largest taxpayers, at almost 100%. Timely compliance was least (at around 60%) for the smallest taxpayers.

**Figure 10.5 VAT Due Month Plus One Compliance, for March 2012 VAT Returns and Payments, by size of taxpayer April 2012**



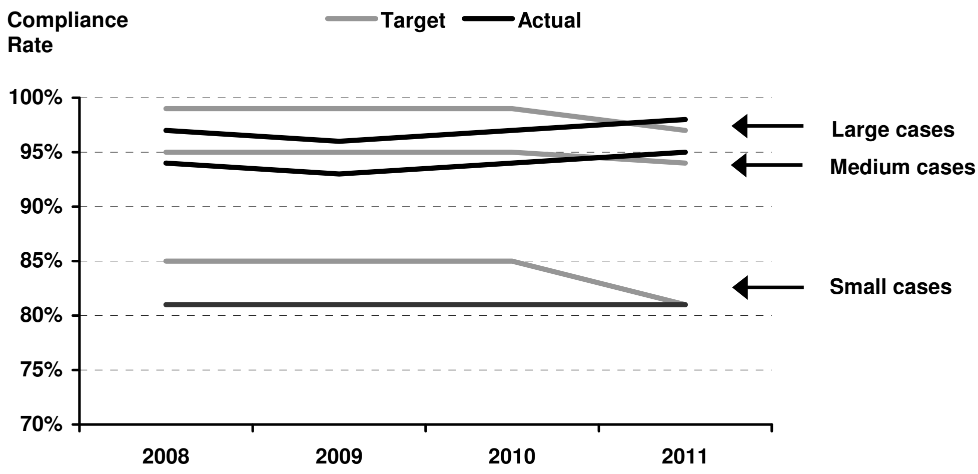

Source: Office of the Revenue Commissioners

Note: Revenue categorise cases into five tiers according to the size of the taxpayers average annual amount of tax paid ranging from Tier 1 for larger cases to Tier 5 for smaller cases.

### *Compliance Targets and Outturns*

**10.19** Revenue set annual targets in respect of the composite compliance measure against which performance is compared in a given year. Separate rates are set for large, medium and small cases (determined on a different basis to the tier structure referred to above). As Figure 10.6 indicates, compliance was below target for all case sizes from 2008 to 2010. In 2011, compliance rates equalled or exceeded the targets set for all case sizes, after Revenue reduced the targets to the 2010 actual compliance levels.

**Figure 10.6 'Due Month plus One' Compliance Rates 2008 to 2011**




Source: Office of the Revenue Commissioners

## Detecting Non-Compliant Taxpayers

**10.20** Revenue uses a number of procedures to identify registered taxpayers at risk of under-declaration of liability. These include

- automated screening of tax returns against sectoral and business norms
- automated data matching of information held on Revenue's own records
- matching with third party data.

**10.21** Where instances of possible under-declaration are identified, they are investigated either by way of assurance checks — where supplementary documentation or information is obtained from the taxpayer — or through a more intensive audit of the taxpayers records by reference to the tax returns submitted. Assurance checks and audits are carried out at Revenue district level and by a special Large Cases Division. Special investigations focused on specific forms of tax evasion are also carried out from time to time.[4]

**10.22** All the investigations may result in additional tax and interest on late payment being levied and in some cases the imposition of civil or criminal sanctions.

**10.23** The Accounting Officer stated that the type of intervention undertaken in a particular case is that considered to be the most appropriate to target the specific risk or risks identified. She noted that a full audit is expensive for Revenue and is not always the appropriate intervention. She stated that Revenue optimise the use of resources while at the same time minimising the compliance burden by carefully selecting cases for intervention and carefully choosing the type of intervention.

4 Examples of special investigations are DIRT and off-shore funds investigations.

### *Assurance Checks*

**10.24** Assurance checks may arise as a result of screening of tax returns submitted, anomalies picked up by Revenue's risk analysis system or the receipt by Revenue of a suspicious transaction report.[5]

**10.25** Rather than proceeding immediately to costly audit processes in all cases, Revenue first seeks assurance that the customer is broadly compliant in the areas that are the subject of the check. Assurance checks can result in the levying of additional tax as a result of enquiries, or in escalation of the case to a full audit. In 2011, about 1% of assurance checks conducted proceeded to a full audit.

**10.26** The numbers of assurance checks conducted in 2011 and the proportion of checks resulting in additional audit yield is shown in Figure 10.7. In practice, the number of non-compliant cases is higher than that shown because identified non-compliance does not always result in additional yield. For example, assurance checks identified an overall non-compliance rate of 11% in 2011, but additional tax was levied in only 6.4% of cases.

**Figure 10.7 Revenue Assurance Checks and Outcomes 2011**

| | Revenue districts | Large Cases Division | Total |
|---|---|---|---|
| Number of checks carried out | 536,500 | 10,000 | 546,500 |
| Proportion of checks with yield | 6.5% | 3.5% | 6.4% |
| Average yield per yield case | €1,600 | €75,700 | €2,300 |

Source: Office of the Revenue Commissioners

### *Risk-Based Audits*

**10.27** A Revenue audit involves examining tax returns, declarations of liability, repayment claims and the compliance of a taxpayer with tax legislation. Revenue target cases for audit in a number of ways.

- It seeks to target high-risk cases using its Risk Evaluation Analysis Profiling system (REAP) which ranks taxpayers relative to one another, based on a number of specified risk factors.[6]
- Each year, Revenue targets specific sectors within the economy. In 2011, it set a target to focus 50% of audits on higher-risk cash businesses such as bars, nightclubs, restaurants and wholesalers.
- Selection of cases for audit also takes account of local information.

**10.28** REAP is not specifically designed around the types of cases dealt with by Large Cases Division and there are limitations in its use in relation to large scale operations and group structures. Instead Large Cases Division select cases for audit based on profiling and screening which includes a review of accounts and returns submitted taking account of emerging non-compliance issues.[7]

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5 Under the Criminal Justice Act 1994 (as amended) designated bodies are required to report to An Garda Síochána and Revenue where they have a suspicion that a money laundering offence may have been committed. These reports are known as suspicious transaction reports.

6 REAP (Risk Evaluation Analysis Profiling system) is a computerised risk profiling system in use since 2008. It rates taxpayers, relative to one another, using information from Revenue's other systems as well as information from third parties such as the Health Service Executive, the Department of the Environment, Community and Local Government and the Taxi Regulator.

7 Revenue is currently investigating the development of a specific Large Cases Division REAP system.

**10.29** Revenue aims to concentrate its district office audit activity on the highest risk cases as assessed through REAP. It has set a target that at least 60% of all cases audited will come from the highest risk category. In 2011, the outturn was slightly below target, at 58%.

**10.30** Revenue carried out 10,560 audits in 2011 yielding a total of €437 million (see Figure 10.8). 238 audits were conducted as part of Revenue's special investigations or by its Investigations and Prosecution Division and the associated yield was €33 million.

**Figure 10.8 Revenue Audit Activity and Outturn 2011**

| | Revenue Districts | Large Cases Division | Special investigations[a] | All audits |
|---|---|---|---|---|
| Audits carried out[b] | 10,020 | 300 | 240 | 10,560 |
| Proportion of audits with yield | 73% | 67% | 92% | 73% |
| Total yield (€ million) | 300 | 104 | 33 | 437 |
| Average yield per yield case[c] | €39,500 | €343,500 | €153,700 | €50,600 |

Source: Office of the Revenue Commissioners

Notes: a Includes special investigations and audits completed by Revenue's Investigations and Prosecutions Division.

b Excludes Stamp Duty and Capital Acquisitions Tax audits and audits completed under Revenue's Random Audit Programme.

c Average excludes results of three outlier cases (one in a Revenue district and two in Large Cases Division) where the yield in each case was in excess of €10 million.

### *Re-auditing of Yield Cases*

**10.31** A re-audit programme provides a means of measuring the impact that Revenue interventions have on taxpayers behaviour and in highlighting trends in the rate of non-compliance recidivism.

**10.32** Revenue operated a re-audit programme up to 2002. Results from that programme suggested that 60% of non-compliant taxpayers examined continued to be non-compliant four years later and in 20% of those cases the yield was higher in the later audit.

**10.33** In 2003, Revenue carried out a review of the re-audit programme, and concluded that a re-audit programme in association with other indicators is useful in estimating compliance levels. The review recommended that the objectives of the re-audit programme needed to be clearly defined and that an adequate sample that takes account of all previously audited cases would need to be examined. It also recommended central monitoring and quality assurance of cases audited under the programme. However, the programme was discontinued, mainly to allow time to determine the effectiveness of the REAP system.

**10.34** A re-audit programme was activated again in March 2011. 400 cases that had previously been audited in 2009 were randomly selected from the highest risk REAP category and sent to each of the tax regions for profiling and determination of appropriate intervention. The Accounting Officer stated that as a result of difficulties in implementing the programme, it had been temporarily paused for review of its operation. She confirmed that the review is ongoing and is being conducted in conjunction with an analysis of all audits between the years 2009 and 2011 inclusive. The Accounting Officer anticipates that another re-audit programme will be implemented in January 2013 and will include a sample of 400 cases randomly selected from cases audited in 2010.

**10.35** Revenue anticipates that the 2013 programme will allow it to assess the impact of audit by monitoring the subsequent compliance of taxpayers. It also expects the programme to provide assurance that audit settlements are not clawed back by taxpayers in subsequent years.

## Deterring Non-Compliance

**10.36** Taxpayers who may consider delaying their tax returns or not paying their due taxes are likely to be deterred from doing so only if the perceived consequences outweigh the more immediate benefits. For a credible deterrent effect to exist, there needs to be a high risk of the non-compliance being detected by Revenue in a timely way, and prompt collection of any outstanding taxes plus an interest charge to reflect the time value of money. In appropriate cases, penalties for breaches of obligations under the tax code, including criminal prosecution in more serious cases, may add to the overall deterrent effect. Publication of the names and addresses of tax defaulters is used as an additional deterrent.

### *Recovery of Detected Unpaid Taxes*

**10.37** The finalisation of a Revenue audit can result in the levying of additional amounts in respect of under-declared tax, interest on late payment and civil penalties in relation to various offences (for example undisclosed sales, receipts income or capital gains). The total amount collected or deemed to be collectible from the taxpayer is referred to as the audit yield.

**10.38** In some cases, additional amounts due in audit cases are quantified by the taxpayer by way of a 'qualifying disclosure'. This involves voluntary disclosure of non-compliance, with tax requirements, details of the nature of the tax offence, quantification and payment of the total tax and interest due.[8] Where the taxpayer furnishes a qualifying disclosure, a lower level of penalty applies. Even where a qualifying disclosure is not made, Revenue may grant a reduction in penalties charged where a taxpayer co-operates fully during the course of an audit.

**10.39** Where the tax liability has not been quantified in a qualifying disclosure, the Revenue auditor quantifies the undercharge in respect of tax, interest and penalties (if any) and invites the taxpayer to submit a written settlement offer and to pay the liabilities so quantified. These settlement offers are subject to approval. The Board of the Revenue Commissioners has delegated authority to regional and district staff to approve settlement offers within certain parameters.

**10.40** Revenue has stated that the concept of a monetary settlement in audits has an important role to play in its overall compliance programme. It notes that the use of appropriate monetary settlement procedures is consistent with efficient management of the tax system and best use of Revenue resources.

**10.41** Audit settlements can be

- paid in full when the audit is concluded
- paid over a phased basis where the taxpayer has limited access to liquid funds but continues to generate income
- unpaid where the taxpayer claims inability to pay.

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8 Such disclosures can be prompted where Revenue have notified the taxpayer of its intention to conduct an audit or unprompted where the disclosure is furnished voluntarily to Revenue.

**10.42** Previously, Revenue did not record the full value of additional taxes that were assessed as being due during audits. As a result, it was unable to estimate the amounts written off as part of audit settlement agreements. Since July 2012, Revenue have commenced recording this information.

### *Loss Relief Restriction*

**10.43** Revenue has estimated the future tax impact of losses restricted as a result of audits conducted in 2011 at €16 million (€127 million in 2010).

**10.44** In addition, the Taxes Consolidation Act 1997 provides for restrictions on the use of losses where returns are not filed on time (within nine months of the end of the company's accounting period). The tax value of the losses in the case of filing delay is not forgone but is postponed to a later claim period.

**10.45** Where the return is filed up to two months after the due date, loss relief is restricted by 25% with a maximum restriction of €31,740. Where the return is filed more than two months after the due date, loss relief increases to 50% with a maximum restriction of €158,715.

### *Publication of Defaulters' Details*

**10.46** Details of audit settlements are published where Revenue accept a specified sum in excess of €33,000 in settlement of any additional liability for tax, interest and penalties. Cases are not published where a qualifying disclosure is accepted or the settlement is less than €33,000 or the penalty does not exceed 15% of the tax ultimately due.

**10.47** Figure 10.9 sets out the total amounts of tax, interest and penalties in published cases settled between 2007 and 2011.

**Figure 10.9 Cases of Non-Compliance Published 2007 to 2011**

| **Year** | **2007** | **2008** | **2009** | **2010** | **2011** |
|---|---|---|---|---|---|
| Number of cases | 555 | 401 | 356 | 305 | 366 |
| Total yield €m | 144 | 75 | 97 | 68 | 76 |

Source: Office of the Revenue Commissioners

Note: Yield amounts are based on settlements, and do not represent amounts collected.

### *Civil Penalties*

**10.48** Revenue can apply civil penalties for failure to file P35 or VAT returns or for various tax offences discovered on audit. The number and value of civil penalties imposed in 2011 is shown in Figure 10.10.

**10.49** Penalties were imposed in just over half of the cases where audits resulted in yield liabilities being determined. Between 2008 and 2011, the penalties applied as a result of audit represented about 10% of the total tax audit yield.

**Figure 10.10 Civil penalties imposed in non-compliance cases 2011**

| | Non-filing of P35 and VAT returns | Penalties applied as a result of audit | Total |
|---|---|---|---|
| Number of cases | 724 | 4,004 | 4,728 |
| Value of civil penalties imposed (€ million) | 2.9 | 33 | 35.9 |
| Average civil penalty imposed | €4,000 | €8,240 | €7,590 |

Source: Office of the Revenue Commissioners

### *Summary Criminal Proceedings*

**10.50** Summary criminal proceedings arise in relation to the non-filing of returns, and other tax and Customs and Excise offences. The total number of summary prosecutions finalised and the associated fines are shown in Figure 10.11.

**10.51** In addition to the imposition of fines, custodial sentences are also imposed in some cases. For example, in 2011, custodial sentences were imposed in 32 of the 497 Customs and Excise cases where summary convictions were obtained. 19 of these sentences were suspended.

**Figure 10.11 Summary prosecutions for tax offences 2008 to 2011**

| | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| ***Prosecution cases for*** | Number of cases | | | |
| Failure to file returns | 1,052 | 1,199 | 1,380 | 1,217 |
| Customs and Excise offences | 455 | 535 | 509 | 497 |
| Tax offences | 11 | 9 | 10 | 16 |
| | 1,518 | 1,743 | 1,899 | 1,730 |
| ***Value of fines imposed in Court*** | € million | | | |
| Failure to file returns | 2.3 | 3.0 | 4.0 | 2.8 |
| Customs and Excise offences | 0.6 | 0.8 | 1.1 | 1.1 |
| Tax offences | —[a] | —[a] | —[a] | —[a] |
| | 2.9 | 3.8 | 5.1 | 3.9 |

Source: Office of the Revenue Commissioners

Note: a Aggregate value of fines imposed less than €50,000 each year.

### *Prosecutions for Tax Evasion*

**10.52** Cases are referred to Revenue's Investigation and Prosecution Division (IPD) for investigation with a view to criminal prosecution where there is prima facie evidence of serious offences having been committed. Within IPD, these cases are further evaluated before commencement of resource-intensive investigation work. The evaluation takes account of a number of factors, including

- the strength of the available evidence
- how long ago the offence was discovered
- the likely length and expense of a trial (on the principle that the cost of pursuing prosecution should not be disproportionate to the possible benefit to be obtained)
- the degree of culpability, responsibility and experience of the alleged offender
- the need for deterrence, both personal and general in relation to the particular offences
- whether the alleged offender has made a full disclosure, has co-operated in reaching a settlement and has paid all of the tax interest and penalties that are due.

**10.53** Over the five years 2008 to 2011, an average of around 40 cases a year were deemed suitable for investigation with a view to prosecution. It can take several years before a case is presented to Court. As a result, at any point in time, Revenue have a number of serious evasion cases at various stages of the investigation and prosecution process (see Figure 10.12).

**Figure 10.12 Status of Prosecution Cases on Hand 2009 to 2012 (April each year)**

| Status of prosecution cases on hand | 2009 | 2010 | 2011 | 2012 |
|---|---|---|---|---|
| Under investigation | 61 | 50 | 69 | 87 |
| With the Revenue Solicitor's Office | 11 | 14 | 12 | 23 |
| Submitted to the DPP | 10 | 9 | 3 | 1 |
| Directions issued by DPP to prosecute | 15 | 26 | 33 | 23 |
| Before the court | 13 | 17 | 34 | 48 |
| **Total open cases** | **110** | **116** | **151** | **182** |

Source: Office of the Revenue Commissioners

**10.54** The numbers of convictions obtained in cases found to be suitable for prosecution between 2008 and 2011 and the associated penalties are shown in Figure 10.13.

**Figure 10.13 Prosecution for Serious Tax Evasion 2008 to 2011**

| | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| ***Convictions obtained*** | | | | |
| Tax evasion cases | 15 | 6 | 7 | 16 |
| Customs and Excise evasion cases | 5 | 9 | 6 | 14 |
| Total convictions | 20 | 15 | 13 | 30 |
| ***Penalties*** | | | | |
| Value of fines (€ million) | 1.2 | 0.5 | —[a] | 0.1 |
| Suspended sentence | 6[b] | 2 | 7 | 15 |
| Imprisonment | 1 | 4[c] | 1 | 8 |

Source: Office of the Revenue Commissioners

Notes:
a The value of the fines imposed was €16,350.
b Seven suspended sentences were imposed in 2008, but one of these was successfully appealed.
c Prison sentences were imposed in five cases in 2009. One of these was successfully appealed and a €250 fine was imposed after a judicial review.

### *Penalty Rate*

**10.55** For the purpose of this examination, Revenue were asked to estimate the proportion of taxpayers who had a civil penalty applied or were pursued by way of a summary prosecution for non-filing of tax returns. The data provided showed that civil penalties were applied or summary prosecutions pursued in respect of

- less than half of one percent of taxpayers who did not file Corporation Tax, VAT or RCT returns
- 2% of taxpayers who had not filed Income Tax returns
- 3.3% of taxpayers who had not filed P35 returns.

## Conclusions and Recommendations

**10.56** A clear understanding of the level of non-compliance by individuals and businesses that are liable to pay tax (the tax gap) is a basic requirement for effective management of taxpayer compliance.

**10.57** Revenue collection authorities in a number of other jurisdictions have developed methodologies for estimating the tax gap. Estimates compiled by the authorities in the UK suggest that the overall loss of revenue due to non-compliance was of the order of 8%. Due to issues around accurate estimation of the tax gap and concerns around its usefulness at an operational level, Revenue does not currently produce such estimates.

**10.58** Some work is being done by Revenue in relation to the links between relevant economic variables and tax collected but this does not provide reliable indications of tax non-compliance levels.

**10.59** The revenue audit gap is a more limited measure of taxpayer compliance. It measures revenue losses as a result of non-compliance by individuals (except PAYE taxpayers) and businesses that are registered with Revenue. Revenue does not have estimates of the scale of the audit gap, but it carries out a programme of random audits of taxpayers that has the potential to generate reasonably reliable estimates.

**10.60** The random audit programme is restricted to a sample of up to 400 taxpayers each year. The consistent outcome of the audits over the period 2007 to 2010 is that around one third of the taxpayers examined were found to have under-paid their tax. Over the same period, the average yield per non-compliant case was around €17,500 (including tax, penalties and interest). Of this, around €7,400 related to the audit base year, which indicates the order of average loss per non-compliant taxpayer per year.

> **Recommendation 10.1:** Revenue should develop the methodology underpinning its random audit programme to provide estimates of the revenue audit gap, and of the tax losses resulting from registered taxpayers being non-compliant. This should include the capture of information in relation to the value of the tax under-declared and the original liability. This would allow the results to be extrapolated to provide an estimate of the total tax under-declared for the entire population of registered taxpayers.
>
> **Accounting Officer's Response:** Agreed in part. Since July 2012, the value of tax under-declared and the original liability is recorded in relation to all cases audited as part of the random audit programme. Revenue will consider this recommendation further.

**10.61** Revenue has not operated a re-audit programme since 2002. Results from that programme indicate that 60% of taxpayers re-audited continued to be non-compliant four years later. A programme commenced in 2011 but was suspended for review of operations.

> **Recommendation 10.2**: A re-audit programme with clearly defined objectives and outcome measures should be developed and implemented.
>
> **Accounting Officer's Response:** Agreed. A re-audit programme will be implemented in 2013.

**10.62** Delays in payment of tax liabilities impose costs on the State. The level of tax outstanding for payment has increased from €1.3 billion at March 2008 to just under €2 billion at March 2012. Revenue measures the timeliness of taxpayer compliance using a composite indicator of timely submission of tax returns <u>or</u> of payment. Disaggregating the rates into timeliness of returns and timeliness of payments indicators shows that returns are, on average, more timely than payments but that the rates are relatively close. Given the time value of money in the current fiscal situation, target setting and reporting in relation to timeliness of payment is more relevant.

> **Recommendation 10.3:** Revenue should set targets in relation to timeliness of taxpayer compliance in terms of both payment compliance and filing compliance.
>
> **Accounting Officer's Response:** Not agreed. Revenue consider that the differences in compliance rates as measured by the composite measure and that measured using separate payment and return compliance figures is not significant and would not merit a change in its compliance measurement system.

**10.63** Revenue has developed risk-assessment systems to allow it to focus the bulk of its tax audit resources on the taxpayers at highest risk of default. In 2011, it carried out a total of over 10,000 targeted audits, which resulted in a total yield of €437 million. Excluding large case audits and special investigations, the average yield per audit was around €40,000. This was around 2.3 times the average yield from random audit cases in recent years. Combined with a non-compliance detection rate of 73% of cases selected for audit, this indicates that Revenue's risk assessment is relatively effective in targeting higher-risk cases. Less resource-intensive assurance checks of over half a million cases resulted in identification of a further €81 million in yield.

**10.64** However, the overall rate of detection of non-compliant taxpayers is not known. Deploying additional resources to carry out audit and assurance work could be cost effective, but better information about the success rate in detecting non-compliance is required to conclude on this matter.

**10.65** Revenue employ a wide range of measures designed to have a deterrent effect on individuals and businesses that might consider evading their tax obligations. However, without an estimate of the likelihood of detection of non-compliance, it is difficult to evaluate the effectiveness of the deterrent measures.

# 11 VAT on Intra-Community Trade

**11.1** Over the period 2007 to 2011, Value Added Tax (VAT) has accounted for just over 30% of total tax receipts in Ireland. Approximately 90% of Irish VAT receipts relate to domestic transactions with the remainder relating to imports from countries outside the EU.

**11.2** Under arrangements introduced in 1993, as part of the creation of the Single Market, VAT registered traders in one member state are permitted to transfer goods to VAT registered traders in other member states, at effectively a zero rate of VAT. The trader receiving the goods must account for VAT on the acquisition, even though there is likely to be no net liability to pay VAT.[1] The trader must also account for VAT when goods are subsequently sold on in the local market.

**11.3** It was envisaged that the arrangements introduced in 1993 would be transitional, to be replaced in the future by a new system whereby VAT on transactions of this type would be levied in the member state in which the supply originated. However, agreement has not been reached in this regard and, in general, the arrangements introduced in 1993 continue in force.

**11.4** Prior to 2010, the general rule in respect of the supply of services to customers in other member states was that VAT was payable in the member state where the supplier was established. Since 1 January 2010, VAT is no longer payable by the supplier on the supply of services to business customers in other member states.[2]

**11.5** A fundamental aspect of the zero-rating provisions for intra-community trade is that VAT is subsequently payable in the member state where the goods or services are consumed. There are a number of risks of non-compliance associated with the current system which could have implications for the level of VAT actually received by Revenue. These include the risk that traders

- fail to comply with timelines set for submission of returns to Revenue in respect of intra-community trade
- report to Revenue that an intra-community supply was made, at a zero rate of VAT, when in fact the goods or services were released to the Irish market
- avail of the intra-community trade provisions to import goods or services, at a zero rate of VAT, but fail to pay the VAT due when the goods or services are released to the market
- engage in missing trader or carousel fraud.

**11.6** Controls over intra-community acquisition and supply rely on data matching and the auditing of traders' commercial records (such as accounts, transport documents, invoices, settlement documents, etc.) and on co-operation arrangements between member states.

**11.7** This chapter reviews the processes that the Revenue Commissioners have in place to manage the risks associated with VAT on intra-community trade.

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1 There will be no net liability to pay VAT if the trader is entitled to full deductibility of input credits.

2 As is the case with intra-community acquisitions of goods, the customers must account for VAT (in their own countries) on the acquisition of services.

## Control System

**11.8** A range of controls is required in respect of intra-community trade to minimise the risk that VAT due may not be received. Figure 11.1 illustrates the system currently in operation for intra-community trade in goods.

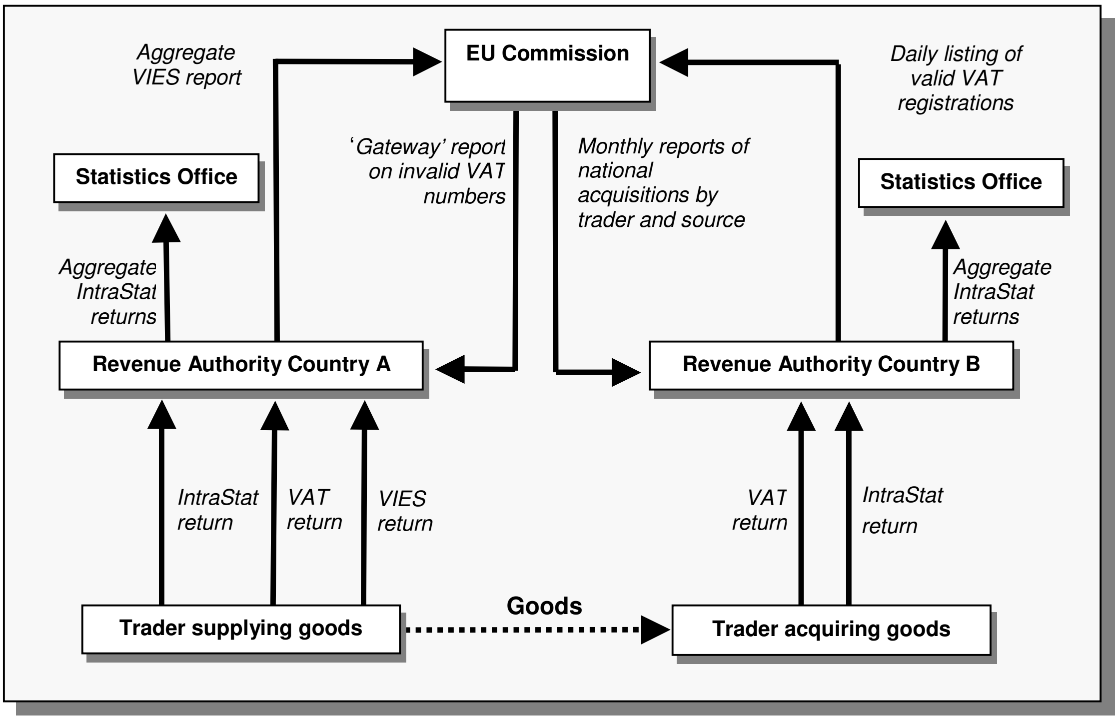
**11.9** The main documentation requirements at EU level are

- **a VAT Information Exchange System (VIES) —** VAT registered traders supplying goods or services to traders in other member states, at a zero rate of VAT, must submit a periodic VIES return to the national revenue authorities in their own country. The VIES return must include VAT registration numbers for each customer and the aggregate value of supplies to each.
- **IntraStat returns —** Traders are obliged to submit a monthly IntraStat return, for statistical purposes, to their national revenue authorities if the annual value of goods supplied to other member states exceeds €635,000 or the annual value of goods acquired from other member states exceeds €191,000.

**11.10** In addition, all VAT registered traders in Ireland must complete periodic VAT returns (VAT3 form). Where Irish registered traders engage in trade with persons or companies in other EU countries, they must provide figures on their VAT return for total intra-community supplies and total intra-community acquisitions of goods.

**11.11** The majority of traders submit their VIES returns via Revenue's On Line System (ROS). However, due to limitations on the volume of data that can ordinarily be submitted via ROS, some large companies operating in Ireland have, since January 2010, furnished VIES returns through a separate facility created within ROS, called Connect Direct.[3]

**Figure 11.1 VAT System for Intra-community Trade in Goods**

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3 Council Directive 2008/8/EC added the requirement to report business-to-business supplies of services under the VIES reporting provisions, with effect from 1 January 2010. The new requirement has significantly increased the size of the VIES return for some traders.

**11.12** Two levels of control are in place to check whether the VAT numbers quoted on VIES returns are correct.

- The first-level check is of whether the VAT number submitted on the VIES return is valid i.e. compliant with an algorithm specific to the member state in question. Where VIES returns are submitted by traders directly through ROS, the first-level check is carried out automatically in that only VAT numbers that comply with the appropriate algorithm are accepted by the ROS system.
- The second-level check, carried out at EU level, focuses on whether the VAT number quoted is active and in use in the member state in question.

**11.13** On a monthly basis, all VIES returns received by national revenue authorities are submitted to the EU Gateway system. This system compares the information in VIES returns to the VAT registration databases of individual member states. It produces a report of all cases where the VAT number quoted on a supplier's VIES return does not match the relevant database — this may arise where a VAT number has yet to be allocated to a taxpayer or was allocated but subsequently cancelled. Each national revenue authority is supplied with its own monthly 'Gateway' report detailing instances where traders in that member state have included (apparently) incorrect VAT registration numbers in their VIES returns.

**11.14** The guidance material on VIES, produced by Revenue for traders, advises that if the supplier is unable to satisfy Revenue that a particular consignment of goods or services has been sold and delivered to a VAT registered person in another member state, the supplier will be liable for the payment of Irish VAT on the transaction. Revenue does not have specific systems in place to pursue this VAT and does not analyse the value of transactions in respect of which inaccurate VAT numbers are submitted.

## Filing Compliance

**11.15** Revenue estimate that 55% to 60% of VIES returns are received by the due date. The return rate rises to 80% to 85% within two months of the due date.

**11.16** The traders manual on VIES, produced by Revenue, states that the current penalty for non-compliance with VIES reporting obligations is a €4,000 fine and that Revenue has an active prosecution policy in this regard. The risk factors taken into account by Revenue when considering whether to prosecute cases of non-compliance with VIES reporting requirements include

- whether the non-compliance continued despite repeated requests by Revenue staff
- the size of the trader
- traders dealing in zero-rated or exempt goods
- traders with a history of submitting nil returns.

**11.17** Figure 11.2 sets out the number of prosecutions taken by Revenue since 2007 and the outcome in terms of fines or settlements.

**Figure 11.2 Prosecutions for Non-Compliance in VIES Reporting 2007 to 2011**

| Year | Number of prosecutions | Fines/Settlements |
|---|---|---|
| | | **€'000** |
| **2007** | 43 | 74 |
| **2008** | 29 | 49 |
| **2009** | 22 | 44 |
| **2010** | 13[a] | 33 |
| **2011** | 1[a] | 2 |

Source: Revenue Commissioners

Note: a Prosecutions commenced during 2009.

**11.18** Revenue stated that, during 2010, it temporarily ceased referring cases of non-compliance with VIES reporting requirements for prosecution, due to the need to update prosecution material and reword VAT documentation. The updates were required to reflect legislative changes including an increase in the fixed penalty for non-compliance, the introduction of monthly VIES filing for certain categories of trader and the extension of VIES reporting to cover the supply of services from business to business. The referral of cases for prosecution resumed in March 2012.

**11.19** The Accounting Officer stated that since Revenue recommenced referring cases for prosecution in March 2012, a total of 85 cases have been forwarded for consideration by the Revenue prosecution team.

## Underreporting

**11.20** It was noted during this examination that the volume of transactions reported in VIES returns by one large company decreased by 74% between January 2010 and December 2011.[4] This suggests that the company might no longer have been fully reporting intra-community supplies in its VIES returns.

**11.21** Revenue subsequently conducted a meeting with the company in question to discuss its VIES reporting. The company stated that the reduction in the volume of transactions reported for VIES purposes was due to a technical issue related to the introduction of a new billing platform in 2010. It is not clear whether the technical issue resulted in understatements of exports in other returns made by the company to Revenue e.g. VAT return and IntraStat return.

**11.22** Revenue stated that it has now requested the company to submit backdated VIES returns in respect of the period from January 2010 to December 2011 and that the company has undertaken to do so by 31 August 2012. In order to comply with Revenue's request, the company in question will need to supply VAT registration numbers for all customers to whom intra-community supplies were made during the two year period.

## Follow up on Incorrect VAT Numbers

**11.23** The VIES return of supplies to other member states submitted by Irish traders must include a VAT registration number for each export customer. Where a VAT number quoted is subsequently found to be incorrect (i.e. invalid or inactive), there is a risk that

- the goods or services were not supplied to a trader in another member state but were instead supplied in the home market and VAT was not paid, or
- the goods or services were supplied VAT free to a person or trader in another member state that was not registered for VAT in that member state.

### *VIES Returns through Connect Direct*

**11.24** In the case of some large companies that submit VIES returns to Revenue through Connect Direct, it was noted that a significant proportion of the VAT numbers quoted were failing at either the first level check (i.e. not compliant with the relevant algorithm) or the second level Gateway check (i.e. the number was not active).

4 The company in question uses the Connect Direct facility to submit VIES returns.

**11.25** Figure 11.3 provides an overview of returns submitted by the companies using Connect Direct over a two year period.

**Figure 11.3 Returns through Connect Direct, 2010 to 2011[a]**

| | Returns | |
|---|---|---|
| | **Number** | **Value** |
| | **'000** | **€m** |
| **All transactions** | **1,533** | **17,148** |
| **Incorrect VAT numbers** | | |
| First level check | 141 | 550 |
| Second level check | 129 | 717 |
| **Total incorrect** | **270** | **1,267** |
| **% incorrect** | **17.6%** | **7.4%** |

Source: Revenue Commissioners

Note: a Due to a delay in the submission of returns, the figures included for one of the companies only cover up to the end of September 2011.

**11.26** Between January 2010 and December 2011, the companies reported intra-community supplies totalling €17.1 billion. The value of transactions for which the VAT number quoted failed at either the first or second level check was nearly €1.3 billion. If (as provided for in guidance to traders) Revenue was to pursue the VAT in respect of these transactions, on the basis that the companies have not provided evidence of supply to a VAT registered person, the estimated liability would be in excess of €200 million.[5]

**11.27** Revenue stated that where VAT numbers submitted through Connect Direct fail the first level check, its policy is to send a report to the individual trader, requesting that correct numbers be submitted. It stated that, due to system failures, no error reports were sent to these companies during 2010 and 2011. When the issue was resolved in early 2012, all of the outstanding reports were issued to the companies To date, the level of corrections received by Revenue from these companies has been negligible.

### *VIES Returns through ROS*

**11.28** As ROS will only accept VAT numbers that comply with the appropriate algorithm, all VIES returns submitted directly through ROS are forwarded to the EU Gateway system, where the second level check is carried out.

**11.29** As part of this examination, an assessment was made of the results of the follow-up action taken by Revenue in respect of a sample Gateway report received by Revenue in May 2011. That report identified 3,450 cases, with transactions totalling €65 million, where incorrect foreign VAT numbers had been reported by Irish traders on VIES returns submitted directly through ROS. Analysis of the list showed that 30% of the problem transactions dated back to periods before 2009.

5 The estimated VAT liability was calculated using a notional rate of 17.25%, being the mid point between the standard rate (21%) and the reduced rate (13.5%) applicable during 2010 and 2011.

**11.30** The Accounting Officer stated that old transactions highlighted in Gateway reports are typically in the range of 2% to 3% and are normally the result of late VIES returns, amendments to earlier returns and retrospective filings relating to new VIES registrations. She stated that Revenue had examined a sample of ten of the older transactions in the May 2011 report and found that nine related to transactions from 2007 that had been reported at the proper time (i.e. in 2007) and for which no previous error report had been received. The reason they did not appear on any Gateway report until May 2011 is not clear, and the Accounting Officer stated that further analysis of this matter will be carried out by Revenue.

**11.31** Revenue's policy in respect of incorrect VAT numbers identified in Gateway reports is to inform the Irish supplier that the VAT number submitted was found to be incorrect and to request the supplier to submit the correct number. Letters are dispatched on a batch basis, three to four times per year, requesting traders to submit correct VAT numbers.

**11.32** A sample of 30 cases arising from the May 2011 Gateway report was examined to establish the level of response received to the letters issued by Revenue. Responses had been received in 17 of the 30 cases, accounting for 88% of the value of transactions in the sample (see Figure 11.4).

**Figure 11.4 Response to Revenue Follow-up on Gateway Report for May 2011**

| | Response received | | Total |
|---|---|---|---|
| | Yes | No | |
| Number of cases | 17 | 13 | 30 |
| Value of transactions (€m) | 13.2 | 1.7 | 14.9 |

Source: Analysis by Office of the Comptroller and Auditor General

**11.33** Revenue stated that, in general, no further correspondence is issued in cases where no response is received to the follow-up letter sent. Cases are not forwarded to district or regional offices for additional case-work.

**11.34** The Accounting Officer stated that if a trader fails to provide the corrected VAT number when requested, this will raise the trader's risk rating on Revenue's risk analysis system (REAP) and will increase the probability of further intervention by Revenue. The REAP system, which is used to rank cases by risk according to a range of over 400 specified rules, contains nine rules relating to VIES data. One of the rules identifies cases where at least one incorrect foreign VAT number has been submitted on a trader's VIES return.

**11.35** In addition, the Accounting Officer stated that Revenue has developed a new risk programme which will ensure that VAT returns received are risk assessed on a nightly basis. One of the risk factors considered will be whether more than 5% of the VAT numbers submitted on a trader's VIES returns over the last 12 months are incorrect.

**11.36** The receipt of a response to a Revenue query does not, in itself, indicate that the issue has been resolved, because any new VAT number supplied must also be checked. The Accounting Officer stated that there are no specific reports generated by Revenue to identify traders that repeatedly submit incorrect VAT numbers in respect of the same transaction.

## Data Matching and Audit Follow Up

**11.37** The Commission supplies each national revenue authority with a monthly report of all intra-community acquisitions made by traders in that member state. Revenue stated that it compares this report to data contained in VAT returns, with the aim of identifying cases where VAT has not been paid. Indicators that VAT liabilities may not have been fully declared include cases where

- the monthly report of intra-community acquisitions shows that goods or services have been acquired by an Irish company, but the quoted VAT number does not relate to a company registered for VAT in Ireland
- VAT due, as indicated on the monthly report of intra-community acquisitions, is greater than declared VAT on domestic returns, which would suggest that VAT is not being accounted for by the trader that received the goods or services.

**11.38** In May 2011, Revenue matched data from the monthly report on intra-community acquisitions with its own data. This exercise identified 3,005 instances where the quoted VAT number was not a valid Irish VAT number, and the reported intra-community acquisitions exceeded €10,000.

**11.39** As part of this examination, samples of 25 of those cases were reviewed for each of three Revenue districts in the East and South-East region, to establish what action had been taken to follow up on the outcome of the data matching exercise.

**11.40** It was found that in Wexford and Kilkenny Revenue districts, none of the cases in the sample had been selected for audit intervention as a consequence of the data matching exercise. Two of the cases in Wexford and one in Kilkenny had been subject to audit but these were selected for reasons other than the data matching exercise.

**11.41** Waterford Revenue district is currently finalising a regional project to match VIES data with Revenue's own data with the aim of identifying and rectifying anomalies and highlighting risks of under declaration of taxes. Analysis of the results of the project would suggest that audit selection projects using VIES data are a good tool in detecting unpaid VAT. Figure 11.5 sets out details of the project being undertaken in Waterford Revenue district and the results of the sample reviewed.

**Figure 11.5 Case Study - Waterford Revenue District VAT on Intra-Community Acquisitions Project**

The intra-community acquisitions project conducted by Waterford Revenue district is focused on

- traders making acquisitions from traders in other EU member states, at a zero rate of VAT, to ensure that VAT is paid when the goods or services are released to market
- unregistered traders making intra-community acquisitions.

Revenue staff developed a template to identify cases with the highest risk of under declaration of VAT. District staff stated that the template enabled initial screening work to be carried out relatively easily by non-audit staff.

In total, approximately 600 cases were selected for review as part of the project conducted by Waterford Revenue district. About 500 cases were subsequently discounted, mainly on the basis of materiality. As at April 2012, the following results have been recorded in relation to the approximately 100 remaining cases

- 32 cases have been closed following correspondence with traders, yielding a total of €9,516.
- Seven audits have been closed, yielding €63,217.
- The district anticipates that a further eight audits still in progress are likely to yield a total of €1 million.
- At least two further cases with potentially significant yields have been identified for audit, but work has not yet commenced.
- The balance of cases have yet to be finalised.

In relation to the sample of 25 cases reviewed for this examination, where Revenue had identified that Irish VAT numbers submitted on VIES returns made by companies in other member states were not valid, it was found that all of the cases in the sample had been considered for intervention. Twelve had subsequently been discounted because reasonable explanations for the anomalies were identified. The majority of the cases discounted related to situations where a sole trader had moved to company status but had purchased goods or services using the sole trader VAT number. Of the other thirteen cases, nine were being further examined by issuing queries to the trader and four had been selected for audit.

## Countering Carousel and Missing Trader Fraud

**11.42** So called ‘carousel’ and ‘missing trader’ fraud are characterised by companies registering for VAT, conducting a period of intense trading with companies in other member states and then closing down or disappearing before paying the tax due. This type of fraud is typically carried out through the repeated acquisition and supply of small expensive goods such as computer chips, mobile phones, precious metals and games consoles.

**11.43** An example to illustrate how a carousel fraud would work, involving (notional) Irish companies and a company in another member state is outlined in Figure 11.6.

**Figure 11.6 Operation of Carousel and Missing Trader Fraud**

| | Companies involved | VAT paid if no fraud occurs |
|---|---|---|
| **Member State X** | Company A – supplies goods to Irish trader (Company B) at a price of €1,000,000 | None |
| **Ireland** | Company B – sells goods to Irish Company C at €1,100,000 plus VAT of €253,000 | €253,000 |
| | Company C – buffer company sells goods to Company D at a cost of €1,200,000 plus VAT of €276,000 | €23,000 |
| | Company D – sells goods to foreign Company A VAT-free and is entitled to reclaim VAT of €276,000 incurred on input costs | (€276,000) |
| **Member State X** | Company A – Purchases goods from Company D to complete the carousel | None |
| | **Net result** | **€0** |

Note: All VAT liabilities are assumed to be at standard rate

**Carousel Fraud**

Since the goods are released to the market in member state X, the net tax effect in Ireland (where all of the transactions are business to business) should be neutral. However, when a carousel fraud is being committed, Company D collects the VAT repayment and Company B disappears without paying its VAT liability. The net effect for Revenue of the carousel fraud in the above example is a loss of €253,000. Since Company D and Company B are separated by a buffer company, it is difficult for Revenue to prove that a link exists and to refuse to refund the VAT paid by Company D.

**Missing Trader Fraud**

The term ‘missing trader’ is used to describe any scenario where a trader acquires goods VAT free from another EU member state, sells on the goods domestically at VAT inclusive prices and then disappears without paying over the VAT to the Revenue authorities. The ‘carousel fraud’ version, as outlined above, is a particular form of ‘missing trader’ fraud where the goods acquired from another member state are sold on through a series of domestic transactions before being re-exported (possibly back to the original supplier).

**11.44** Revenue has not tried to estimate the scale of missing trader and carousel fraud in Ireland or the associated cost in terms of foregone VAT. In the UK, the Revenue authorities estimate that the unpaid VAT in respect of this type of fraud, at approximately £1.5 billion in 2009/2010, represents about 13% of all unpaid VAT.

### *Controls at Registration Stage*

**11.45** Revenue carries out what it refers to as commonality checking in respect of all applications for VAT registration, with the aim of identifying businesses linked through principals who are involved with other businesses with existing debt or failed businesses where the protection of limited liability may have resulted in non-payment of fiduciary taxes.

**11.46** As part of this examination, an assessment was made of the adequacy of the commonality checks undertaken during the tax registration process for 21 traders who had made in excess of €0.5 million worth of intra-community acquisitions in the first 12 months after registration. It was found that the commonality checks were not fully effective in over half of the cases. Only some of the relationships that existed had been identified in four cases and none were identified in seven cases.

**11.47** In relation to the sample test results, Revenue stated that the automated checking system (auto commonality) used for commonality checking has been enhanced since its first release in 2009. It stated that in the eleven cases where some relationships had not been identified, the checks had been carried out prior to the full release of the system. Revenue re-tested these cases during the course of this examination using the enhanced automated system and stated that all of the appropriate links were identified in the re-tests.

### *International Co-operation Arrangements*

**11.48** EUROFISC is a network established under Council Regulation (EU) No. 904/2010 to enhance administrative cooperation between member states in combating organised VAT fraud. It allows for targeted sharing of information between all member states on suspected fraudulent activities.

**11.49** Where another member state has concerns in relation to the activity of an Irish trader, it can request Revenue to actively monitor the trader and to submit details of its trading activity through EUROFISC. In some cases, concerns arise in respect of Irish traders through Revenue's own activity e.g. risk factors noted at VAT registration stage or during audits. Regardless of whether concerns in relation to traders originate internally or from other member states, Revenue carries out a risk assessment before making a decision as to whether monitoring is justified.[6]

**11.50** There are currently 26 traders being monitored by Revenue, 17 of which arose from requests received from a foreign administration and nine as a result of referrals from Revenue registration or audit units.

**11.51** The information logged by Revenue on EUROFISC in respect of monitored traders includes the name and VAT number of the Irish trader, the name and VAT number of their EU customers, the value of the goods or services supplied during the period and the currencies involved. Revenue obtain this data from the VIES returns submitted by the relevant traders.

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6 Factors considered as part of the risk assessment include whether the trader has any previous known involvement in fraud or any relationships with others known to have been involved in fraud, the trader's tax return compliance and whether the trading relates to targeted goods (e.g. mobile phones, computers, games consoles etc.)

**11.52** Under the mutual assistance arrangements, Revenue is entitled to request that foreign traders be monitored in cases where it considers that there is a risk to the payment of VAT, but there are currently no cases being monitored in other member states at the request of Revenue.

### *Special Investigation Teams*

**11.53** A number of national authorities have established dedicated units to tackle missing trader and carousel fraud. These units analyse VIES data on intra-community supplies and acquisitions with the aim of identifying unusual transactions. Suspicious cases are investigated and referred for audit if necessary.

**11.54** There is a carousel fraud team within Revenue. The team's work involves intelligence gathering for other jurisdictions under EUROFISC. There have been no prosecutions in Ireland in relation to carousel fraud in the last five years.

### *Other Control Options*

**11.55** Revenue authorities across Europe have implemented a variety of other control measures aimed at managing the risk of carousel fraud.

- EU rules permit member states to apply a reverse charge system for high risk goods, which involves only the last retailer in the chain levying VAT, thereby removing the potential for fraud in respect of business-to-business transactions. In common with the majority of EU countries, Ireland has adopted a reverse charge system in respect of carbon credit trading. Ireland also applies a reverse charge system in respect of the supply of construction services and scrap metal. Reverse charge systems have been introduced in Austria, Germany, Italy and the UK in relation to business-to-business supplies of mobile phones and computer chips.
- Conditions can be attached to VAT registration in instances where there are concerns about an application but not sufficient grounds for refusal. Revenue stated that where it is considered necessary, it may require companies registering for VAT to provide financial security for the payment of any tax which is, or may become due. In the UK, the conditions that can be attached include requirements for traders to provide financial security or to file their first VAT returns early and the suspension of VAT repayments without further checks.
- Joint and several liability can be applied for unpaid VAT. In the UK, a VAT registered trader can be held liable for the net unpaid VAT on certain communications and electronic goods received from another VAT registered business where the trader 'knew' or 'had reasonable grounds to suspect' that the VAT on the supply, or any previous or subsequent supply, of those goods would go unpaid.[7] Revenue stated that the application of joint and several liability in the UK has led to a significant number of appeals and the courts have ruled against HM Revenue and Customs in a number of cases. Revenue has stated that it will continue to monitor developments in the UK and in due course will consider whether to seek a change in Irish VAT law to enable the application of joint and several liability.

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7 Applies to any equipment made or adapted for use in connection with telephones or telecommunication, computers or computer systems, or any electronic equipment made or adapted for use by individuals for the purposes of leisure, amusement or entertainment.

## Conclusions and Recommendations

**11.56** Unlike domestic trade, VAT is not payable by the supplier on cross border trade of goods and services between VAT registered traders within the EU. Instead, a VAT liability arises when the recipient sells the goods and services in their domestic market. An EU-wide system of notification of trade flows (VIES) is in place, with the EU coordinating and matching the data supplied by the revenue authorities in individual member states, and reporting back data anomalies.

**11.57** The difficulty for Revenue in targeting potential VAT fraud is increased where reports on transactions are received late or not at all. Only a little over half of Irish traders submit their VIES returns on time. 15% to 20% of returns are still outstanding two months after the due date.

**11.58** According to Revenue guidance issued to traders, the current penalty for non-compliance with VIES reporting obligations is €4,000. Prosecutions for non-filing of returns, which in any event were few in number, were suspended for two years between 2010 and 2012. Prosecutions have now resumed.

**11.59** For VIES returns submitted using the Connect Direct system during 2010 and 2011, the value of transactions for which incorrect VAT numbers were quoted is €1.3 billion, with potential associated VAT estimated at over €200 million. Although it is Revenue policy to send details of invalid VAT numbers back to individual traders, it stated that no reports were sent during 2010 and 2011 due to system failures. Revenue stated that the amount of corrected data received from large traders submitting VIES returns through Connect Direct has been negligible.

**11.60** A sampling exercise carried out on the Gateway report for May 2011 showed that while follow-up letters were issued by Revenue in respect of all incorrect VAT numbers submitted, no response was received in relation to 12% of the value of transactions. No follow up action was taken by Revenue in these cases.

**11.61** Revenue guidelines state that Irish VAT becomes payable on intra-community supplies in instances where an Irish trader cannot satisfy Revenue that goods or services have been supplied to a VAT registered person in another member state. However, little analysis has been carried out by Revenue since 2010 in relation to significant levels of inaccurate reporting and apparent under-recording of trade in VIES returns. Revenue does not pursue the collection of VAT in situations where evidence has not been provided by the trader that goods and services have been delivered to a VAT registered person.

**11.62** The Accounting Officer has stated that any tax due in such circumstances would be collected by way of an assessment under Section 111 of the VAT Consolidation Act 2010. To raise an assessment, an inspector of taxes must have reason to believe an amount of tax is actually due and is payable to the Revenue. The failure of a VAT number validation would not, in itself, be sufficient to justify an assessment.

**Recommendation 11.1:** Revenue should adopt a clear policy and strategies in relation to the monitoring and management of traders' compliance with their obligations under VIES legislation.

**Accounting Officer's Response:** Agreed in part. Revenue's policy is to ensure maximum compliance with VIES legislation at least possible cost and administrative burden for businesses. The strategies are to make it as easy as possible for traders to comply with their obligations and to take proportionate measures where they do not do so. Revenue will review the details of this approach in light of the findings of this audit report.

**11.63** Combining VIES data with Revenue's own data is potentially useful in identifying cases where VAT has not been accounted for. While VIES data informs Revenue's overall risk rating system, VIES risk criteria alone are not, in general, used to select cases for further intervention.

**11.64** A pilot project conducted in Waterford Revenue district used VIES data to select cases for intervention. District staff found that cases were screened relatively easily by non-audit staff using a template devised in the district.

> **Recommendation 11.2:** Revenue should examine the results of the data matching project undertaken in the Waterford district, in terms of actual and expected audit yield, and consider the potential for extending the project to other districts.
>
> **Accounting Officer's Response**: Agreed. Revenue will analyse the results of the Waterford district project and this analysis will inform its new real time risk programme for VAT.

**11.65** Missing trader and carousel fraud is regarded across Europe as a significant risk to the payment of VAT. There is scope for Revenue to undertake more in-depth analysis of data on intra-community supplies and acquisitions, with the aim of identifying and investigating unusual transactions and suspicious patterns.

> **Recommendation 11.3:** Revenue should review the control measures in place in other member states and assess the case for their introduction here.
>
> **Accounting Officer's Response**: Agreed. There is acceptance at EU level that a uniform approach to combating VAT fraud is required. Ireland, together with other members of EUROFISC, is participating in a project group that has been formed to identify best practice and produce an updated guide to cover operational aspects of dealing with intra-community fraud. The project group's report is due to be completed by 2013.

**11.66** Checks carried out at the VAT registration stage are an important control in identifying companies involved in this type of activity. Commonality checks carried out by Revenue as part of the application process aim to identify links between the company applying for registration and existing entities of interest to Revenue and the automated checking system (auto commonality) used for commonality checking has been enhanced in recent years. In more than half of the 21 cases examined, the checks carried out had not identified all of the relationships that existed.

**11.67** When Revenue subsequently carried out re-testing using the enhanced automated system, all of the appropriate links were identified.

> **Recommendation 11.4:** Revenue should use the enhanced automated system to repeat the commonality checking carried out for all VAT registrations processed during periods before the enhanced system was available, to ensure that all appropriate relationships have been identified.
>
> **Accounting Officer's Response**: Agreed. Revenue will examine the feasibility of repeating the commonality checking carried out during the period before the enhanced system was available.

# Part 3 Voted Expenditure

# 12 Vote Accounting

**12.1** Dáil Éireann provides money for the services of government departments and offices, both capital and non-capital, by

- approving estimates for those services in the course of each year
- giving statutory effect to the estimates in an annual Appropriation Act.

**12.2** Expenditure is provided for under 'votes', with one or more votes 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.

**12.3** 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. Appropriation accounts are drawn up on a cash basis. By way of supplementary information, certain accrual based outturns and balances are included in notes to the accounts.

## Results of 2011 Audits

**12.4** Audits of the 2011 Appropriation Accounts for all votes have been completed. Each account, together with the related audit report, is set out in an accompanying volume entitled Appropriation Accounts 2011. Clear opinions have been given in all cases.

**12.5** In addition to certifying the appropriation accounts of each department and office, I am required under Section 3 (5) of the Comptroller and Auditor General (Amendment) Act 1993 to refer in my audit certificate to any material instance where money has not been applied for the purpose intended or where a transaction is not in accordance with the authority governing it. I have drawn attention to a material level of irregular payment on the Vote for Social Protection.

## Appropriations for 2011

**12.6** A summary of the amounts appropriated in 2011 for the public services administered through the votes of departments and offices is included in Annex A. The outturn for the year is also shown, together with the surplus of appropriations over expenditure.

**12.7** The final amount appropriated for public services in 2011 was €50.4 billion.[1] This comprised supply grants of €46.4 billion, capital funding carried over from 2010 totalling €13.5 million and appropriations-in-aid of €4 billion.[2]

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1 See Figure 12.4 (Annex A).

2 Section 91 of the Finance Act 2004 allows for the carrying over to the following year of unspent capital funding, subject to the agreement of the Minister for Public Expenditure and Reform.

## Vote Outturn

**12.8** Aggregate expenditure and appropriations-in-aid of all votes for 2007 to 2011 are summarised in Figure 12.1. The total amount spent by departments and offices in 2011 was €49.7 billion. After deduction of realised appropriations-in-aid totalling €4.1 billion, the net expenditure in the year was €45.6 billion.

**Figure 12.1 Vote Outturn 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Gross voted expenditure | 48,931 | 53,761 | 53,119 | 52,738 | 49,669 |
| Less appropriations-in-aid | (4,244) | (4,464) | (5,916) | (6,172) | (4,096) |
| **Net voted expenditure** | **44,687** | **49,297** | **47,203** | **46,566** | **45,573** |

**12.9** Departments and offices are not permitted to spend more than the amount approved for each vote area. When the expenditure in the year is less than the amount provided, the surplus is liable to be surrendered to the Exchequer.

**12.10** All departments and offices managed within their voted allocations. Surpluses were recorded by all votes based on their gross provisions, and also on their net allocations after taking account of appropriations-in-aid. Consequently, no excess vote occurred in 2011.

**12.11** The 2011 surpluses amounted to €815 million (see Figure 12.2). Of that amount, a total of €114 million was approved for carry over to 2012. The balance of €701 million was due for surrender. The sums liable for surrender or carried over to 2012 for each vote are shown in Figure 12.5 (Annex A).

**Figure 12.2 Surplus for Surrender 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Surplus for the year | 620 | 878 | 794 | 866 | 815 |
| Amount carried over to the following year | (126) | (128) | (126) | (14) | (114) |
| **Surplus for surrender** | **494** | **750** | **668** | **852** | **701** |

**12.12** The balances due to be surrendered out of votes for public services for the year ended 31 December 2010 amounted to €852 million. Those balances have been duly surrendered.

## Exchequer Extra Receipts

**12.13** Certain sums collected by government 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 Garda (on-the-spot) fines and court fine 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.

**12.14** Where Exchequer extra receipts arose in 2011, the amount is shown in a note to the respective appropriation accounts. The aggregate amount of those receipts reported in each account is set out in Figure 12.6 (Annex A).

**12.15** The total Exchequer extra receipts recorded by government departments and offices in 2011 was €124 million.

## Stock and Store Accounts

**12.16** Under Section 3 (6) of the Comptroller and Auditor General (Amendment) Act 1993, I am required to examine certain stock and store accounts of departments and offices. This examination is conducted as part of the audit of the appropriation accounts.

**12.17** The stock and store accounts of departments and offices have been examined with generally satisfactory results.

## Grants-in-Aid

**12.18** In addition to covering the ordinary services administered directly by a government department or office, a vote may contain financial provision for a particular activity or service administered by an outside body. This financial provision can take the form of a grant or a grant-in-aid to the body.

**12.19** Grants are subject to all the usual restrictions pertaining to any payment from a subhead and any balance remaining unexpended at the end of the year is liable to be surrendered. A grant-in-aid differs from other voted grants in that any unexpended end-year balance of the sums issued from the vote is not liable to surrender to the Exchequer.

**12.20** Grants-in-aid generally relate to public bodies carrying out particular functions. These functions have well-defined parameters and are executed without continual reference to the granting department. Prior to making a proposal to classify expenditure as a grant-in-aid, a department needs to be satisfied that the retention of unexpended end-year balances, as well as the accounting and other arrangements associated with grants-in-aid, are appropriate.[3]

**12.21** In general, each grant-in-aid is presented as a separate subhead in the relevant vote. Where issues to a number of different payees are involved, a grant-in-aid may be payable to a named fund administered by the Department concerned, from which the payments may be made in due course.

3 Many of the bodies funded by grants-in-aid are audited by the Comptroller and Auditor General.

**12.22** In 2011, total issues under grant-in-aid subheads amounted to €2.4 billion. Public Financial Procedures state that the total amount paid by way of a grant-in-aid may not exceed the amount specified in the estimate, and savings on other subheads cannot be used to increase a grant-in-aid amount. Payments of grant-in-aid in excess of the subhead estimates approved by Dáil Éireann arose in two cases in 2011.

- The estimate for the grant-in aid to Teilifís na Gaeilge was €33.6 million (subhead C.3 of Vote 30 – Communications, Energy and Natural Resources) and €36.3 million was issued.
- The estimate approved for the grant-in-aid to the tourism marketing fund was €41.4 million (subhead G.4 of Vote 32- Transport, Tourism and Sport). Issues from the subhead in the year totalled €46.1 million.

**12.23** In both cases, the Department of Public Expenditure and Reform approved the use of savings on other subheads to meet the additional payments.

**12.24** In the case of all other grant-in-aid subheads, the amount paid by way of grant-in-aid was equal to or less than the amount of the subhead provision approved by Dáil Éireann.

## Annex A 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 12.4 provides a summary of the outturn on expenditure and receipts relative to the amounts appropriated for public services in 2011.

Figure 12.5 shows how surplus appropriations in 2011 were applied — either through deferral of expenditure to 2012, or by surrender to the Exchequer.

Figure 12.6 shows expected and realised Exchequer extra receipts.

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 2010** | Amounts of capital moneys not spent in 2010 and carried over for expenditure on capital services in 2011. The carry over of these sums was approved by Dáil Éireann in the Appropriation Act 2010. |
| **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 refer. |
| **Total appropriations** | Sum of the supply grant, deferred 2010 capital moneys (if any) and appropriations-in-aid. |
| **Deferred surrender** | Amount of capital moneys not spent in 2011 which were carried over for expenditure in 2012. The carry over of these sums was approved by Dáil Éireann in the Appropriation Act 2011. |
| **Amount to be surrendered** | Amount of money appropriated in 2011 but not spent in the year or deferred to 2012, and so required to be surrendered to the Exchequer. |
| **Exchequer extra receipts** | Departmental receipts that are not appropriated-in-aid, but are paid directly into the Exchequer. |

**Figure 12.4 Summary of Appropriations for Public Services in 2011, by Vote**

| Vote | Service | Amount appropriated | | | | Outturn | | | Surplus/deficit | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Supply grants | Deferred from 2010 | Appropriations -in-aid | Total appropriation | Gross expenditure | Appropriations -in-aid realised | Net expenditure | Gross surplus | Excess/ (deficit) in receipts | Net surplus[a] |
| | | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 |
| 1 | President's Establishment | 3,061 | — | 92 | 3,153 | 2,939 | 84 | 2,855 | 214 | (8) | 206 |
| 2 | Department of the Taoiseach | 21,039 | — | 912 | 21,951 | 18,436 | 837 | 17,599 | 3,515 | (75) | 3,440 |
| 3 | Office of the Attorney General | 14,360 | — | 788 | 15,148 | 14,056 | 778 | 13,278 | 1,092 | (10) | 1,082 |
| 4 | Central Statistics Office | 80,067 | — | 2,549 | 82,616 | 74,700 | 2,574 | 72,126 | 7,916 | 25 | 7,941 |
| 5 | Office of the Comptroller and Auditor General | 6,844 | — | 6,066 | 12,910 | 11,487 | 7,171 | 4,316 | 1,423 | 1,105 | 2,528 |
| 6 | Office of the Minister for Finance | 25,857 | — | 1,201 | 27,058 | 24,394 | 1,812 | 22,582 | 2,664 | 611 | 3,275 |
| 7 | Superannuation and Retired Allowances | 367,775 | — | 82,250 | 450,025 | 432,560 | 87,315 | 345,245 | 17,465 | 5,065 | 22,530 |
| 8 | Office of the Appeal Commissioners | 477 | — | 32 | 509 | 464 | 32 | 432 | 45 | — | 45 |
| 9 | Office of the Revenue Commissioners | 325,172 | — | 67,687 | 392,859 | 391,892 | 74,335 | 317,557 | 967 | 6,648 | 7,615 |
| 10 | Office of Public Works | 378,753 | 5,000 | 26,631 | 410,384 | 401,651 | 26,928 | 374,723 | 8,733 | 297 | 9,030 |
| 11 | State Laboratory | 8,650 | — | 485 | 9,135 | 8,366 | 896 | 7,470 | 769 | 411 | 1,180 |
| 12 | Secret Service | 1,000 | — | — | 1,000 | 568 | — | 568 | 432 | — | 432 |
| 13 | Office of the Chief State Solicitor | 34,188 | — | 1,860 | 36,048 | 32,915 | 2,332 | 30,583 | 3,133 | 472 | 3,605 |
| 14 | Office of the Director of Public Prosecutions | 43,263 | — | 614 | 43,877 | 37,820 | 1,043 | 36,777 | 6,057 | 429 | 6,486 |
| 15 | Valuation Office | 8,208 | — | 2,198 | 10,406 | 9,559 | 2,427 | 7,132 | 847 | 229 | 1,076 |
| 16 | Public Appointments Service | 7,756 | — | 269 | 8,025 | 7,301 | 520 | 6,781 | 724 | 251 | 975 |
| 17 | Commission for Public Service Appointments | 883 | — | 30 | 913 | 540 | 31 | 509 | 373 | 1 | 374 |
| 18 | Office of the Ombudsman | 7,079 | — | 393 | 7,472 | 6,793 | 368 | 6,425 | 679 | (25) | 654 |
| 19 | Justice and Equality | 355,195 | — | 47,469 | 402,664 | 400,451 | 50,027 | 350,424 | 2,213 | 2,558 | 4,771 |
| 20 | Garda Síochána | 1,439,623 | — | 133,200 | 1,572,823 | 1,570,963 | 133,716 | 1,437,247 | 1,860 | 516 | 2,376 |

| | | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 | €000 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 21 | Prisons | 329,211 | 2,000 | 18,372 | 349,583 | 348,415 | 18,266 | 330,149 | 1,168 | (106) | 1,062 |
| 22 | Courts Service | 63,465 | — | 49,961 | 113,426 | 112,724 | 50,085 | 62,639 | 702 | 124 | 826 |
| 23 | Property Registration Authority | 35,172 | — | 1,226 | 36,398 | 32,838 | 1,355 | 31,483 | 3,560 | 129 | 3,689 |
| 24 | Charitable Donations and Bequests | 115 | — | 5 | 120 | 119 | 5 | 114 | 1 | — | 1 |
| 25 | Environment, Community and Local Government | 1,609,472 | — | 52,225 | 1,661,697 | 1,596,742 | 47,917 | 1,548,825 | 64,955 | (4,308) | 60,647 |
| 26 | Education and Skills | 8,279,419 | — | 608,933 | 8,888,352 | 8,866,362 | 617,483 | 8,248,879 | 21,990 | 8,550 | 30,540 |
| 27 | Community, Equality and Gaeltacht Affairs | 104,934 | — | 7,898 | 112,832 | 112,831 | 7,898 | 104,933 | 1 | — | 1 |
| 28 | Foreign Affairs and Trade | 172,506 | — | 43,997 | 216,503 | 209,132 | 44,380 | 164,752 | 7,371 | 383 | 7,754 |
| 29 | International Co-operation | 522,877 | — | 1,153 | 524,030 | 518,687 | 1,790 | 516,897 | 5,343 | 637 | 5,980 |
| 30 | Communications, Energy and Natural Resources | 253,473 | — | 241,243 | 494,716 | 446,344 | 239,648 | 206,696 | 48,372 | (1,595) | 46,777 |
| 31 | Agriculture, Food and the Marine | 1,273,615 | — | 373,892 | 1,647,507 | 1,421,280 | 429,883 | 991,397 | 226,227 | 55,991 | 282,218 |
| 32 | Transport, Tourism and Sport | 1,924,047 | 5,000 | 433,074 | 2,362,121 | 2,346,138 | 428,319 | 1,917,819 | 15,983 | (4,755) | 11,228 |
| 33 | National Gallery | 9,847 | — | 253 | 10,100 | 9,492 | 283 | 9,209 | 608 | 30 | 638 |
| 34 | Jobs, Enterprise and Innovation | 844,841 | — | 55,629 | 900,470 | 844,612 | 56,085 | 788,527 | 55,858 | 456 | 56,314 |
| 35 | Arts, Heritage and the Gaeltacht | 264,099 | — | 4,990 | 269,089 | 267,302 | 5,614 | 261,688 | 1,787 | 624 | 2,411 |
| 36 | Defence | 678,730 | 1,500 | 46,749 | 726,979 | 703,451 | 42,509 | 660,942 | 23,528 | (4,240) | 19,288 |
| 37 | Army Pensions | 217,467 | — | 5,921 | 223,388 | 223,379 | 6,125 | 217,254 | 9 | 204 | 213 |
| 38 | Social Protection | 13,427,412 | — | 221,702 | 13,649,114 | 13,550,357 | 232,753 | 13,317,604 | 98,757 | 11,051 | 109,808 |
| 39 | Health | 343,785 | — | 3,916 | 347,701 | 284,721 | 4,971 | 279,750 | 62,980 | 1,055 | 64,035 |
| 40 | Health Service Executive | 12,460,440 | — | 1,482,047 | 13,942,487 | 13,902,830 | 1,458,171 | 12,444,659 | 39,657 | (23,876) | 15,781 |
| 41 | Office of the Minister for Children and Youth Affairs | 173,843 | — | — | 173,843 | 173,842 | — | 173,842 | 1 | — | 1 |
| 42 | Office of the Minister for Public Expenditure and Reform | 34,841 | — | 5,639 | 40,480 | 35,098 | 5,047 | 30,051 | 5,382 | (592) | 4,790 |
| 43 | Children and Youth Affairs | 221,863 | — | 7,828 | 229,691 | 214,322 | 4,254 | 210,068 | 15,369 | (3,574) | 11,795 |
| | **Total** | **46,374,724** | **13,500** | **4,041,379** | **50,429,603** | **49,668,873** | **4,096,067** | **45,572,806** | **760,730** | **54,688** | **815,418** |

Note: a The net surplus is comprised of the excess of total appropriations by Dáil Éireann over the gross expenditure together with the surplus on appropriations-in-aid. Any apparent differences in totals are due to rounding.

**Figure 12.5 Application of Surplus 2011 Appropriations, by Vote**

| Vote | Service | Net surplus | Deferred surrender | Amount to be surrendered |
|---|---|---|---|---|
| | | €000 | €000 | €000 |
| 1 | President's Establishment | 206 | — | 206 |
| 2 | Department of the Taoiseach | 3,440 | — | 3,440 |
| 3 | Office of the Attorney General | 1,082 | — | 1,082 |
| 4 | Central Statistics Office | 7,941 | — | 7,941 |
| 5 | Office of the Comptroller and Auditor General | 2,528 | — | 2,528 |
| 6 | Office of the Minister for Finance | 3,275 | — | 3,275 |
| 7 | Superannuation and Retired Allowances | 22,530 | — | 22,530 |
| 8 | Office of the Appeal Commissioners | 45 | — | 45 |
| 9 | Office of the Revenue Commissioners | 7,615 | — | 7,615 |
| 10 | Office of Public Works | 9,030 | 8,000 | 1,030 |
| 11 | State Laboratory | 1,180 | — | 1,180 |
| 12 | Secret Service | 432 | — | 432 |
| 13 | Office of the Chief State Solicitor | 3,605 | — | 3,605 |
| 14 | Office of the Director of Public Prosecutions | 6,486 | — | 6,486 |
| 15 | Valuation Office | 1,076 | — | 1,076 |
| 16 | Public Appointments Service | 975 | — | 975 |
| 17 | Commission for Public Service Appointments | 374 | — | 374 |
| 18 | Office of the Ombudsman | 654 | — | 654 |
| 19 | Justice and Equality | 4,771 | 460 | 4,311 |
| 20 | Garda Síochána | 2,376 | — | 2,376 |

**Figure 12.6 Exchequer Extra Receipts 2011, by Vote**

| Vote | Service | Estimated extra receipts | Extra receipts realised |
|---|---|---|---|
| | | €000 | €000 |
| 1 | President's Establishment | — | — |
| 2 | Department of the Taoiseach | — | — |
| 3 | Office of the Attorney General | — | — |
| 4 | Central Statistics Office | — | — |
| 5 | Office of the Comptroller and Auditor General | — | — |
| 6 | Office of the Minister for Finance | — | 9 |
| 7 | Superannuation and Retired Allowances | — | — |
| 8 | Office of the Appeal Commissioners | — | — |
| 9 | Office of the Revenue Commissioners | — | 2,527 |
| 10 | Office of Public Works | — | — |
| 11 | State Laboratory | — | — |
| 12 | Secret Service | — | — |
| 13 | Office of the Chief State Solicitor | — | 21 |
| 14 | Office of the Director of Public Prosecutions | — | 4 |
| 15 | Valuation Office | — | 30 |
| 16 | Public Appointments Service | — | — |
| 17 | Commission for Public Service Appointments | — | — |
| 18 | Office of the Ombudsman | — | 7 |
| 19 | Justice and Equality | — | — |
| 20 | Garda Síochána | 15,000 | 12,675 |

| | | €000 | €000 | €000 |
|---|---|---|---|---|
| 21 | Prisons | 1,062 | — | 1,062 |
| 22 | Courts Service | 826 | — | 826 |
| 23 | Property Registration Authority | 3,689 | — | 3,689 |
| 24 | Charitable Donations and Bequests | 1 | — | 1 |
| 25 | Environment, Community and Local Government | 60,647 | 34,000 | 26,647 |
| 26 | Education and Skills | 30,540 | — | 30,540 |
| 27 | Community, Equality and Gaeltacht Affairs | 1 | — | 1 |
| 28 | Foreign Affairs and Trade | 7,754 | 370 | 7,384 |
| 29 | International Co-operation | 5,980 | — | 5,980 |
| 30 | Communications, Energy and Natural Resources | 46,777 | 15,800 | 30,977 |
| 31 | Agriculture, Food and the Marine | 282,218 | 26,900 | 255,318 |
| 32 | Transport, Tourism and Sport | 11,228 | 8,700 | 2,528 |
| 33 | National Gallery | 638 | — | 638 |
| 34 | Jobs, Enterprise and Innovation | 56,314 | 18,125 | 38,189 |
| 35 | Arts, Heritage and the Gaeltacht | 2,411 | — | 2,411 |
| 36 | Defence | 19,288 | 500 | 18,788 |
| 37 | Army Pensions | 213 | — | 213 |
| 38 | Social Protection | 109,808 | — | 109,808 |
| 39 | Health | 64,035 | 1,500 | 62,535 |
| 40 | Health Service Executive | 15,781 | — | 15,781 |
| 41 | Office of the Minister for Children and Youth Affairs | 1 | — | 1 |
| 42 | Office of the Minister for Public Expenditure and Reform | 4,790 | — | 4,790 |
| 43 | Children and Youth Affairs | 11,795 | — | 11,795 |
| | **Total** | **815,418** | **114,355** | **701,063** |

| | | €000 | €000 |
|---|---|---|---|
| 21 | Prisons | — | — |
| 22 | Courts Service | 19,800 | 17,670 |
| 23 | Property Registration Authority | 26,100 | 24,766 |
| 24 | Charitable Donations and Bequests | — | — |
| 25 | Environment, Community and Local Government | — | 1,208 |
| 26 | Education and Skills | — | 17,312 |
| 27 | Community, Equality and Gaeltacht Affairs | — | 105 |
| 28 | Foreign Affairs and Trade | — | — |
| 29 | International Co-operation | — | — |
| 30 | Communications, Energy and Natural Resources | — | — |
| 31 | Agriculture, Food and the Marine | — | 990 |
| 32 | Transport, Tourism and Sport | — | 554 |
| 33 | National Gallery | — | — |
| 34 | Jobs, Enterprise and Innovation | 1,381 | 45,782 |
| 35 | Arts, Heritage and the Gaeltacht | — | — |
| 36 | Defence | — | — |
| 37 | Army Pensions | — | — |
| 38 | Social Protection | — | 54 |
| 39 | Health | — | 8 |
| 40 | Health Service Executive | — | — |
| 41 | Office of the Minister for Children and Youth Affairs | — | — |
| 42 | Office of the Minister for Public Expenditure and Reform | — | 698 |
| 43 | Children and Youth Affairs | — | — |
| | **Total** | **62,281** | **124,420** |

# 13 Procurement without a Competitive Process

**13.1** EU directives set out advertising requirements and tendering procedures for contracts above certain value thresholds that must be applied by all public bodies involved in procurement.[1] For contracts or purchases below these threshold values, the following national procedures apply

- supplies or services costing less than €5,000 in value may be purchased on the basis of verbal quotes from one or more competing suppliers
- contracts for supplies or services between €5,000 and €25,000 in value should be awarded on the basis of responses to specifications sent by fax or email to at least three suppliers or service providers
- goods and general services with an expected value of €25,000 or more should be advertised on the eTenders website.[2]

**13.2** Exceptions to these rules are allowed under national and EU procurement rules in limited circumstances. Department of Public Expenditure and Reform Circular 40/2002 outlines the course to be followed where Government departments and offices propose to award contracts that exceed €25,000 in value (exclusive of VAT) without a competitive process. An annual statement (40/2002 return) must be prepared in respect of those contracts, giving the details of the supplier, the nature of the contract, its value and the reasons for not having followed a competitive process. A copy of that statement must be submitted to the Office of the Comptroller and Auditor General and to the Department of Public Expenditure and Reform by 31 March of the following year.

**13.3** This chapter focuses on the extent of non-competitive procurement undertaken by Government departments and offices in 2011. The chapter is based on an analysis of the 40/2002 returns submitted by Government departments and offices.

## Extent of Non-Competitive Procurement

**13.4** The annual 40/2002 returns for 2011 indicate that 555 contracts were awarded without a competitive procurement process with a total value of €266 million. Figure 13.1 shows the number of contracts and the related value reported in the departmental returns.

**13.5** There were 5 nil returns in 2011 (8 in 2010). Late returns were received from the Department of Health (5 July 2012) and the HSE (31 July 2012).

**13.6** An Garda Síochána had the highest reported number of contracts – a total of 116 contracts with a value of €15 million. The increase in the reported number and value of contracts relative to 2010 is due to the inclusion on the return for the first time of procurement expenditure from imprest accounts in 123 Garda districts.

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1 Thresholds are revised every two years. Up to date thresholds are available on the EU procurement website http://www.simap.europa.eu

2 Department of Public Expenditure and Reform, Circular 10/2010 ***Facilitating SME Participation in Public Procurement,*** August 2010.

**Figure 13.1 Reported Contracts Awarded without Competition 2010 and 2011**

| Department or office | Number of cases | | Total contract expenditure | |
|---|---|---|---|---|
| | 2010 | 2011 | 2010 | 2011 |
| | | | €m | €m |
| Social Protection | 4 | 9 | —[a] | 184 |
| Defence[b] | 62 | 77 | 15 | 19 |
| Garda Síochána | 33 | 116 | 5 | 15 |
| Agriculture, Food and the Marine | 22 | 24 | 1 | 9 |
| Irish Prison Service | 124 | 77 | 14 | 8 |
| HSE | 50 | 62 | 4 | 8 |
| Justice and Equality | 45 | 29 | 10 | 4 |
| Courts Service | 30 | 24 | 4 | 3 |
| Property Registration Authority | 7 | 7 | 3 | 3 |
| Education and Skills[c] | 7 | 8 | 9 | 2 |
| Office of Public Works | 18 | 13 | 7 | 2 |
| Foreign Affairs and Trade | 3 | 13 | 2 | 2 |
| Jobs, Enterprise and Innovation | 13 | 17 | 1 | 1 |
| Others | 54 | 79 | 4 | 6 |
| **Total[d]** | **472** | **555** | **79** | **266** |

Source: Circular 40/2002 returns for 2010 and 2011.

Notes:
- a The total value of the contracts reported was less than €240,000
- b Certain defence equipment contracts (weapons and armaments) are exempted from the terms of Circular 40/2002.
- c The Department of Education and Skills 2010 figures have been amended to reflect a supplementary return.
- d The 2011 audit of the appropriation accounts identified five further contracts awarded without a competitive process with a total value of €0.4 million that were not included on the returns – Department of Communications, Energy and Natural Resources (4 contracts value €282,000) and the Chief State Solicitor's Office (1 contract value €115,000).

**13.7** The number of reported instances of non-competitive procurement increased by 83 in 2011 relative to 2010. However, the value of those contracts increased by €187 million. The inclusion on the Department of Social Protection's return of a contract with An Post for the encashment of welfare payments, valued at €183 million over 3 years (2011 to 2013) is the main reason for the increase in value. Procurement of that service from An Post had not previously been included on the Department's return.

**13.8** When the An Post contract is excluded, the value of non-competitive contracts reported in 2011 is €83 million – an increase of 5% relative to 2010.

## Reasons for Non-Competitive Procurement

**13.9** Figure 13.2 sets out the main reasons given in the returns as to why competitive processes were not used. The most significant increase in value in 2011 was in the category of 'extension/rollover of existing contract', reflecting the impact of the An Post agency service to the Department of Social Protection. An outline of the major contracts under each category is set out in the following sections.

**Figure 13.2 Reasons for Non-Use of Competitive Process, 2010 and 2011**

| Reason | Number of cases | | Value of contracts | |
|---|---|---|---|---|
| | **2010** | **2011** | **2010** | **2011** |
| | | | **€m** | **€m** |
| Urgency | 15 | 40 | 8 | 4 |
| Purchase of proprietary goods | 91 | 77 | 14 | 11 |
| Extension/rollover of existing contract | 114 | 179 | 19 | 206 |
| Expert service/recent experience with supplier | 45 | 41 | 4 | 3 |
| Single suitable supplier | 92 | 121 | 25 | 28 |
| Security considerations | 7 | 1 | 2 | — |
| Other reasons | 108 | 96 | 7 | 14 |
| **Total** | **472** | **555** | **79** | **266** |

Source: Analysis of Circular 40/2002 returns by Office of the Comptroller and Auditor General

### *Urgency*

**13.10** Due to the short notice of State visits in May 2011, the levels of security and confidentiality involved, and the importance of public safety, a number of bodies considered it was not possible to tender for certain services.

- an Garda Síochána awarded 22 contracts with a total value of €2.3 million for accommodation, catering, equipment and traffic management related to the visits
- the Office of Public Works entered into four contracts with a total value of €900,000 for the provision of electrical, mechanical and building works in the press centre in Dublin Castle prior to the visits
- the Department of the Taoiseach engaged a company at a cost of €559,000 to provide event direction and services.

### *Proprietary Goods*

**13.11** Of the 77 instances of purchasing of proprietary goods, 31 were in respect of purchases by An Garda Síochána with a value of €4.8 million and 14 were in respect of purchases by the Irish Prison Service with a value of €3.3 million. The proprietary goods purchased, in general, related to information and communications technology or technical systems.

### *Extension/Rollover Contracts*

**13.12** 179 cases reported involved the extension or rollover of existing contracts, some of which had been in place for several years.

**13.13** The reasons a competitive process was not used, as stated in the returns, included

- the contractor had relevant experience gained from prior involvement with the department
- the contractor was best placed to provide the required goods/services without undue extra cost to the Exchequer.

**13.14** Almost all of the contracts in this category are for the provision of services. Examples include

- The contract between the Department of Social Protection and An Post for the encashment of welfare payments with an estimated cost of €183 million (discussed above). The Department has indicated that it intends to tender for the service from 2014 on.
- The Department of Agriculture, Food and the Marine paid €3.7 million in 2011 to four approved rendering plants that have provided this service for the last number of years. In 2011, these contracts were rolled over until 2013. Prior to extending the contracts, all eight EU approved rendering plants on the island of Ireland were afforded the opportunity to partake in the present scheme. One additional plant expressed an interest and was awarded a contract. Payments totalling some €174,000 were made to this plant in 2011, and this contract is included in the 'urgency category'.
- The Department of Agriculture, Food and the Marine also extended two contracts for storage and handling of intervention dairy products. The total value of these was €1.1 million.
- The Department of Justice and Equality made payments of €1.4 million in respect of some segments of the Department's and related agencies' fixed line and local and wide area networks after the expiry of the contracts.
- The Irish Prison Service extended its contract with Dublin Dental Hospital for the provision of dental services for prisoners valued at €564,000.
- The Courts Service extended six contracts valued at €1.2 million for interpreting services.

### *Expert or Recent Experience*

**13.15** In 41 of the cases reported, contracts were awarded because the services of individuals or firms had been used in the recent past or they had been identified, without recourse to a competitive process, as having the required expertise. Examples include

- The Department of Health entered into two contracts with an aggregate value of €730,000 with a health expert. One contract (valued at €250,000) was to set up and operationalise the Special Delivery Unit (SDU) on a non-statutory basis and included preparing a detailed baseline analysis of the emergency and elective treatment access system. The second contract (valued at €480,000) is for a three year term to provide advice to the Department and in particular to the SDU.
- The Office of the Attorney General engaged experts at a cost of €352,000 to assist with the delivery of urgent legislation relating to the EU/IMF Programme.
- The provision of legal services to the Chief State Solicitors Office (€87,000), the Department of Jobs, Enterprise and Innovation (€85,000) and the National Gallery of Ireland (€108,000).
- The provision to the Irish Prison Service of archaeological services at the Thornton Hall site (€93,000) and of drug detection services (€49,000).

### *Single Suitable Supplier*

**13.16** There were a total of 121 contracts with a value of €28 million where it was considered that there was only one suitable supplier. Examples include

- a Department of Defence contract with a value of €8.2 million (over 5 years) for aircraft parts and maintenance, and one worth €1.3 million for the provision of spare parts for a remote weapons system
- the Property Registration Authority entered into a contract with a value of €2.6 million with the Ordnance Survey of Ireland for national mapping data
- a Department of Agriculture, Food and the Marine contract valued at €2 million for badger collection and culling duties under the TB eradication programmes.

### *Other Reasons*

**13.17** There were 96 reported instances of contracts being awarded for a variety of other reasons. Of these, 50 contracts were awarded by the Irish Prison Service with a value of €3.4 million. These include contracts with

- five separate dental practitioners valued at a total of €335,000
- one company for the provision of locum nurse services valued at €508,000
- one doctor valued at €152,000
- one doctor valued at €49,000 for psychiatrist services.

**13.18** An Garda Síochána awarded 16 contracts for medical services with a total value of €3 million – contract values ranged from €26,000 to €1.4 million.

**13.19** The HSE entered into a contract for €3.7 million for the completion of the development of Letterkenny General Hospital emergency department with a contractor nominated by the bondsman after the initial contractor had gone into receivership.

## Conclusions and Recommendation

**13.20** There continues to be substantial levels of procurement by Government departments and offices without the use of competitive processes. A review carried out on behalf of the Department of Public Expenditure and Reform identified the need for further analysis to accurately categorise all State procurement by type, location and supplier. The availability of such information would allow the extent of non-competitive procurement to be placed in context and assist in identifying areas where particular attention may be required.

**13.21** Explanations provided by departments and offices for not using competitive procurement processes are not precise and do not fall into mutually exclusive categories.

**13.22** The extent of non-competitive procurement may also be understated due to inadequate systems for capturing details of all contracts entered into. This is evident from some returns being supplemented after submission, returns submitted late and examples found during audit of uncompetitive procurement not included in returns. Recording such contracts on an exception basis is not effective.

**Recommendation 13.1:** Every department and office should create a central register of all contracts which records key data, including whether or not a competitive process was used.

**Department of Public Expenditure and Reform Accounting Officer's Response:** Agreed. The Department supports this proposal and its National Public Procurement Policy Unit will review how this recommendation can best be implemented in conjunction with other procurement reporting measures.

# 14 Measuring Procurement Performance

**14.1** Estimates supplied by the Department of Public Expenditure and Reform (the Department) indicate that public expenditure on procurement of goods and services in 2011 totalled around €8.6 billion, with a further €4.5 billion being spent on capital works (see Figure 14.1).

**Figure 14.1 Estimated Annual Public Procurement Expenditure by Sector[a]**

| Expenditure area | 2009<br>€bn | 2010<br>€bn | 2011<br>€bn |
|---|---|---|---|
| Health sector[b] | 4.7 | 4.6 | 4.5 |
| Central government sector[c] | 2.0 | 2.0 | 1.7 |
| Local government sector | 1.7 | 1.6 | 1.2 |
| Education sector | 0.9 | 0.9 | 1.2 |
| **All goods and services procurement** | **9.3** | **9.1** | **8.6** |
| Capital works | 7.0 | 6.0 | 4.5 |
| **Total public procurement** | **16.3** | **15.1** | **13.1** |

Source: Estimates by Department of Public Expenditure and Reform

Notes: a The figures for expenditure by sector in 2009 and 2010 include an element of capital expenditure. The 2011 sectoral figures do not include any capital expenditure.

b Includes expenditure relating to drugs and medicines and GP and pharmacist fees.

c Government departments and agencies, including the Defence Forces and An Garda Síochána.

**14.2** A procurement capacity review carried out by consultants on behalf of the Department and completed in August 2012 included a focus on

- the identification of the current total procurement spend by the State, and its component parts both by sector (central government/local authority etc.) and by category of purchase
- the identification of sectors and categories for a central procurement function to deliver procurement savings and the quantification of the savings potential
- an outline of the requirements of a central procurement function to deliver and sustain the savings.

**14.3** The Accounting Officer of the Department stated that the procurement review has highlighted that significant savings are possible through the implementation of a transformational change in the procurement model. The Government is to consider the implications of the recommendations of the review for the organisation of the central procurement function and the range of measures needed to achieve the transformational change.

**14.4** Responsibility for central co-ordination, development and direction of public procurement processes is currently shared between the Department and the Office of Public Works (OPW).

**14.5** The Department is responsible for setting a broad strategic direction for procurement implementation. This is done through the Department's National Public Procurement Policy Unit (NPPPU), which has responsibility for national public procurement policy, legislation and construction procurement reform.

**14.6** The National Procurement Service (NPS) was established in March 2009 within the OPW. Its objectives are

- to establish national procurement framework agreements to allow all central government departments and offices, agencies and non-commercial public bodies to procure commonly-used goods and services more effectively, efficiently and with better value for money
- to provide professional procurement advice to central government and non-commercial public sector bodies
- to develop targeted and accredited procurement training and education measures
- to further develop web-based e-procurement.

**14.7** This chapter focuses on the extent to which the framework agreements have been established by the NPS and the methodologies used by NPS for calculating savings from procurement initiatives. The circumstances surrounding the extension by NPS of a contract for energy advisory services are also considered.

## National Framework Agreements

**14.8** A procurement framework is an agreement with one supplier or a number of suppliers, which sets out the terms that will govern contracts awarded to those suppliers during the term of the agreement. There is generally no guarantee to the suppliers about the quantity of goods or services that will be purchased. One or more contracting authorities may avail of the terms of the framework.

**14.9** Frameworks aim to provide an economic and efficient means of purchasing goods and services by allowing public bodies to place contracts with framework suppliers without having to carry out multiple tendering procedures, and by reducing the tendering costs for suppliers. They can also encourage competition by allowing suppliers to group together in submitting tenders or by having the purchase requirements broken down into lots.

**14.10** At 31 December 2011, the NPS had in place a total of 43 framework agreements incorporating 268 individual contracts with 65 suppliers. Figure 14.2 summarises details of the most significant framework agreements in place. Framework agreements are open for use by all public bodies and agencies. The NPS has estimated that the public bodies that used these contracts in 2011 incurred expenditure of €180 million over a range of procurement categories.

**14.11** The operation of framework agreements is monitored by the NPS with the extent and nature of monitoring determined by the type of contract, the complexity of the category being supplied and the information needs of the client departments and others.

**14.12** With effect from September 2012, public bodies will be required to procure certain commonly used goods and services under NPS frameworks.[1] This includes energy, stationery, motor vehicles and advertising. Mandatory use of frameworks will be introduced on an incremental basis in some sectors. The NPS will publish a quarterly report detailing the value of goods and services being procured under mandatory framework agreements, analysed by category and public body.

1 Circular 6/12 Public Procurement (Framework Agreements), issued by the Department of Public Expenditure and Reform, 25 July 2012.

**Figure 14.2 Main NPS Framework Agreements at end 2011**

| Goods/ Service | Framework start date | Number of contracts with suppliers | Number of agencies using frameworks | Number of suppliers | Estimated expenditure 2011 |
|---|---|---|---|---|---|
| Electricity[a] | 1 January 2011 | 153 | 178 | 5 | €112m |
| Natural gas[a] | 20 October 2010 | 70 | 125 | 7 | €34m |
| Fuel chargecards | 20 May 2009 | 1 | 16 | 1 | €11m |
| Advertising | 1 November 2010 | 1 | 181 | 1 | €3m |
| Janitorial supplies | 1 November 2011 | 1 | 48 | 1 | €2m |
| DPM uniforms[b] | 21 June 2010 | 1 | 1 | 1 | €2m |
| Stationery | 4 April 2011 | 1 | 199 | 1 | €2m |
| Furniture | 1 March 2011 | 5 | 18 | 5 | €1m |
| Garda uniforms | 6 August 2008 | 1 | 1 | 1 | €1m |
| Parliamentary printing | 13 July 2010 | 1 | 1 | 1 | €1m |

Source: National Procurement Service

Notes: a Seven mini competitions for electricity and six for natural gas based on different sectors within the public service.

b Disruptive pattern material i.e. camouflage style military uniforms.

**14.13** In future, a public sector body which does not use a mandatory framework must be able to explain their rationale and provide a value for money justification. This justification is to be made available (when requested) to internal and external auditors. The Department has indicated that public bodies are not required to report the value for money justification to the NPPPU or the NPS. However, this does not preclude the NPPPU or the NPS requesting such documentation to monitor compliance and inform future procurement processes.

## Performance Measurement

**14.14** The Public Service Reform Plan recommends the development of a procurement performance measurement system.[2] This is to be developed jointly between the NPPPU and the NPS and will incorporate

- guidelines on calculating procurement savings
- a set of performance benchmarks from other jurisdictions (for example, scale of price and volume savings achievable)
- a scorecard of indicators for quarterly reporting to NPPPU.

2 Public Service Reform Plan, Department of Public Expenditure and Reform, November 2011.

### *Procurement Savings Calculation Methodologies*

**14.15** In the OPW's vote estimate for 2012, it reported NPS savings achieved on existing public service contracts of €28.2 million in 2011. In addition, it stated that there were further administrative savings but these were not quantified or valued.

**14.16** During this examination, NPS provided details of estimated savings in 2011 of €46.5 million from a range of cost saving and cost avoidance measures. The OPW provided Information to the Public Accounts Committee in March 2012 indicating that NPS had 48 framework contracts currently in place with an estimated multi-annual value of €1.4 billion. The projected annual savings to be achieved in 2012 in respect of these contracts was stated to be €78 million. Figure 14.3 sets out the main saving areas identified for 2011 together with the projected savings to be achieved in 2012.

**Figure 14.3 NPS Savings, 2011 and 2012**

| **Area** | **Value of savings/cost avoidance measures** | |
|---|---|---|
| | **2011 estimate** | **2012 projection** |
| | **€m** | **€m** |
| Energy | 21.6 | 30.0 |
| eTenders | 11.8 | 9.6 |
| Fuel charge cards | 7.5 | 8.0 |
| Postal costs | 1.8 | — |
| Uniforms and personal protective equipment | 1.4 | 1.5 |
| Stationery, paper and envelopes | 1.4 | 1.4 |
| State advertising | 0.8 | 0.9 |
| Secure printing | 0.1 | 0.4 |
| Janitorial supplies | 0.1 | 0.4 |
| Managed print services | — | 15.0 |
| Waste management | — | 4.0 |
| Low value purchase cards | — | 4.0 |
| Other | — | 2.8 |
| **Total** | **46.5** | **78.0** |

Source: National Procurement Service

**14.17** The NPS takes a number of different approaches to the calculation of savings depending on the nature of the procurement and in the case of energy, the focus of the public sector buyer. While the NPS issued staff guidance on saving estimation methodologies in 2011, the methods are not set out formally in procedures manuals. The methodologies used by NPS for calculating savings in 2011 in four areas were reviewed as part of this examination.

*Energy Savings*

**14.18** NPS have estimated expenditure on energy frameworks of €146 million in 2011. Savings in 2011 were estimated by NPS at almost €22 million, with further projected savings of €30 million in 2012. The methodologies used to calculate this saving are set out in Figure 14.4 below.

**14.19** Issues noted in relation to the methodologies used include

- The potential saving of €2.1 million identified from the review of tariffs was based on a review of pricing for 12,000 meters. It was assumed that a planned review of a further 12,000 meters in 2011 would identify a similar level of saving.
- The realisation of the savings arising from the review of tariffs is dependent on the public bodies implementing the recommended changes. NPS do not know the extent to which this has been done, or the extent to which the estimated savings have been realised.

**Figure 14.4 NPS energy saving calculation methodologies**

| Initiative/saving | Attributed saving €m | NPS methodology |
|---|---|---|
| ***Review of tariffs and import capacity levels*** | 4.2 | Comparison of existing tariffs and charges on a meter by meter basis to identify more economical tariffs. Reviews of 12,000 meters identified ***potential*** savings of €2.1m. The same level of saving was anticipated for a further 12,000 meters which the NPS planned to review in 2011. |
| ***Framework competition*** | | |
| Competitive savings | 8.7 | This potential saving is calculated in one of two ways<br>▪ the current supplier price is compared to the price offered by the winning tenderer (when energy prices are falling)<br>▪ the price quoted in the framework competition by the current supplier is compared to the winning tenderer (when energy prices are rising). |
| Market savings | 8.0 | The difference between the winning tender in the competition and prices quoted in competitions of a similar aggregated nature for a private sector multinational company based in Ireland. Potential competitive savings (identified above) are deducted from this amount. |
| Administrative saving | 0.7 | The difference between the estimated cost that the public bodies that availed of the framework would have incurred had they each held separate tender competitions (estimated at €6,000 per competition) and the estimated cost of each of the central competitions (€27,500 each). |

- The way in which some competitive savings are calculated involves comparison of existing and new supplier prices. Therefore, there is a potential double counting of savings in cases where the recommended change identified in the review of tariffs has not been taken up with the existing supplier.
- In relation to estimated market savings, the NPS was unable to provide the examination team with reliable evidence about prices paid by private sector purchasers of energy (for example, quotations or contract terms).
- The costs incurred in the generation of the savings have not been measured and factored into the calculations.

**14.20** The OPW Accounting Officer stated that the actual savings achieved as a result of the review of tariffs and import capacity levels are currently being compiled and are expected to be available in October 2012. She expects the actual savings to exceed the €4.2 million estimate.

*eTenders*

**14.21** NPS estimate that the use of the eTenders site saves an average of €1,920 per contract in advertising costs.[3] In 2011, 6,120 contracts were advertised on the site (6,074 in 2010). NPS therefore estimate an annual saving of €11.8 million from the use of the site.

**14.22** This estimated saving is based on the assumption that all contracts advertised on eTenders would have been advertised in three newspapers. While this may have occurred for larger value contracts, it is unlikely to have occurred for low value contracts.

*Fuel Charge Cards*

**14.23** NPS have estimated expenditure on fuel charge cards of €11 million in 2011 and savings of €7.5 million. Fuel charge cards are used by a number of public sector bodies including An Garda Síochána to allow personnel to purchase fuel for official vehicles as required. Where charge cards are used, each individual purchase of fuel does not have to be processed separately. Periodic invoices are issued by the supplier, resulting effectively in batch processing of individual transactions. Therefore, there is a potential saving in administrative cost (staff time and processing costs).

**14.24** There were some 228,000 transactions on fuel charge cards in 2011. NPS estimate that the transaction costs in terms of staff time and processing costs of each card transaction was €32 less than a traditional invoiced transaction. This gives rise to €7.3 million of the estimated saving.

**14.25** The basis for the €32 cost differential is a 1998 UK study. A recent UK National Audit Office report found that this estimated difference could no longer be used as a business case for using charge cards due to modern processing procedures.[4]

**14.26** The Accounting Officer stated that an estimate of the difference in processing cost between using charge cards and traditional procurement methods needs to reflect the processing procedures in place in each public sector body. She considers that the estimated administration saving of €32 per transaction used to calculate the overall saving is reasonable.

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3 This is based on the estimated cost of one 10cm, two column advertisements in each of three newspapers at a cost of €640 each.

4 The Government Procurement Card, UK National Audit Office, March 2012.

*Uniforms*

**14.27** Expenditure of €7.5 million on all uniform contracts in 2011 has been estimated by NPS. The potential saving of €1.4 million is estimated by applying the difference between the prices previously applicable and the winning tender prices to the quantities expected to be purchased over the duration of the contracts.

**14.28** This methodology is reasonable. However, the saving will only be realised as and when purchases are made under the new contracts.

**14.29** The Accounting Officer stated that the experience to date in relation to the uniform contracts has been that actual demand over the lifetime of the contracts is generally in line with the pre-tender estimates. Therefore, the savings are based on forecasted quantities. Savings in subsequent years will be adjusted to reflect the actual demand over the lifetime of the contracts.

*Overview of the OPW Accounting Officer*

**14.30** The OPW Accounting Officer said that NPS calculates average saving estimates for the public sector and can only rely on the data available to it. She stated that since its establishment, the NPS has sought but does not have all data in relation to historic and current demand and price. It is therefore not possible for it to reliably calculate spend savings. Accordingly, prices and current usage are the most reliable method for the NPS to estimate savings for most of its frameworks. She said that the estimated savings are reliable in that context. One of the primary objectives of the NPS was putting in place the necessary frameworks as quickly as possible given the deteriorating economic circumstances and the obvious savings that could be achieved. Now that these are in place, a more robust system of performance measurement is being put in place.

## Procurement of Energy Advisory Services

**14.31** In 2009, the NPS advertised for the services of an energy advisor to provide advice on energy procurement. It was estimated at the time that the work would involve two to three weeks per annum over a three-year period at an annual estimated cost of €11,000. Following a tender competition, a three-year contract for the provision of these advisory services was awarded at an estimated cost of €20,000 a year (or total contract value of €60,000).

**14.32** During the contract period, the scope of the work expanded and the daily fee rates agreed in the contract were paid for this additional work. To date, a total of just over €1 million has been paid under this contract.

**14.33** Department of Public Expenditure and Reform guidelines stipulate that contracts should not be extended without re-tendering where the cost of the extension is more than 50 percent of the original contract price or exceeds €250,000, whichever is lower.[5] This is in line with EU requirements. In addition, EU procurement rules at the time of awarding the contract required that contracts for services with an estimated value of €133,000 or more be advertised in the EU journal.

5 Engagement of Consultants and other External Support by the Civil Service, Department of Public Expenditure and Reform (issued 2006 by the Department of Finance).

**14.34** In December 2011, tenders were sought for the provision of services of an energy advisor with expertise in procurement and change management facilitation. The existing energy advisor was successful in the tender competition and was awarded the contract for a three-year term (2012 to 2014). The contract is estimated to be valued at €2 million, excluding VAT, over the three year term.

**14.35** The Accounting Officer stated that the 2012 competition took account of the experiences arising from the previous contract including the subsequent expansion of the scope of the work.

## Conclusions and Recommendation

**14.36** Accurate, comprehensive and detailed data on spending by category of goods and services would facilitate the development of optimum strategies for procurement.

**14.37** A performance measurement system for procurement was recommended in the Public Sector Reform Plan (November 2011). This should include the development of a full suite of performance measures for procurement which can be used both in the NPS and in procurement functions in public sector bodies.

**14.38** A practical set of performance measures in relation to procurement might include measures relating to

- trends in spending by category, and by supplier
- cost of the procurement function as a proportion of total administration expenditure and of the procurement spend
- the duration of procurement processes
- expenditure under written contracts as a proportion of total procurement expenditure[6]
- the proportion of procurement expenditure that is managed by procurement professionals
- the proportion of procurement expenditure arising from framework or other centralised agreements
- savings achieved through procurement
- satisfaction surveys of suppliers and end users
- an assessment of the organisation's compliance with procurement rules and good practices.

**14.39** Based on the four areas of procurement reviewed, the savings identified by the NPS are not reliable and are not suitable for use as a performance measure mainly because

- they have not been calculated by comparing the actual spend under the new arrangements with the projected spend had those arrangements not been introduced
- the full cost associated with the initiatives has not been measured and factored into the calculations in all cases
- the extent to which the savings have materialised is not known in all cases because the take up of the new initiatives by public sector bodies has not been established.

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6 Some procurement occurs based on placement of orders with suppliers on standard terms, rather than under written contract terms.

**Recommendation 14.1:** Savings are a key element of measuring procurement performance. In that regard

- the methodologies to be used should be clearly defined and consistent
- calculations should be based on actual costs compared to what it is projected the actual purchases would have cost under previous arrangements
- all costs associated with the procurement initiatives that give rise to the savings should be factored into the calculations
- savings reported should be those that have materialised and not represent an anticipation of potential future savings.

**OPW Accounting Officer's Response:** The National Procurement Reform Steering Committee has established a Working Group to develop a common approach to the measurement and reporting of procurement related savings across the public sector and this recommendation will be an input to the work of this Group.

# 15 Lease of Accommodation for a Probation Service Project

**15.1** The Department of Justice and Equality funds 46 community-based organisations across the State to develop and deliver services to adult offenders in their communities. The Bridge Project has operated in the Dublin 1 area for over 15 years, aiming to achieve community re-integration of male offenders, improve their job skills and generally assist in increasing community safety. The programme is delivered by a multi-disciplinary team with the Probation Service as the lead agency.

**15.2** The Bridge Project operated out of leased premises in Parnell Street in the north inner city from December 1996. The rent for the premises was €90,000 a year from December 2001 to December 2008 and increased to €125,000 a year thereafter.

**15.3** The Probation Service had concerns about the suitability of the Parnell Street premises to meet the needs of the Project, and sought alternative accommodation for it. In June 2008, the Probation Service leased premises located in Wolfe Tone Street, Dublin for use by the Project. The Chief State Solicitor's Office (CSSO) negotiated the lease with the owner of the Wolfe Tone Street premises, on behalf of the Department.

**15.4** The lease was for 25 years, with a break option after 10 years. The premises had previously been intended for use for retail and residential purposes, but had not been stripped back to 'shell and core' finish and substantial fitting out was required to meet the needs of the Project. Following the preparation of plans and a competitive tendering process, fitting out work commenced in January 2010, and was substantially completed by May 2010.

**15.5** While the fitting out work was ongoing, questions were raised about compliance of the development and the intended use with planning regulations, in the context of local opposition to the Bridge Project moving into the premises. The Planning Enforcement Office of Dublin City Council issued a warning letter to the Bridge Project on 22 March 2010, stating that the "planning permission granted on 9 January 2001 for this development expired on 8 January 2006".

**15.6** The Department subsequently gave an undertaking to Dublin City Council not to occupy the Wolfe Tone Street premises and to regularise the situation.

**15.7** This chapter examines the expenditure charged to Vote 19 Justice and Equality related to the lease, and the factors that gave rise to the situation where, despite the outlay, the premises has not become available for use by the Bridge Project.

## Confirmation of Planning Compliance

**15.8** The Law Society of Ireland has established a practice (in place since the 1970s) that the solicitor acting on behalf of a purchaser/lessee insists on an opinion on compliance with planning permission from an architect engaged by a landlord/vendor showing that the development of the property is in substantial compliance with planning permission. The Chief State Solicitor stated that an architect's unqualified certificate is accepted in accordance with the Law Society established practice as satisfactory evidence of compliance with planning permission. The Royal Institute of Architects in Ireland (RIAI) has published standard forms of opinions which are agreed with the Law Society.

**15.9** The planning permission granted by Dublin City Council in relation to register reference 3330/00 related to a change of use of a retail unit and a residential unit on the ground floor of what is mainly an apartment building, to a commercial office space. Under Section 40 of the Planning and Development Act 2000, a grant of planning permission must be implemented within five years or (if an extension of permission is not sought and granted), it is treated as expired or abandoned.

**15.10** In the course of negotiation of the lease in 2007, the CSSO raised planning concerns in relation to the offer of eight car parking spaces for use by the Bridge Project. The original planning permission for the building provided that the car spaces were exclusively for use by residents. In order to avoid setting back provision of improved accommodation for the Bridge Project, the Department decided to proceed with rental of the office space (1,436 $m^2$) but to exclude the car parking spaces from the lease.

**15.11** The CSSO has stated that in July 2007 (and again in January 2008) it requested a commencement notice in relation to the change of use, but that this was never provided. A commencement notice is a notification to a building control authority that a person intends to carry out either work or a material change of use to which the building regulations apply. Commencement notices can be inspected at planning offices free of charge.

**15.12** In October 2007, the CSSO instructed its own agents to carry out a planning search in Dublin City Council in respect of the property. This consisted of a search of the planning register which records all relevant planning information in respect of a development. The report on the search was forwarded to the property owners' solicitor in January 2008 for explanation.

**15.13** In March 2008, the CSSO asked the property owners' solicitor for confirmation that the change of use process was completed prior to the expiration of planning permission 3330/00.

**15.14** The Chief State Solicitor has stated that, in response to its request, the property owner's solicitor confirmed in April 2008 that the change of use was completed prior to the expiration of the planning permission. The CSSO also received an architect's opinion on compliance, dated 5 February 2008. This was prepared in the standard RIAI format by a registered member of the RIAI. The opinion referred specifically to planning application 3330/00, and does not contain any amendments or qualifications. It was stated by the architect to be based on an inspection of the relevant documents at the offices of Dublin City Council Planning Department and a visual inspection of the Wolfe Tone Street premises on 1 February 2008. The architect also stated in his opinion that the development was in substantial compliance with the planning orders.

**15.15** The property owners' solicitor wrote to the CSSO on 15 April 2008, sending a draft lease. In the letter, he states that "Our clients' architect has confirmed to us that, as the premises … were marketed for use as offices within the five year period on foot of planning permission 3330/00, that the change of use … was completed prior to the expiration of that planning permission. No works were required to implement the planning permission. This was simply a change of use."

**15.16** The Chief State Solicitor has stated that, if unqualified, an architect's opinion is accepted in accordance with Law Society established practice as offering satisfactory evidence of compliance. She took the view that there was no requirement to look behind the opinion as it was in standard RIAI format, it was made by a registered member of RIAI and did not contain any qualifications or amendments.

**15.17** The Accounting Officer of the Department of Justice and Equality has stated that the Department did not foresee the need to engage an architect or to carry out a planning search in Dublin City Council. It relied on the advice of the CSSO in this matter, as it has done in relation to other leasing arrangements.

**15.18** The Department has stated that it was informed at a meeting with the Dublin City Council Planning Enforcement Office on 30 March 2010 that planning permission did not revert to the previous uses once the permission granted under 3330/00 (for commercial office use) expired. The Department was informed that planning permission for any type of use of the premises would now have to be applied for. The Department's understanding, following a detailed planning history inspection, is that the 2001 office use permission was never enacted and therefore the premises does not now have the benefit of any established use.

## Costs Incurred

**15.19** The initial rent for the premises was €309,000 a year, payable quarterly in advance, but with a rent free period at the outset. On that basis, the minimum value of the lease was of the order of €2.8 million. The Department also took on liabilities for management fees and service charges.

**15.20** In addition to the rental, the Department was liable to pay VAT on creation of the lease. This amounted to €0.461 million and was paid by the Department in June 2008.

**15.21** Rental payments commenced in the first quarter of 2010, and continued until the third quarter of 2011, when the Department ceased payment of rent.

**15.22** The total sum paid by the Department in respect of rent, management fees and service charges, and insurance amounted to €0.536 million.

**15.23** Following a tendering competition in 2009, the Department awarded a contract to a construction company to carry out the fitting out of the leased premises at an agreed price of €0.935 million. The fit out of the premises commenced in January 2010. Following the intervention of the Dublin City Council Planning Enforcement Office, the fitting out work was wound down and the site made safe and secure during a three-week period in April/May 2010. Work was fully suspended by 7 May 2010, and has not recommenced.

**15.24** Payment for work completed was made up to 29 September 2010, with retention of a portion of payment due as normal. The suspension of work and non-occupation of the premises meant that no 'snagging' could be done and therefore the retention sums continued to be withheld. The Department is not in dispute with the company who completed the work so retention amounts were finally paid in December 2011 and February 2012 (to the contractor) and January 2012 (to the architect including the Quantity Surveyors and the Mechanical and Electrical contractors). The contractor has only been paid for work completed.

**15.25** Total payments to the contractor amounted to €0.917 million. Professional fees related to the project amounted to €0.169 million. At the end of August 2012, the total expenditure by the Department on the Wolfe Tone Street premises has amounted to €2.083 million.

**15.26** On the instruction of the Department, the CSSO wrote to the property owners on 30 November 2011 seeking agreement to rescind the lease. This was rejected.

**15.27** The CSSO were informed on 16 April 2012 that receivers had been appointed over certain assets of the property owners including the property at Wolfe Tone Street. The receivers sought confirmations that the Department would make the payments provided for in the lease.

## Impact on the Bridge Project

**15.28** A health and safety audit of the Bridge Project's Parnell Street premises was undertaken on behalf of the Probation Service in December 2011. The audit concluded that that building posed a serious health, safety and fire risk and was therefore in breach of the Health and Safety at Work Act.

**15.29** The Project moved in January 2012 from Parnell Street to its current location in shared premises in Gardiner Row, where it is paying €600 a month for the use of specified rooms. In addition, the Community Employment Scheme which is attached to the Bridge Project will rent a premise in Ballybough at a cost of €4,000 for a 12-month period from September 2012. It is the Department's intention in the longer term to transfer the main Bridge project activities from Gardiner Row to co-located accommodation in the Probation Service offices in the north inner city.

## Conclusions and Recommendation

**15.30** The Department incurred expenditure in relation to the lease of the premises in Wolfe Tone Street amounting to over €2 million, in respect of which the intended benefits have not been received. The Bridge Project continued in poor standard accommodation until 2012, until it was forced to leave as a result of health and safety risks. This was almost six years since the search for alternative premises commenced. The project is now accommodated under short-term arrangements.

**15.31** The Department placed reliance on the CSSO to provide legal advice in relation to negotiation of the lease, and the carrying out of the necessary checks. In the circumstances, it was reasonable for the Department to expect that non-compliance of the premises with planning requirements would have been identified and pointed out before the lease was signed.

**15.32** The CSSO followed the established conveyancing procedure of relying on the vendors/lessors to provide an architect's opinion of compliance with planning requirements. An opinion was provided in the required format by a registered person, and the CSSO was entitled to rely on this in accordance with recommended Law Society practice. Nevertheless, the statutory period to act on a change of use had expired and the basis on which a change of use would be recognised by the planning authorities was specifically adverted to in correspondence between the CSSO and the legal representative of the property owners during the lease negotiations. Furthermore, the nature of the Department's intended use of the premises and the location of the premises in an otherwise residential complex increased the likelihood of objections in the event that there was any doubt as to planning compliance. These were not identified by the CSSO as risk factors that might require some further assurance before the lease was agreed, to safeguard the State's financial interests.

**15.33** The Chief State Solicitor has stated that the choice of a residential complex for the location of the premises and the likelihood of objections to the use of the premises are not legal issues and accordingly the CSSO would not advise on such issues. They are issues for consideration by the personnel engaged to locate a suitable property in the first instance.

**15.34** In the context of the prospective cost of the lease (a minimum of €3.2 million over ten years, including VAT) and the cost of fitting out the premises (around €1 million), the cost involved to the State parties in obtaining additional assurance on planning compliance in a relatively uncomplicated planning case would not have been excessive.

**Recommendation 15.1:** The CSSO should review its risk assessment in relation to planning compliance on property acquisitions and the practice of reliance on architects' opinions on compliance, and consider the need for additional assurance procedures where compliance risks are evident.

**Chief State Solicitor's Response:** Not agreed. The purpose of the Law Society of Ireland guidance/practice directions is to address risk arising in transactions of this nature**.** These have been drawn up by the Conveyancing Committee of the Law Society, comprised of conveyancing experts who consider various issues which arise in conveyancing matters and issue guidance/practice directions to solicitors on appropriate practice and standards. The CSSO cannot act unilaterally. It is a matter for the Law Society to review its standards after due consultation with members and stakeholders and to issue any further guidance/practice directions. The CSSO is bound to follow the current guidance /practice directions.

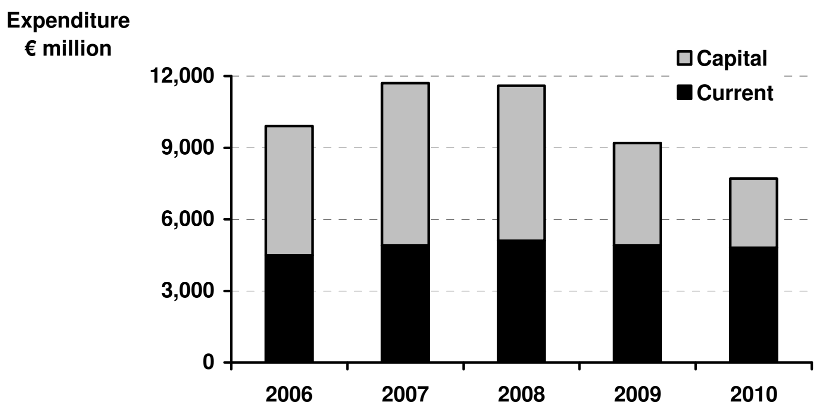
Confirmation of compliance with planning is obtained from an architect or other appropriately qualified professional with knowledge of the planning history of the property. It entails examination of the planning documentation pertaining to a property, inspection of the property and taking instructions on the planning history of the property. It is not recommended Law Society practice for a lessee to engage an architect to certify compliance with planning. The difficulty in doing so is that that the lessee has no knowledge of the planning history of the property to instruct the architect. This is why the opinion issues from an architect instructed by the owner of the property.

**Department of Justice and Equality Accounting Officer's Response:** The Department will work in conjunction with the CSSO to ensure there is a cross-checking system in place to provide some added assurance on the reliance on the expert's opinion in such cases.

# 16 Central Government Funding of Local Authorities

**16.1** Aggregate expenditure by local authorities in 2010 (the last year for which information is available) is estimated at €7.7 billion. This comprised around €2.9 billion in capital expenditure, and around €4.8 billion in current expenditure (see Figure 16.1).[1]

**Figure 16.1 Expenditure by local authorities by type, 2006 to 2010**




Source: Department of the Environment, Community and Local Government

**16.2** Local authority capital spending results in the creation or acquisition by a local authority of assets that have a use beyond the year in which they are provided e.g. road construction, building or purchase of houses, swimming pool, library, etc. Local authority capital programmes are financed largely by State grants from a variety of sources, with some funding from development levies, borrowings, own internal resources and property sales.

**16.3** Current expenditure by local authorities (sometimes referred to as revenue expenditure) covers the day-to-day running of local authorities, including staff salaries, housing maintenance, pensions, operational costs of water treatment plants, etc. Current expenditure is funded from a variety of sources, including Exchequer and Local Government Fund grants (about 44% of the total in 2010), local authority rates (about 30%) and charges for goods and services such as commercial water charges, housing rents, parking charges, etc (about 26%). The contribution to current expenditure from the different income sources varies between authorities.

**16.4** The objective of this chapter is to provide an overview of the funds flowing from and through central Government sources to local authorities, and of the purposes for which the funds have been provided. It also reviews indicators of performance of urban waste water treatment services and provides updates in relation to certain matters previously reported on.

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1 Collation of local authority expenditures outturns for 2011 had not been finalised by the Department of the Environment, Community and Local Government at the time of this report.

## Central Government Transfers

**16.5** Transfers of funding from central government sources to local authorities in 2011 totalled €3.5 billion. Around 83% of this originated as Exchequer funding provided through the votes for Government departments. The non-Exchequer sourced funding (17% of the total) was provided from the Local Government Fund and the Environment Fund. Figure 16.2 sets out the sources of funding from central Government sources to local authorities each year from 2007 to 2011.

**Figure 16.2 Sources of Central Government Financing for Local Authorities, 2007 to 2011**

| Source of funds | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| ***Exchequer funds***[a] | | | | | |
| Vote 25 — Environment, Community and Local Government | 2,584 | 2,804 | 2,401 | 1,828 | 1,353 |
| Vote 26 — Education and Skills | 272 | 301 | 379 | 389 | 355 |
| Vote 32 — Transport, Tourism, and Sport | 1,508 | 1,400 | 1,505 | 1,596 | 1,192 |
| Other Votes | 49 | 64 | 41 | 26 | 9 |
| | 4,413 | 4,569 | 4,326 | 3,839 | 2,909 |
| ***Other funding sources*** | | | | | |
| Local Government Fund[b] | 1,049 | 1,102 | 897 | 575 | 561 |
| Environment Fund | 40 | 39 | 30 | 37 | 39 |
| | 1,089 | 1,141 | 927 | 612 | 600 |
| **Funding from all central Government sources** | **5,502** | **5,710** | **5,253** | **4,451** | **3,509** |

Source: See Annex A

Notes: a Vote titles changed in 2011. The new vote titles are used here.

b Net exchequer element.

**16.6** The resources in the Local Government Fund are used mainly to provide local authorities with funding for their day-to-day activities and for the upkeep of non-national roads.[2] Up to 2011, the Fund was financed mainly by the proceeds of motor tax and an annual Exchequer contribution paid into the Fund from the Vote for the Office of the Minister for the Environment, Community and Local Government (Vote 25).[3] The Exchequer contribution ceased in 2012 and is being replaced by the proceeds of the household charge payable since 2012 by owners of residential property.[4] By July 2012, some €98 million was collected.

**16.7** The Environment Fund is used primarily to support environmentally-oriented initiatives, campaigns and programmes, many of which are organised at local or regional level under the auspices of local authorities. The proceeds of the plastic bag levy, which is paid by consumers and collected from retailers by the Revenue Commissioners are paid into the Fund. Receipts from the landfill levy are also paid into the Fund. Disbursements from the fund are used to assist projects on the basis of their capacity to protect or enhance the environment. (Chapter 27 reviews the collection of both levies).

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2 A small amount of the fund is used to support certain other local government-related initiatives.

3 Chapter 26 reviews issues in relation to the collection of motor tax.

4 The Local Government (Household Charge) Act 2011. The Local Government Management Agency are responsible for collecting the charge on behalf of the sector. The household charge is an interim measure and a property tax is to be introduced to replace it.

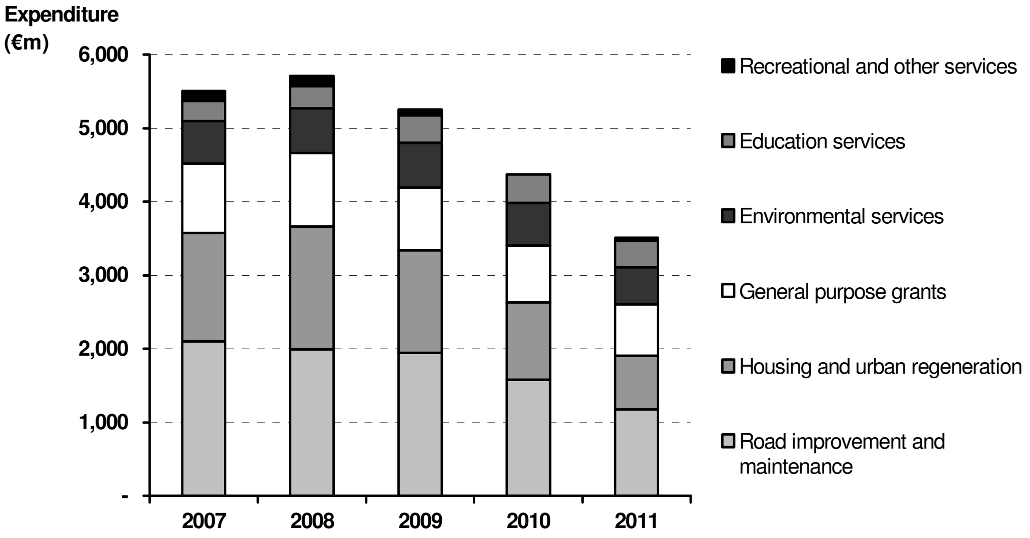
### *Application of Funding*

**16.8** Most of the funding sourced from central government and provided to local authorities must be used for specific local authority services. These can be grouped into six broad programme categories.

- **Housing and Urban Regeneration** – The bulk of funding for housing and urban regeneration is provided directly to local authorities by the Department of the Environment, Community and Local Government. The funding is used by local authorities for the provision of local authority housing, regeneration and remedial work, traveller accommodation, voluntary and cooperative housing, the Rental Accommodation Scheme, housing adaptation grants, and accommodation for homeless people.
- **Environmental Services** – Almost all (92%) of the central funding provided to local authorities in support of environmental services is directed towards investment in water services, and is primarily funded by the Department of the Environment, Community and Local Government. The remaining funding for environmental services comes from the Department of Arts, Heritage and Gaeltacht Affairs, the Local Government Fund and the Environment Fund.
- **Road Improvement and Maintenance** – Improvement and maintenance of the national roads is the responsibility of the National Roads Authority, which operates under the aegis of the Department of Transport, Tourism and Sport. In carrying out its projects, the Authority normally uses local authorities as its agents, and channels its expenditure through them. An allocation of funds is made from the Local Government Fund to the Department of Transport, Tourism and Sport for the upkeep of regional and local roads. Grants for these purposes are paid to local authorities by that Department.
- **Education Services** – The Department of Education and Skills reimburses the cost of higher education grants awarded by local authorities. However, a new national grant awarding authority – Student Universal Support Ireland – has been established. All new students applying for support under the student grant scheme for the 2012/2013 academic year must apply to the new authority. The Department of Education and Skills also reimburses local authorities the costs of providing superannuation benefits for retired staff of Vocational Education Committees and of Institutes of Technology who are members of the Vocational Teachers' Superannuation Scheme or the Education Sector Superannuation Scheme respectively. However, this function is in the process of being transferred to the PMG Pensions Section in the Department of Finance, who will assume responsibility, in place of the local authorities, for the pension and gratuity payment function.
- **Recreation and Other Local Services** – This comprises central government funding for local authority services such as library and archive services, swimming pool construction and maintenance and other public amenity and cultural projects, as well as fire and emergency services, and services for the disabled.
- **General Purposes Grants** – Through the Local Government Fund, the Department of the Environment, Community and Local Government provides top-up funding to local authorities to assist them bridge the gap between their other income sources and the cost of the services they provide, including the local authorities' own administration costs.

**16.9** Figure 16.3 presents a breakdown of the transfers to local authorities for 2007 to 2011 showing the programmes being supported (a detailed breakdown is at Annex A). In 2011, one third of the total provision was in respect of road improvements and maintenance work, just over one fifth was provided for housing and urban regeneration programmes, with funding for general purposes accounting for just under one fifth.

**Figure 16.3 Central government transfers to local authorities, by expenditure programme 2007 to 2011**




Source: See Annex A

## Urban Waste Water Treatment Performance Measures

**16.10** Overall responsibility for water services in the State – i.e. the availability of drinking water and the collection and treatment of wastewater – lies with the Department of the Environment, Community and Local Government (the Department). The direct provision and maintenance of public water services is the responsibility of the city and county councils (water services authorities). A new state body, Irish Water, has been established to take over responsibility for water services from the local authorities.

**16.11** Over the past decade, approximately €4.5 billion of Exchequer funds have been invested in protecting and conserving water services under the Water Services Investment Programme, of which €3.2 billion was spent on wastewater infrastructure. An additional €107 million of wastewater spending was funded through the Rural Water Programme. This reflects the investment requirements necessary to ensure compliance with the 1991 EU Urban Waste Water Treatment Directive (the Directive).

**16.12** Relevant and timely performance measures and indicators for programmes assist in making allocation decisions and in supporting efficient and effective service delivery and accountability. The following sections review the performance indicators available for urban waste water treatment services.

### *Directive Requirements*

**16.13** The Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001), as amended, give effect to the Urban Waste Water Treatment Directive (91/271/EEC). The main requirements of the Directive are

- scheduled provision of waste water collecting systems and treatment plants based on the size of the catchment area and the type of water body to which the waste water is discharged (freshwater, estuarine or coastal, sensitive or non-sensitive)[5]
- monitoring by water services authorities (including frequency of monitoring) of discharges from waste water treatment plants.

**16.14** The Environmental Protection Agency (EPA) is the statutory authority for reporting on the quality of effluents being discharged from treatment plants, sewers or drainage pipes which are vested in, controlled or used by local authorities. The EPA publishes reports based on information provided by local authorities.

**16.15** An EPA report published in February 2012 provided a review of the operation of urban waste water treatment plants, mainly using data for 2008 and 2009. An update to that report, published in June 2012, also provided data for 2010.[6] The reports include data on the infrastructure in place and the performance of treatment plants.

**16.16** The reports provide valuable data on the level of waste water treatment provided and the results of testing carried out on discharges from treatment plants. They also allow the extent to which Ireland is in compliance with the requirements of the Directive to be assessed. The usefulness of the reports is, however, diminished by delays in publication. No information is available on the cost per unit of treating waste water.

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5 A catchment area is referred to in the Directive as an agglomeration. An agglomeration is a cluster/collection/geographical area that is served by the treatment plant.

6 ***Focus on Urban Waste Water Discharges in Ireland, February 2012, and Update Report,*** June 2012.

**16.17** A value for money review carried out by the Department in 2010 recommended that data developed by the EPA to assess the water quality impact of waste water investment should be collated more regularly and used as an outcome indicator for assessing impacts of future programmes.[7]

### *Level of Waste Water Treatment Provided*

**16.18** The EPA reports provide data on all treatment plants that are subject to the waste water discharge licensing process i.e. those with a population equivalent of more than 500. Some water services authorities applied for licences in respect of smaller treatment plants in anticipation of future increases in population equivalent and these are also included in the data reported. Figure 16.4 sets out details of the level of waste water treatment provided in the 538 plants covered by the 2010 update report. A summary of the level of treatment provided for plants in each local authority is out in Annex B.

**Figure 16.4 Level of Waste Water Treatment Provided in 2010**

| Level of treatment | Population equivalent | | | All | |
|---|---|---|---|---|---|
| | less than 2,000 | 2,000 to 10,000 | over 10,000 | | |
| No treatment or preliminary treatment | 25 | 7 | 6 | 38 | ***7%*** |
| Primary treatment | 61 | 7 | — | 68 | ***13%*** |
| Secondary treatment | 175 | 59 | 26 | 260 | ***48%*** |
| Secondary and nutrient treatment | 93 | 51 | 28 | 172 | ***32%*** |
| Total | 354 | 124 | 60 | 538 | ***100%*** |

Source: EPA: An Update Report on data presented in the EPA Report ***Focus on Urban Waste Water Discharges in Ireland*** published in February 2012.

**16.19** A total of 432 or 80% of plants were providing secondary treatment or secondary treatment with nutrient reduction in 2010.

**16.20** The Directive requires member states to ensure that all urban waste water entering collecting systems (with a population equivalent in excess of 2,000) is subject to secondary treatment, or secondary treatment with nutrient reduction.[8] In 2011, there were 18 plants that have yet to meet the level of treatment set down by the directive. These are set out in Figure 16.5. It is estimated that the required treatment will not be in place in all plants until 2015.

7 ***Report on the Value for Money Review of the Water Services Investment Programme 2007 – 2009***, published in 2010.

8 Waste water from urban areas with a population of less than 10,000 discharging to coastal areas requires 'appropriate' treatment.

**Figure 16.5 Catchment Areas where Secondary Treatment, and Treatment with Nutrient Reduction is Required but not yet in place in 2010**

| County Council | Level of treatment to be provided | Catchment area |
|---|---|---|
| Cork | Secondary | Skibbereen |
| | | Cobh |
| | | Passage West/Monkstown |
| | | Ringaskiddy/Crosshaven/Carrigaline |
| | | Youghal |
| | Secondary with nutrient reduction | Carrigtohill |
| Cork City | Secondary with nutrient reduction | Cork City[a] |
| Donegal | Secondary | Moville |
| | Secondary with nutrient reduction | Killybegs |
| Fingal | Secondary | Lusk |
| Galway | Secondary | Clifden |
| Greater Dublin | Secondary with nutrient reduction | Ringsend[a] |
| Kerry | Secondary with nutrient reduction | Tralee[a] |
| Kilkenny | Secondary with nutrient reduction | Kilkenny City and Environs[a] |
| Louth | Secondary with nutrient reduction | Dundalk[a] |
| Wexford | Secondary with nutrient reduction | Enniscorthy[a] |
| Wicklow | Secondary | Bray |
| | | Arklow |

Source: EPA, ***Focus on Urban Waste Water Discharges in Ireland***, February 2012.

Note: a Secondary treatment is in place for these catchment areas but nutrient reduction is also required.

### *Waste Water Discharge Testing*

**16.21** The Directive specifies quality standards for waste water discharge in urban areas by reference to three parameters – biological oxygen demand (BOD), chemical oxygen demand (COD) and total suspended solids (TSS). The Directive also sets the minimum number of samples that should be analysed in order to determine compliance with the quality standards. Compliance with the sampling level and quality standards is mandatory for discharges from larger urban areas (those with a population equivalent of 10,000 or more) and for areas with a population equivalent of 2,000 or more that discharge to freshwater or estuaries. The EPA uses the standards in the Directive as a guide to assess the performance of all plants.

**16.22** Treatment plants where secondary treatment is provided (432 in 2010) can fail to meet the Directive standards due to an insufficient number of samples being examined/reported or because the samples that were taken failed to meet the quality standards.

**16.23** The number of samples that should be taken and analysed varies depending on the catchment area served by the treatment plant. The rate of compliance in 2010 by secondary treatment plants with the Directive requirements on sample number was 94%. Five plants did not submit any sample results to the EPA in 2010. The rate of compliance by plants with secondary treatment with discharge quality standards was 58% in 2010 (see Figure 16.6).

**Figure 16.6 Rates of Compliance with Sample Frequency and Discharge Quality, Plants with Secondary Treatment, 2010**

| | 2010 |
|---|---|
| Plants with secondary treatment | 432 |
| Rate of compliance with sample number requirements | 94% |
| Rate of compliance with discharge quality requirements | 58% |

Source: Update Report on data presented in the EPA Report ***Focus on Urban Waste Water Discharges in Ireland*** published in February 2012.

### *Views of the EPA*

**16.24** In relation to performance measures and indicators, the EPA has stated that since the Urban Waste Water Directive, two further instruments driven by the EU are in place. These are the 2000 Water Framework Treatment Directive and the Waste Water Discharge Regulations 2007.

**16.25** In relation to urban waste water, the 2000 Water Framework Directive aims to protect high quality waters from the impacts of waste water discharge, prevent environmental pollution by waste water discharges and restore the quality of waters that have been polluted by waste water discharges. Working to achieve compliance with the Urban Waste Water Treatment Directive will be a significant step towards meeting the requirements of the Water Framework Directive.

**16.26** The EPA has received 536 applications for waste water discharge licences under the 2007 waste water discharge regulations and 204 have been issued. Many licences include a requirement to carry out infrastructural upgrades and improvements by specific dates in order to improve the quality of waste water discharges, protect the receiving waters and/or comply with European Directives. When the remaining licence applications are assessed, the EPA believe that further improvements and infrastructural upgrades are likely to require significant funding.

**16.27** In relation to reporting results and plant performance, the EPA have stated that it continues to meet the legislative requirement – reporting at intervals not exceeding two years.[9] From 2012, it is committed to publishing data on effluent quality and plant performance for any given year by the end of the following year i.e. the data for 2011 is scheduled to be published in 2012.

### *Conclusions and Recommendations – Waste Water Treatment*

**16.28** The EPA collates performance information which allows the quality of waste water treatment plant discharges to be assessed. However, there are delays in publishing the data – data for 2009 and 2010 was published in 2012 – and some local authorities do not report required results. The delay in reporting results of sampling and plant performance makes it difficult to link discharge quality to the investment in wastewater infrastructure.

> **Recommendation 16.1:** The Department should examine the causes of the delays in reporting discharge quality and set targets for local authorities to provide the necessary data to the EPA and for the EPA to publish the collated results. The feasibility of providing indicators of cost per unit of waste water treatment should also be examined.

9 Environmental Protection Agency Act 1992.

**Department Accounting Officer's Response:** Agreed. The delay in publication was due to the introduction of a new data management system. This has been addressed and future reports will be published in a timely manner. The issue of capital unit costs was examined in the 2010 Value for Money review, which noted difficulties that arise in this regard. The matter will be kept under review in the Department.

**16.29** Significant progress has been made in the provision of wastewater infrastructure, but there remain 18 treatment plants where the level of treatment required by the Directive is not being provided. It is estimated that the required level will not in place in all plants until 2015.

**Recommendation 16.2:** The Department should prioritise investment to those areas that represent the highest risk of failing to meet the Directive and which could result in additional costs through financial penalties being imposed.

**Department Accounting Officer's Response:** Agreed. The Department already prioritises investment in order to ensure compliance with the Directive and consults with the EPA in this regard. The number of plants with the level of treatment required in 2010 represented a population equivalent of 93% of discharges.

**16.30** There remain a number of plants for which no sample results are provided to the EPA or where the required number of samples are not taken. This militates against making a full assessment of the quality of waste water discharges. As a result, it is difficult to monitor progress and to estimate the work required to achieve full compliance.

**Recommendation 16.3:** The Department should identify barriers to meeting minimum sampling requirements and set targets for local authorities to meet those requirements.

**Department Accounting Officer's Response:** Agreed. There has been a reduction in the number of plants that failed to meet the requirements of the Directive solely due to insufficient sampling, down from 30% in 2007 to 3% in 2010. Substantial progress has been made in addressing previous shortcomings in this area.

**16.31** Of the plants with secondary treatment, there were 182 (42%) in 2010 which do not meet the quality standards.

**Recommendation 16.4:** Given the level of investment in recent years, the Department should seek to ascertain the factors affecting the capability of those plants to meet the required standard of quality and determine the corrective action required.

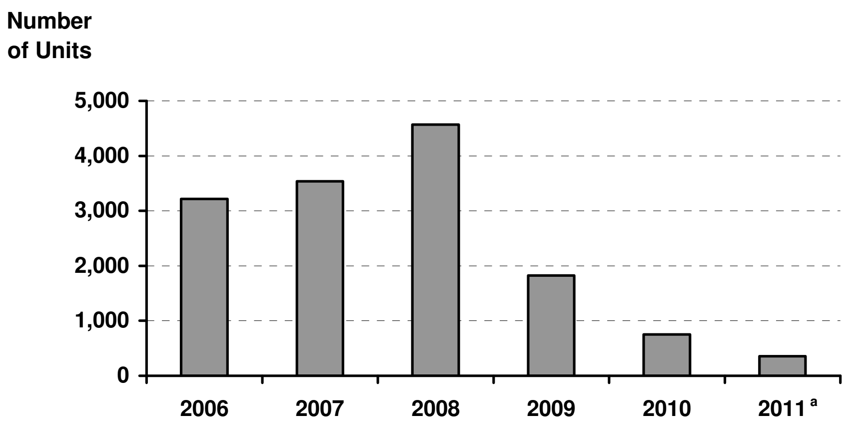
**Department Accounting Officer's Response:** Agreed. There has been significant investment in this area, but it has not been sufficient to meet the full requirements of the sector. The requirement for continued significant capital investment in water services has been estimated at €600 million annually as compared to €371 million in exchequer capital spending in 2011. The creation of Irish Water and the transfer of responsibility for water treatment services from local authorities to a new company should lead to a more sustainable funding model. Service level agreements between local authorities and Irish Water should bring about significant improvement in operational performance at individual plants and ensure greater consistency in standards. The independent assessment carried out in this regard envisaged that operational efficiency would be secured through standard operating procedures, economies of scale in procurement, greater use of water industry technology and advantages gained by operations being overseen at regional (river basin district) level, with increased specialisation. As Irish Water will also be regulated from an economic perspective by the Commission for Energy Regulation, there will be an emphasis from a consumer perspective in improving the efficiency of delivery of services and enhancing compliance with environmental standards.

## Social Housing

**16.32** Special Report 65, published in July 2009, examined the delivery of affordable homes by the State. One of the main findings of the report was that as a result of the market conditions prevailing at the time, a stock of unsold affordable housing units was being held by local authorities (3,700 units in early 2009). The report concluded that in the light of the changed market conditions and proposed legislative adjustments, it was necessary to review the rationale of affordable housing delivery and its potential future contribution to housing policy objectives.

**16.33** The Affordable Homes Partnership was established in 2005 to coordinate the delivery of affordable homes in the Greater Dublin Area. It did not procure any affordable homes in 2009 or 2010 and the organisation ceased to exist on 31 December 2010. Affordable housing programmes in local authorities continued to provide affordable homes in 2009, 2010 and 2011, albeit at a reducing rate. The total number of units provided over the period 2006 to 2011 is set out in Figure 16.7 below.

**Figure 16.7 Units Delivered Through Affordable Housing**




Source: Department of Environment, Community and Local Government
Note: a Preliminary data

**16.34** A housing policy statement published by the Department in June 2011 announced that the Government was discontinuing all existing affordable housing programmes, reflecting current housing market conditions. The programmes were to be wound up as part of a review of Part V of the Planning and Development Act 2000.[10]

**16.35** There are existing Part V agreements which were entered into in previous years where the State may have a commitment, though it is unlikely that the majority of these will materialise. Under current procedures, the Department is only notified of a commitment by the local authority when the building work is underway and a final written agreement is in place between the local authority and the developer. The Department has not quantified what contingent liabilities exist, in total or by local authority.

**16.36** The Accounting Officer stated that as part of its management of the Social Housing Investment Programme, the Department seeks information in relation to the outstanding contractual commitments of local authorities, including in relation to Part V agreements. This information is updated regularly.

10 Part V of the Planning and Development Act 2000 is a mechanism through which local authorities can obtain up to 20% of proposed developments for delivery of social and affordable housing.

**16.37** The Department is currently completing a survey on the outstanding/unsold affordable housing units, by local authority. It is expected that the results should be available by the end of summer 2012. The Department has developed plans for the use of the affordable housing units in stock which include using the units for social leasing, selling units where possible and transferring the remainder to the social housing stock.

### *Conclusion and Recommendation – Social Housing*

**16.38** A survey of the stock of unsold affordable housing is underway. Meanwhile, the State may have commitments arising from the provision by developers of land for social and affordable housing.

**Recommendation 16.5:** The Department should engage with the local authorities to obtain information on all contingent liabilities arising from obligations on developers to provide land for social housing. This would complement the survey being conducted and will provide the Department with a clear picture as to both the stock on hand and likely to become available for the provision of social housing, and any potential future commitments.

**Department Response:** Agreed. The Department will continue to gather data in this regard. A further review of commitments is planned to be undertaken as part of the housing action plan process with local authorities before end 2012.

## Land Aggregation Scheme

**16.39** The Housing Finance Agency (HFA) was established as the provider of housing finance for local authorities, including finance for the purpose of land purchase by authorities for the development of social and affordable housing. The total outstanding value of loans advanced by the HFA at 31 December 2011 was €4.36 billion. The amounts owed to the HFA by local authorities in respect of land acquisition for social and affordable housing was approximately €500 million. [11]

**16.40** Under the Land Aggregation Scheme, housing authorities may, subject to approval from the Department, transfer residential scheme lands on which there are outstanding loans from the HFA to a special purpose company called Housing and Sustainable Communities Limited (HSC Ltd) when the loans fall due for redemption and on the basis that there are no short to medium term plans for the development of the land for housing purposes.[12] When the scheme was first introduced housing authorities could redeem the loan from the HFA in advance of transferring the land to HSC Ltd. Funding to redeem the loan was made available from the Department.

**16.41** Following a review of the operation of the scheme and the need to achieve greater efficiency in respect of its funding, revised arrangements for the Land Aggregation Scheme were put in place in June 2012. While the scheme will generally operate as it has done since its introduction, HFA loans will now be converted, upon maturing, into 25 year annuity loans. The annuity payment due on these loans will be recoupable from the Department provided the site has been accepted into the scheme and the transfer of land to HSC Ltd has been completed.

**16.42** By June 2012, applications totalling some €262.6 million (including accrued interest) from 23 authorities and the National Building Agency had been received by the Department.[13] These applications represent 121 sites and 375 hectares of land. To the end of June 2012, the Department approved the transfer of 47 sites to HSC Ltd and paid just over €111 million to redeem the local authority loans from the HFA. Of the 47 sites approved for inclusion in the scheme, 13 sites have been transferred to HSC Ltd and nine others are awaiting execution (the legal contract documents for the transfer have been signed). For the remaining 25 sites, the process of transferring the land is underway.

**Figure 16.8 Summary of Activity under the Land Aggregation Scheme to June 2012**

| | Number of applications | Number of hectares | Cost (€m) |
|---|---|---|---|
| **Applications approved** | 47 | 172.7 | 111 |
| of which | | | |
| applications transferred | 13 | 47.7 | 35 |
| awaiting execution | 9 | 30.5 | 20 |
| in process | 25 | 94.5 | 56 |

Source: Department of Environment, Community and Local Government

11 €388 million was in respect of social housing schemes and €112 million was in respect of affordable housing schemes.

12 Housing and Sustainable Communities Ltd, was established as a subsidiary of the National Building Agency to manage land transferred to it by local authorities under the Land Aggregation Scheme.

13 The NBA had acquired land over the years, with a loan value of approximately €4 million. The NBA has ceased operating (though it remains legally in place) and its remaining functions have transferred to the Housing and Sustainable Communities Agency. The NBA will formally cease to exist once primary legislation expanding the functions of the Housing and Sustainable Communities Agency is enacted.

**16.43** Approximately €295,000 has been paid to HSC Ltd in respect of administration costs to June 2012. This includes the costs associated with reviewing and assessing the lands put forward for inclusion in the Land Aggregation Scheme.

**16.44** The Housing and Sustainable Communities Agency was established in August 2012. Its functions include research and advisory work, consultancy and regeneration services. The establishment order provides for the agency to be audited by the Comptroller and Auditor General. HSC Ltd remains responsible for the management and maintenance of the lands transferred under the Land Aggregation Scheme.

## Annex A Central government transfers to local authorities, by expenditure programme 2007 to 2011

| Expenditure Category | 2007 €m | 2008 €m | 2009 €m | 2010 €m | 2011 €m |
|---|---|---|---|---|---|
| **Housing and urban regeneration** | | | | | |
| Social housing provision | 1,382 | 1,571 | 1,297 | 961 | 655 |
| Affordable housing etc | 64 | 89 | 94 | 84 | 68 |
| Other housing supports | 6 | 7 | 4 | 6 | 4 |
| Urban regeneration | 20 | 5 | 1 | — | — |
| | 1,472 | 1,672 | 1,396 | 1,051 | 727 |
| **Environmental services** | | | | | |
| Water and sanitary services | 529 | 544 | 558 | 535 | 464 |
| Waste management | 28 | 27 | 8 | 11 | 11 |
| Recycling | 12 | 22 | 14 | 14 | 12 |
| Other environmental measures | 11 | 15 | 29 | 16 | 18 |
| | 580 | 608 | 609 | 576 | 505 |
| **Road improvement and maintenance** | | | | | |
| National roads | 1,476 | 1,374 | 1,488 | 1,166 | 723 |
| Non-national roads | 623 | 616 | 455 | 412 | 453 |
| | 2,099 | 1,990 | 1,943 | 1,578 | 1,176 |
| **Education services** | | | | | |
| Higher education grants | 126 | 137 | 160 | 172 | 184 |
| Superannuation of retired teaching staff | 146 | 164 | 219 | 217 | 171 |
| | 272 | 301 | 379 | 389 | 355 |
| **Recreation and other local services** | | | | | |
| Swimming pools | 25 | 20 | 11 | 3 | 10 |
| Library service | 17 | 15 | 9 | 6 | 7 |
| Sports grants, playgrounds and cultural projects | 9 | 7 | 10 | 21 | 9 |
| Fire and emergency services | 24 | 24 | 20 | 19 | 12 |
| Heritage services (architectural heritage) | 7 | 8 | 6 | 5 | 1 |
| Disability services | 15 | 15 | 12 | 7 | — |
| Miscellaneous capital services | 19 | 31 | 2 | 12 | 1 |
| Miscellaneous services | 15 | 20 | 6 | 7 | 6 |
| | 131 | 140 | 76 | 80 | 46 |
| General purpose grants | 948 | 999 | 850 | 777 | 700 |
| **Total funding provided to local authorities** | **5,502** | **5,710** | **5,253** | **4,451** | **3,509** |

Source: Department of Environment, Community and Local Government; Department of Education And Skills; Department of Transport, Tourism and Sport; Department of Arts, Heritage and Gaeltacht; Department of Health; Department of Children and Youth Affairs; Local Government Fund and Environment Fund financial statements (2011 unaudited).

## Annex B Level of Treatment Provided 2010

| Local authority | No. of plants | Level of treatment provided | | |
|---|---|---|---|---|
| | | No treatment or preliminary | Primary | Secondary/ secondary and nutrient |
| Cork City | 1 | — | — | 1 |
| Dublin City | 1 | — | — | 1 |
| Dun Laoghaire/ Rathdown | 1 | 1 | — | — |
| Galway City | 1 | — | — | 1 |
| Limerick City | 1 | — | — | 1 |
| Waterford City | 1 | — | — | 1 |
| Carlow | 12 | — | — | 12 |
| Cavan | 16 | — | — | 16 |
| Clare | 22 | 5 | — | 17 |
| Cork | 73 | 11 | 12 | 50 |
| Donegal | 36 | 6 | 11 | 19 |
| Fingal | 9 | 2 | 2 | 5 |
| Galway | 22 | 4 | 3 | 15 |
| Kerry | 25 | — | 13 | 12 |
| Kildare | 13 | — | 1 | 12 |
| Kilkenny | 21 | 1 | 5 | 15 |
| Laois | 14 | — | — | 14 |
| Leitrim | 8 | — | — | 8 |
| Limerick | 25 | — | 5 | 20 |
| Longford | 7 | — | 2 | 5 |
| Louth | 14 | — | — | 14 |
| Mayo | 32 | 2 | 2 | 28 |
| Meath | 23 | — | — | 23 |
| Monaghan | 14 | — | — | 14 |
| Offaly | 14 | — | — | 14 |
| Roscommon | 13 | — | — | 13 |
| Sligo | 16 | — | 2 | 14 |
| Tipperary North | 12 | — | — | 12 |
| Tipperary South | 14 | — | 1 | 13 |
| Waterford | 12 | 2 | 4 | 6 |
| Westmeath | 15 | — | — | 15 |
| Wexford | 27 | 2 | 4 | 21 |
| Wicklow | 23 | 2 | 1 | 20 |
| **Total** | **538** | **38** | **68** | **432** |

## Annex C Compliance with Standards 2010

| Local authority | Total no. of plants | Complied with standards | No secondary treatment | Did not comply with standards | | |
|---|---|---|---|---|---|---|
| | | | | Total | No. of samples | Quality |
| Cork City | 1 | 1 | — | — | — | — |
| Dublin City | 1 | — | — | 1 | — | 1 |
| Dun Laoghaire/ Rathdown | 1 | — | 1 | — | — | — |
| Galway City | 1 | 1 | — | — | — | — |
| Limerick City | 1 | 1 | — | — | — | — |
| Waterford City | 1 | 1 | — | — | — | — |
| Carlow | 12 | 8 | — | 4 | 1 | 4 |
| Cavan | 16 | 10 | — | 6 | — | 6 |
| Clare | 22 | 8 | 5 | 9 | — | 9 |
| Cork | 73 | 30 | 23 | 20 | 2 | 18 |
| Donegal | 36 | 6 | 17 | 13 | 2 | 12 |
| Fingal | 9 | 2 | 4 | 3 | 1 | 2 |
| Galway | 22 | 8 | 7 | 7 | 1 | 6 |
| Kerry | 25 | 11 | 13 | 1 | 1 | — |
| Kildare | 13 | 10 | 1 | 2 | — | 2 |
| Kilkenny | 21 | 6 | 6 | 9 | 1 | 8 |
| Laois | 14 | 2 | — | 12 | 2 | 12 |
| Leitrim | 8 | 3 | — | 5 | 1 | 5 |
| Limerick | 25 | 4 | 5 | 16 | 3 | 16 |
| Longford | 7 | 5 | 2 | — | — | — |
| Louth | 14 | 10 | — | 4 | 1 | 3 |
| Mayo | 32 | 18 | 4 | 10 | 1 | 9 |
| Meath | 23 | 9 | — | 14 | 3 | 12 |
| Monaghan | 14 | 10 | — | 4 | 1 | 4 |
| Offaly | 14 | 11 | — | 3 | — | 3 |
| Roscommon | 13 | 5 | — | 8 | 1 | 7 |
| Sligo | 16 | 6 | 2 | 8 | 1 | 7 |
| Tipperary North | 12 | 9 | — | 3 | — | 3 |
| Tipperary South | 14 | 10 | 1 | 3 | 2 | 1 |
| Waterford | 12 | 4 | 6 | 2 | — | 2 |
| Westmeath | 15 | 12 | — | 3 | — | 3 |
| Wexford | 27 | 13 | 6 | 8 | — | 8 |
| Wicklow | 23 | 16 | 3 | 4 | — | 4 |
| **Total** | **538** | **250** | **106** | **182** | **25** | **167** [a] |

Note: a Insufficient samples to comply with Directive requirements were taken for ten plants, but there were enough samples in those cases to establish that the discharges also failed to comply with the quality standards.

# 17 European Globalisation Adjustment Fund

**17.1** In recent decades, the process of deregulation combined with radically improved communications technology has resulted in the globalisation of financial and investment markets, and increased international mobility of capital. International trading of services has grown strongly and the freeing up of trade restrictions has resulted in opportunities for manufacturing industry to relocate to locations where costs of production are perceived to be lower.

**17.2** While globalisation has contributed significantly to economic growth internationally, it has also had negative consequences for less qualified workers in certain sectors and countries. In Ireland, there were a number of high-profile closures of manufacturing and service enterprises in 2009, with the businesses being relocated to other jurisdictions and substantial redundancies. In early 2009, computer manufacturer Dell closed its manufacturing plant in Limerick, resulting in around 2,000 redundancies. Waterford Crystal reduced its presence in Waterford, resulting in over 600 redundancies and SR Technics closed its operation at Dublin airport with the loss of over 1,000 jobs. In late 2011, call centre operator Talk Talk closed its Waterford premises with the loss of over 570 jobs. The companies' suppliers of goods and services were also affected by the closures, leading to further consequential redundancies.

**17.3** The crisis in the global financial system since 2007 has also had significant sectoral impacts on the Irish labour market. This was particularly the case in the construction sector where employment fell from 280,000 in 2007 to around 150,000 by mid 2009. Employment in that sector has continued to fall and there are now just over 100,000 employed in construction.

**17.4** In response to difficulties being experienced by workers affected by redundancies resulting from changes in world trade patterns, the European Union established a European Globalisation Adjustment Fund (referred to as the EGF) in December 2006. The aim of the EGF, which is accessible by all member states of the EU, is to provide specific, one-off support to facilitate the reintegration into employment of workers in areas, sectors or regions suffering the shock of serious economic disruption. It also aims to promote entrepreneurship, for example through provision of micro-credit or support for setting up cooperative projects.

**17.5** Up to the end of December 2011, the European Commission provided 65% of the cost of eligible measures from the EGF, with the remaining 35% coming from local/national member state resources.[1] Funding is available for both existing and customised labour market activation measures, so long as they are provided to eligible target groups of workers. Income support during participation in activation measures may also be eligible for EGF funding.

**17.6** The Department of Education and Skills (the Department) now has overall responsibility for seeking assistance under the EGF, and for its oversight and disbursement in Ireland.[2] Eligible labour activation measures are implemented by a number of training, education and enterprise support bodies, including FÁS, the vocational education committees (VECs), third level education bodies, county enterprise boards (CEBs) and private training providers.

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1 EGF contribution of 50% of costs applies to applications received by the EU Commission after 30 December 2011.

2 Under the Employment and Services Skills Training (Transfer of Departmental Administration and Ministerial functions) Order 2010 (SI 187 of 2010) certain functions including the management of the EGF were transferred from the (then) Department of Enterprise, Trade and Employment to the Department of Education and Skills in May 2010.

**17.7** Applications for EGF funding were made in respect of measures to assist workers affected by the Dell, Waterford Crystal, SR Technics and Talk Talk closures, and certain workers in the construction sector.[3] To date, €61 million in EGF funding has been received in respect of these applications. This chapter examines

- monitoring of the programmes
- the take up of the programme by the targeted workers
- the extent to which activation measures have been implemented for the target groups
- the Department's evaluation of the outcomes of the intervention on the target groups
- the draw-down of the available EU funding.

## Outline of Programmes

**17.8** Estimates made at the time applications were submitted for EGF support indicated a total of around 14,300 target workers (see Figure 17.1). The Department has subsequently reduced its estimates of eligible redundancies by around 3% to a total of about 13,900. Most of the decrease relates to the construction programme, where the Department now estimates the level of eligible redundancies at around 8,780.

**Figure 17.1 Irish EGF Applications by Programme 2009 to 2012**

| Programme | Number of redundant workers[a] | | |
|---|---|---|---|
| | In company/sector | In supplier companies | Total |
| Dell | 2,000 | 840 | 2,840 |
| Waterford Crystal | 627 | 26 | 653 |
| SR Technics | 1,135 | — | 1,135 |
| Construction[b] | 9,089 | — | 9,089 |
| Talk Talk | 573 | 19 | 592 |
| **Total** | **13,424** | **885** | **14,309** |

Source: Department of Education and Skills – EGF Applications

Notes: a Estimates at the date of application (revised later).

b The construction programme consists of three construction-related applications. These were schemes for eligible redundant workers in construction of buildings; specialised construction activities; and architectural and engineering activities.

### *Supplier and Downstream Redundancies*

**17.9** Cessation or large-scale reduction of operations in a company can result in redundancies in supplier or downstream companies. The EGF provides for support for these redundant workers where the link between the redundancies can be established. The largest identified linkage was in the Dell application where 840 redundant workers in eight other companies were identified. The Waterford Crystal and Talk Talk applications identified a small number of redundancies in three other companies in each case. There were no redundancies in supplier or downstream producers identified in the SR Technics application.

3 The applications in respect of the Dell, Waterford Crystal and SR Technics programmes were made by the (then) Department of Enterprise, Trade and Employment. Following changes in departmental responsibility, the construction sector and Talk Talk applications were made by the Department of Education and Skills.

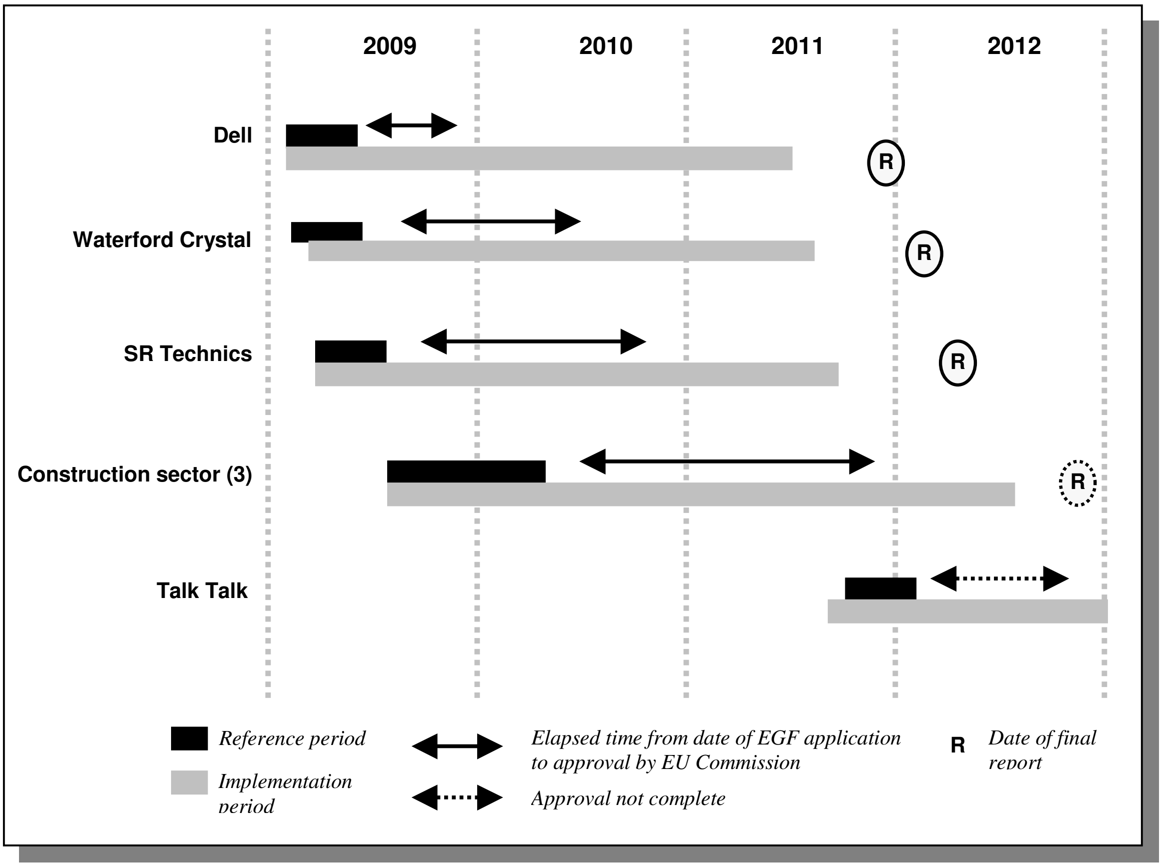
**17.10** In the case of the construction programmes, no redundancies in supplier or downstream companies were included. However, the construction applications related to a total of 3,272 companies in the sector.

**17.11** An EU evaluation of the EGF in 2011 noted the difficulty in including workers made redundant in supplier companies.[4] This was mainly due to the difficulty in identifying affected companies and workers. It also noted that fixed-term and agency workers were generally not assisted because their contracts were often not renewed prior to eventual company closures or mass redundancies.

### *Programme Timelines*

**17.12** To be eligible for EGF funding, there must have been at least 500 redundancies in an enterprise in a period of four months, or in an eligible industry sector in a geographic area over a period of nine months (the reference period). The programme of labour activation measures can commence as soon as the redundancies occur and must be completed within two years from the date of application (the implementation period). Six months after the end of the implementation period, a final report is required to be submitted to the EU Commission. Assistance measures that have been provided to eligible redundant workers prior to EU approval can be retrospectively funded by the EGF should the application be approved. Timelines for the seven EGF programmes are set out in Figure 17.2.

**Figure 17.2 Timelines for Irish EGF Applications 2009 to 2012**




4 European Commission, ***Mid-term Evaluation of the European Globalisation Adjustment Fund***, December 2011.

**17.13** In the Dell, Waterford Crystal and SR Technics cases, provision of services commenced at the time of redundancy, and prior to EU approval.

**17.14** Construction workers made redundant between July 2009 and March 2010 were the subject of a single application made to the EU in June 2010. However, separate applications based on the industry sub-sector of the redundant workers were required. In February 2011, the Department submitted three separate applications for funding of eligible workers (including apprentices) made redundant from companies engaged in construction of buildings, specialised construction activities and architectural services. EU approval was received in November 2011. Eligible workers were only notified in December 2011, shortly after approval was confirmed. This was just six months before the programme ended in June 2012.

**17.15** The Department commenced implementation of services for redundant Talk Talk workers in September 2011 when the redundancies were announced. The application for EGF funding was submitted in February 2012 and was approved by the European Commission in July 2012. However, approval of the European Council and Parliament is currently awaited. The programme will run to February 2014.

## Programme Monitoring and Reporting

**17.16** The Department identifies potential EGF applications through monitoring redundancy information supplied to it by the Department of Jobs, Enterprise and Innovation, reports through the media and from public representatives. When a potential application is identified, the Department creates a database of these individuals primarily using data obtained from the Redundancy Payments Section of the Department of Social Protection. As not all individuals may be eligible for State supported redundancy payments, data is also obtained from other State agencies and from company redundancy notifications.

**17.17** During programme implementation, the Department relies on other State agencies and implementation bodies to update participants' records with appropriate intervention data. FÁS managed the Dell EGF database and engaged an independent coordinator attached to its Local Employment Service office to manage the Waterford Crystal records. FÁS currently manages the Talk Talk programme data. The records for the SR Technics programme were collated since June 2011 by a private company, sourced through a competitive tendering process, and this company is currently also managing the data for the three construction programmes.

**17.18** As eligible redundant workers may have engaged directly with service providers, maintaining an up-to-date database of participants and costs is dependent on transfer of data from these service providers to the EGF coordination unit or other designated coordinator or data manager. These are often submitted at long intervals.

**17.19** The EU Commission requires a final report regarding implementation of the EGF financial contribution, along with a statement justifying the expenditure, to be submitted not later than six months after the end of the implementation period. Final reports have been sent to the EU Commission for the Dell, Waterford Crystal and SR Technics programmes. The three construction programmes finished in June 2012 and final reports for each of the programmes are due by December 2012.

**17.20** This examination relied on information in the three final reports submitted to the Commission and participation data supplied by the Department in addition to other reviews and information available.

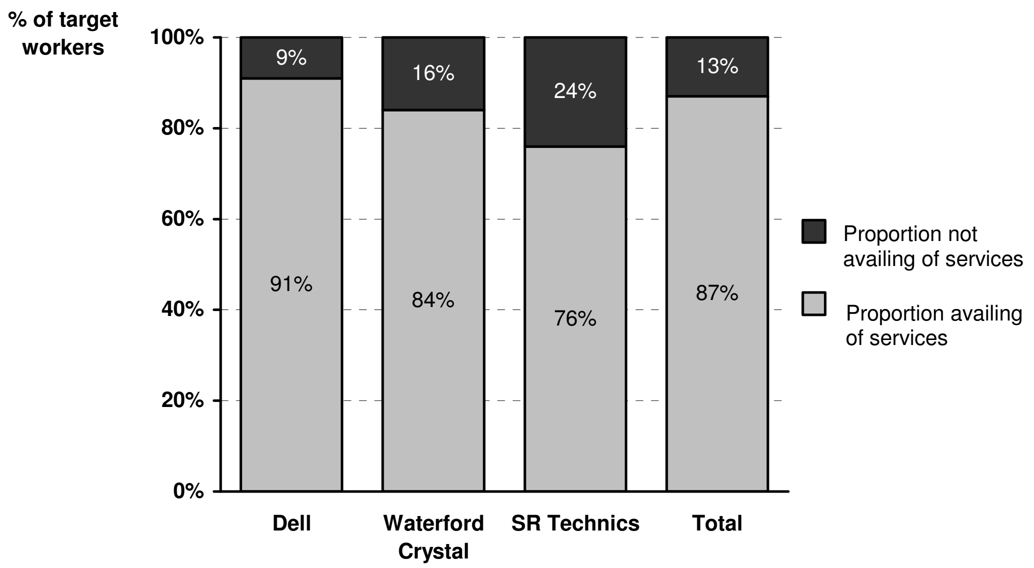
**17.21** The Department did not have standardised procedures in place for the compilation of regular meaningful data on the numbers of individuals participating, the interventions provided or the related costs incurred for the three construction programmes. As a result, data in relation to those programmes was not available for analysis during the examination. The Department stated that outturns data will only become available in the context of the preparation and submission of the final report to the EU Commission by December 2012.

**17.22** While the Department outlined that reporting procedures have been instituted for the Talk Talk programme, there was only limited data available for analysis in this examination.

## Programme Engagement

**17.23** Information included in the Department's final reports to the EU Commission sets out the number of individuals who engaged with each programme. A person is considered to have engaged if they have availed of any of the supports or measures of the programme, including occupational guidance. Figure 17.3 represents the proportion of redundant workers who engaged with the three finalised programmes.

**Figure 17.3 Engagement with Programme[a]**




Source: Department of Education and Skills

Note: a The data provided was revised since the Department's final reports were submitted to the EU.

**17.24** The programme engagement rate fell from just over 90% in the case of the Dell programme to 76% for SR Technics. In the SR Technics final report to the EU, the Department noted that a dedicated coordination unit, which allows for a more coordinated approach across service providers and ensures information flow regarding programme progress, was in place for the Dell and Waterford Crystal programmes but not for the SR Technics programme. However, the Department noted that all interventions, albeit without the presence of a coordination unit, continued to be promoted by service providers for the duration of the SR Technics programme. The report concluded that clear communications between state agencies, service providers and affected workers during the application, approval and delivery stages is central to ensuring that an effective programme of personalised supports is designed and implemented.

**17.25** The Accounting Officer stated that the Department aims to maximise uptake of programmes and has taken measures in the Talk Talk application to enhance engagement with the workers, including enhanced guidance measures as well as greater flexibility within the programme. However, the Department also respects each individual's right not to participate.

### *Occupational Guidance*

**17.26** Occupational guidance was identified as an intervention that was critical early in the labour activation process. It consists of a guidance interview, generally provided by FÁS, to discuss training courses, employment opportunities and other actions leading to an agreed programme to enhance the prospects of the individual returning to employment. Participation in occupational guidance is not a pre-requisite for availing of the measures and supports of a programme. However, the EU mid-term evaluation of the EGF identified early profiling of the worker and the development of an individual plan of support as a key success factor in re-employment.

**17.27** The Department collates data on the number of occupational guidance interviews provided. However, it does not record the extent to which individuals availed of more than one guidance interview. Figure 17.4 sets out the Department's latest estimates of the number of individuals who availed of guidance across the three completed programmes.

**Figure 17.4 Occupational Guidance Uptake by Programme**

| EGF Programme | Number of redundant workers (revised) | Workers who availed of guidance (one or more sessions) | | Cost[a] |
|---|---|---|---|---|
| | | Number | % | €000 |
| Dell | 2,883 | 2,585 | 90% | 192 |
| Waterford Crystal | 639 | 516 | 81% | 64 |
| SR Technics | 1,006 | 619 | 62% | 25 |
| Construction | 8,779 | | | 462 |
| Talk Talk | 592 | | | 54 |
| **Total** | **13,899** | **3,720** | **82%** | **797** |

Source: Department of Education and Skills. Outturn data for the construction and Talk Talk programmes are not available.

Note: a The cost of guidance in respect of Dell, Waterford Crystal and SR Technics is as reported in final reports to the EU Commission. Budget estimates for the construction and Talk Talk programmes have been used.

**17.28** The construction programmes closed in June 2012, two years after the original applications had been made. The construction coordination unit commenced operations only in December 2011, following EU approval of the applications. 808 eligible workers had made contact with the coordination unit by the end of April 2012 and 36 of these had participated in guidance activities while a further 19 were awaiting guidance. The Department is unable to provide statistics regarding the number of redundant construction workers who availed of occupational guidance otherwise than through the coordination unit. The Department stated that details of this and other intervention data are currently being compiled by service providers in the context of the submission of the final reports by the Department to the European Commission.

**17.29** The Department notified redundant Talk Talk workers of possible eligibility for EGF supported measures in March 2012 and a dedicated coordination unit was set up by FÁS at that time. Up to July 2012, a total of 284 individuals had made contact with the unit.

## Delivery of Measures

**17.30** Individual worker support plans developed during occupational guidance provide a framework for the delivery of the different supports available. The range of activation measures and supports falls into three broad categories as follows

- Training programmes and allowances – provided by FÁS, local authorities and VECs, and courses provided by private colleges that are not provided by a State agency.
- Third level education – provided by universities and institutes of technology together with income supports, where appropriate, provided by agencies such as VECs and the Department of Social Protection.
- Enterprise and self-employment supports – CEBs provide support to micro-enterprise start-ups by providing financial support as well as training, management development and mentoring programmes.

**17.31** Many of the measures and supports were already available generally to those who are unemployed. Some specific measures, such as training programmes, internships, training and higher education grants were tailored to meet the needs of EGF participants. Redundant workers could avail of one or more measures within or between each category of activation measure. Each measure availed of is counted as an intervention.

### *Participation in Measures*

**17.32** The number of individuals who participated in each category of measure is set out in Figure 17.5.

**Figure 17.5 Number Participating in Programmes by Each Measure Type[a]**

| | Dell | Waterford Crystal | SR Technics | Total |
|---|---|---|---|---|
| Number of redundancies (revised) | 2,883 | 639 | 1,006 | 4,528 |
| Number of participants in measures | 1,583 | 363 | 498 | 2,444 |
| Rate of participation in measures | 55% | 57% | 50% | 54% |
| **Participation rate by type of measure[b]** | | | | |
| Training | 45% | 51% | 38% | 45% |
| Third level education | 13% | 5% | 18% | 13% |
| Business start-up | 11% | 13% | 7% | 10% |

Source: Department of Education and Skills

Notes: a Excluding occupational guidance.

b Participants may have received more than one intervention.

**17.33** Training measures attracted the highest proportion of participants with an average of 45% across all three programmes. A higher proportion of Dell and Waterford Crystal participants engaged in business start-up measures than in the SR Technics programme. Recourse to third level education was proportionally higher in Dell and SR Technics than in Waterford Crystal.

**17.34** Third level programmes of study were included in EGF programmes, generally for up to 2 years, after which public funding for tuition fees was planned to cease. The Department has stated that a number of EGF eligible redundant workers under the Dell and SR Technics programme were provided with funding for tuition fees for an additional academic year out of State resources, without EGF funding.

**17.35** The applications submitted in respect of the construction and Talk Talk programmes estimated that 5,987 and 432 individuals, respectively, would participate in measures. The estimated participation rates by measure type expressed as proportions of the total redundant workers are set out in Figure 17.6.

**Figure 17.6 Estimated Participation Rate by Measure Type – Construction and Talk Talk Programmes**

| | Construction | Talk Talk |
|---|---|---|
| **Estimated participation** | | |
| Training | 87% | 87% |
| Third level education | 2% | 19% |
| Business start-up | 17% | 63% |

Source: Department of Education and Skills – EGF applications submitted to the European Commission

**17.36** The estimated levels of participation in measures for these two programmes are generally higher than those achieved in the finalised schemes, and show a heavy concentration on training interventions. Almost two thirds of Talk Talk workers were expected to avail of business start-up supports. Only 2% of construction workers are expected to avail of third level education opportunities.

**17.37** In relation to the three construction EGF programmes, between December 2011 and April 2012, 337 individuals engaged in training activities following communication with the dedicated coordination unit. A further 59 individuals had been referred to the Higher Education Authority, FÁS or CEBs for provision of measures. There is no information available regarding measures delivered to construction workers that have not been channelled through the coordination unit. The Department stated that data in respect of those who availed of services prior to the approval of the programmes is being compiled in the context of the submission of the final report which must be transmitted to the European Commission in December 2012.

**17.38** Apart from information regarding grants for training in private colleges that have been approved for 39 eligible Talk Talk workers, there is limited information available centrally on the participation to date in measures under that programme. However, the Department stated that information relating to participation in measures available in the Talk Talk coordination unit will be updated on a FÁS database every two months and that the Department will receive regular activity reports from the coordination unit.

### *Costs of Measures*

**17.39** The cost of delivering activation measures for the three finalised programmes was just over €20 million. Figure 17.7 sets out the cost per overall measure type for the finalised programmes based on cost information in the Department's final reports submitted to the EU and participant information supplied for this examination.

**17.40** The overall expenditure on the three finalised programmes includes €6.6 million (32%) relating to income supports, such as student maintenance grants, back-to-education and training allowances. On average, expenditure on allowances represented 60% of the total spend by 15 programmes reviewed in the 2011 EU evaluation.

**Figure 17.7 Cost of Each Measure Type - Finalised Programmes**[a]

| | Dell | Waterford Crystal | SR Technics | Total |
|---|---|---|---|---|
| | €m | €m | €m | €m |
| Training | 5.8 | 1.6 | 2.0 | 9.4 |
| Third level education | 4.0 | 0.4 | 1.8 | 6.2 |
| Business start-up | 3.2 | 0.9 | 0.6 | 4.7 |
| **Total cost** | 13.0 | 2.9 | 4.4 | 20.3 |
| **Average cost per participant** | | | | |
| Training | €4,400 | €5,000 | €5,200 | €4,700 |
| Third level education | €10,700 | €12,700 | €9,900 | €10,600 |
| Business start-up | €10,700 | €10,700 | €7,800 | €10,200 |

Source: Department of Education and Skills

Note: a Excluding occupational guidance.

**17.41** Training costs represent 46% of all costs across the three programmes. The cost of training measures per participant is significantly lower than third level education or business start-up costs. Third level education costs per participant were higher for Waterford Crystal workers. Business start-up costs were lowest in the SR Technics programme.

**17.42** The construction programme applications anticipated that €51 million would be spent on measures. The Talk Talk application anticipated measure expenditure of €5 million.

## Evaluation of Programme Outcomes

**17.43** There is limited accurate data on the outcomes for the 3,930 individuals who have participated in the three finalised programmes. Surveys of participants were carried out on behalf of the Department to establish their current economic status for inclusion in the final reports. On the basis of the survey methodologies used and low survey response rates, it is not clear that any of the databases for the three finalised programmes give reliable overall indications of the outcomes for participants in the EGF programmes.

- Due to a non-response rate of 42%, the Department was unable to accurately identify the outcomes for a significant number of Dell programme participants. The database recorded that 21% of participants were either employed or self-employed, 9% were in education and 3% had left the workforce when the programme was complete (June 2011). The Department did not carry out any cross-reference checks with Department of Social Protection data to identify participants who were unemployed or had left the workforce.
- For the Waterford Crystal programme, the Department relied on local enquiries made by the EGF coordinator, in addition to data received from the Department of Social Protection that indicated participants who were unemployed or had left the workforce. Outcomes could not be determined for 40% of the participants. The Department recorded one third of Waterford Crystal programme participants as being unemployed at the end of that programme (August 2011). 15% were reported as employed while 12% were continuing in education or had left the workforce.

- In the case of SR Technics, the company hired to manage the programme database carried out a survey of targeted workers, analysed the responses and extrapolated the results to the participant population based on age and gender. However, the non-response rate was 67%. The estimated unemployment rate (34% of those who engaged with the programme) was cross-referenced with the Department of Social Protection records. Having obtained details from some education service providers, 10% were reported as continuing in education. Around 15% (about 110 individuals) of the participant population responded that they were employed or self-employed at the end of the programme (October 2011). Following extrapolation across the participant population the Department reported that 44% were employed or self-employed.
- None of the surveys identified cases where redundant workers had emigrated. Some emigrants may be included in the unknown groups or those reported as having left the workforce.

**17.44** When significant State and EU funds are used to support redundant workers' re-employment prospects, it is important that the outcomes for those workers are established and evaluated. Where the status of a large number of participants cannot be established with certainty soon after the completion of the programme, it is difficult for the Department to assess the success of the measures delivered.

**17.45** There is no information regarding the economic status of those who did not participate in any EGF measures. For programme evaluation, such information would be useful in comparing the outcomes for those who did and did not participate in an EGF programme. This may also help in understanding why some individuals may not participate in a programme.

**17.46** The Accounting Officer acknowledged that evaluation of outcomes is an area that needs to be strengthened. While the results of surveys are complemented by data from the Department of Social Protection that can confirm if an individual is unemployed, there is no database available which can confirm the current employment status of an individual. The deployment of a more sophisticated measurement benchmark such as a qualitative longitudinal survey would better inform an assessment of the long-term impacts of the interventions delivered under each programme, in addition to informing the development of subsequent programmes. Outcome measurement is a complex area involving difficulties in collecting relevant data over appropriate periods of time in such a manner that enables useful conclusions to be drawn. This is an issue that arises in education and training generally, and is one that the Department is committed to addressing.

## Drawdown of EGF Funding

**17.47** The Department projected that the overall cost of the Irish EGF programmes would be €99 million. The three finalised programmes were estimated to cost €38.3 million and the actual expenditure (including guidance and promotion costs) was €21.2 million. Details of the estimate and actual costs of these programmes are set out in Figure 17.8. There are no details available regarding the actual costs to date of the construction or Talk Talk programmes where the estimated costs were €54.9 million and €5.4 million respectively.

**Figure 17.8 Programme Expenditure**

| EGF programme | Dell | Waterford Crystal | SR Technics | Total |
|---|---|---|---|---|
| | €m | €m | €m | €m |
| Estimated cost | 22.8 | 4.0 | 11.5 | 38.3 |
| Actual cost | 13.6 | 3.1 | 4.5 | 21.2 |
| Under spend | 9.2 | 0.9 | 7.0 | 17.1 |
| *Under spend as a proportion of estimated cost* | *40%* | *22%* | *61%* | *45%* |

Source: Department of Education and Skills – EGF final reports to European Commission

**17.48** Of the total underspend of €17 million on these programmes, almost two thirds (€11 million) arose because the number of interventions provided was less than had been estimated. The average cost of the interventions delivered was also less than estimated.

**17.49** Just over €0.5 million was spent out of a budget of €1.5 million in relation to management of and publicity associated with the programmes. Less than 10% of the €500,000 publicity budget for the three programmes was utilised.

### *Refunds to EU Commission*

**17.50** The full amount of the EGF contribution based on estimated costs is advanced by the EU when an application is approved. Where the actual cost of a programme is less than estimated, the related EGF contribution is required to be refunded. For the three finalised programmes, €25 million was received in advance by the Department i.e. 65% of the estimated cost of €38.3 million. As a result of the underspend on these programmes, €11 million is due to be refunded to the EU.

**17.51** Failure to use the full amount of EGF funding advanced is also a feature of programmes in other EU jurisdictions. The Commission has reported that EGF expenditure among member states in 2010 was lower than anticipated due to overestimation of the number of workers requiring assistance, some workers opting for lower cost assistance, workers exiting early to take up employment and workers who retired.[5] Delays in setting up measures were also cited as reasons for workers not availing of assistance.

**17.52** The Accounting Officer noted the complexity of factors that impact on the eventual outcome including estimating difficulties and the demand-led nature of the ultimate take up of programmes which may not be fully captured in the use of the term ‘under-spend’. He stated that the financial outturn might more accurately be characterised as an over-estimate. The reimbursement of funds to the EU is common across all member states that have had EGF programmes. He emphasised that Ireland does not incur any loss, or financial penalty as a result of the refunds to the EU.

5 Report from the Commission to the European Parliament and the Council on the ***Activities of the European Globalisation Fund in 2010***, August 2011.

## Conclusions and Recommendations

**17.53** Early engagement with and identification of the needs of redundant workers is important in maximising participation in the programmes thereby enhancing the prospects of re-employment and maximising the use of EU funds provided. That generally requires commencement of programmes before applications are approved. This carries the risk that, in the event an application is not approved, the State would be required to fully fund any expenditure incurred to date.

**17.54** Engagement by redundant workers in the three completed programs was lowest for the SR Technics programme. The absence of a central coordination unit for that programme may have contributed to this. The construction programmes presented a particular challenge given the numbers eligible and the likely spread of their locations. Because of the length of the application approval process and the fact that those eligible were only contacted once approval was received, many of those eligible may only have become aware of this programme six months prior to its completion. While information is not yet available on participation in the construction programmes, this is likely to have resulted in a low level of participation.

**17.55** Monitoring of programmes should include the identification of outcomes for all participants. The outcome for many of those who participated in the three finalised programmes has not been established. Ongoing monitoring and engagement with participants during programmes should increase the level of response to outcome surveys.

**17.56** The reimbursement to the EU of unspent funds in respect of the three finalised EGF programmes will be €11 million. The underspend arises as the programmes did not attract the full number of targeted workers into the programmes and, in some cases, less costly measures were taken up by those who did participate. The costs of management of the programmes including publicity were also less than estimated in each case. Given the anticipated take up on the construction programmes, it seems likely that there will be an underspend on those programmes as well.

**17.57** The Department does not monitor the participation in or cost of programmes on a regular basis and does not have a procedure in place for regular reporting of this information by external agencies.

**Recommendation 17.1:** The Department should gather data on a person-by-person basis to enable it to establish at any given point in the programme what measures have been delivered to each participant and the related costs and commitments. This should assist in identifying promptly whether there is a need to take steps to improve participation and help identify if there was scope for re-directing the focus of programme measures, thereby maximising the use of the funds available.

**Accounting Officer's Response:** Agreed. The Department will seek to ensure that intervention and related cost data on a person-by-person basis is available to the fullest extent possible. While the Department has continued its efforts to improve data collection, in some instances full data may only become available at the end of the EGF programme cycle. The limitations of service providers' systems are presenting challenges to the data collection improvement process and these challenges are being addressed. The various measures are, in the first instance, delivered in the context of the service providers' financial frameworks and are subject to their financial control procedures. Monitoring currently undertaken seeks to identify and understand the reasons for low or high uptake in measures with a view to refocusing resources appropriately. The improvements in the exchange of data between service providers and the coordination units will strengthen capacity in this area.

**Recommendation: 17.2:** Design and recording of implementation plans for individual participants based on occupational guidance, and on-going monitoring of the delivery of those plans would help ensure the effectiveness of the activation measures delivered.

**Accounting Officer's Response:** Agreed in part. It is a challenge for the Department to complete an EGF application over a ten-week period that requires formulation of plans for appropriate interventions and accurate prediction of the demand for those interventions. In the immediate aftermath of losing their jobs, many redundant workers are uncertain about the future direction they wish to take as their primary focus is on dealing with the life adjustments to be made arising out of their redundancy. Subject to available resources, the establishment of individualised plans is the approach which is sought to be followed in EGF programmes. There was an increased emphasis on this approach in the Talk Talk programme. However, this approach may prove challenging in the event that there are large scale or multiple future programmes.

**Recommendation: 17.3:** Outcomes for all participants relative to individual plans should be identified soon after programme completion and be reassessed after a longer period of time has elapsed when the re-employment rate would be expected to have increased. Comprehensive assessment of outcomes for participants and non-participants and the factors giving rise to them can assist in the design of future programmes.

**Accounting Officer's Response:** Agreed. In order to enhance evaluation capacity, the possibility of accessing data held by Revenue regarding employment status is being explored. To enable more comprehensive assessment of outcomes, post-programme longitudinal surveys of all participants will be conducted at appropriate intervals. This work will commence for the construction and Talk Talk programmes.

# 18 Salary Overpayments to Teachers

**18.1** In 2010 and earlier years, newly appointed qualified teachers were placed on either the second or third point of the teachers' common basic scale and received allowances related to the level of qualifications attained.[1] Retired teachers returning to teaching were placed on the salary scale incremental point reached prior to retirement, plus relevant allowances. Unqualified teachers in second level schools were placed on the first point of the teachers' common basic scale and those in primary schools were placed on an 'untrained' scale.

**18.2** As part of Budget 2011, a reduction of 10% was applied to the pay of new entrants to the public service and all new appointees to entry grades commence at the first point of the relevant pay scale. On 21 December 2010, the Department of Finance issued guidance on the application of the 10% reduction in pay rates to entry grades to the public service.[2]

**18.3** It took some months for the Department of Education and Skills to determine the terms and conditions relevant to new teacher appointees and to retired personnel returning to teaching positions. The relevant circular setting out the pay scales for new appointees to teaching with effect from 1 January 2011 is dated June 2011. The circular specifies that

- the 10% reduction applies to basic pay and all allowances with the exception of promotional allowances[3]
- the new rates apply to all teachers who are new entrants to teaching in the public service and who are appointed to a full time or part time teaching post on or after 1 January 2011
- a teacher who is retired and in receipt of a pension, and who returns to teaching on or after 1 January 2011, will start on the first point of the new (2011) incremental salary scale (i.e. no incremental credit is awarded for previous experience).

**18.4** Persons other than pensioned staff who had previously held teaching posts prior to 1 January 2011 continue to be paid at the 2010 rates and are not impacted by the reduced rates applicable to new entrants.

**18.5** To illustrate the differences in the salary rates, a teacher first appointed in 2010 with an honours primary degree and an honours higher diploma in education commenced on an annual salary of €39,195 consisting of a basic salary of €33,041 (third point of scale) plus qualification allowances of €6,154. A teacher first appointed in 2011 with similar qualifications commenced on an annual salary of €33,352 consisting of a basic salary of €27,814 (first point of reduced scale) and qualification allowances of €5,538. The reduction is of the order of 15%.

**18.6** All teaching staff entered on the Department's payrolls in the first six months of 2011 were paid at the pay rates applicable in 2010. No distinction was made between staff who had previously worked in teaching and those coming within the definition of a new entrant. The higher rates continued to be paid until the end of August 2011.

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1 Other allowances such as for supervision duties and for teaching in Gaeltacht areas were also payable, where applicable.

2 Responsibility for pay policy and guidelines has since then transferred to the Department of Public Expenditure and Reform.

3 Promotional allowances include special duties, assistant and deputy principal, and principal allowances.

**18.7** From September 2011, all contracted new appointees were placed on the correct salary scale. Casual employees were placed on the correct salary scale from October 2011. No systems or procedures were operating at that time to identify appointees who had been employed in the preceding months and paid incorrect salary amounts.

**18.8** Pay for teachers employed by Vocational Education Committees is not processed by the Department. The Committees rely on the circulars issued by the Department to determine pay rates. Consequently, overpayments of some teachers by Committees is also likely to have occurred.

**18.9** The following questions were put to the Accounting Officer of the Department of Education and Skills

- Why did it take seven months to determine the salary scale and allowances payable to new entrants taking up teaching posts in 2011?
- What is the current estimate of the number of teachers and those taking up teaching posts following retirement that were placed on the incorrect salary scale in 2011 and what is the estimated value of the overpayments?
- What steps have been taken since September 2011 to recover salary overpayments?
- What is the estimate of the value of the overpayments that have yet to be recovered and when will the recovery process be completed?

## Accounting Officer's Response

**18.10** The Accounting Officer stated that the overall approach of the Department was to ensure that the implementation measures that it was taking were consistent with other such implementation measures in the public sector with a focus on ensuring that the new arrangements for pay were introduced for future payments as early as possible while, at the same time, ensuring that no one was penalised given the industrial relations sensitivities, and that any overpayments could then be recovered.

**18.11** It was necessary to engage with the Department of Public Expenditure and Reform to resolve and clarify various queries and issues. It was also necessary to consult with the partners in education. It was important that the proposed changes in rates of pay and the terms and conditions of service were fully clarified before the reductions in pay to new appointees were applied.

**18.12** The policy of the Department is to issue circulars which define changes in terms and conditions of service, budget decisions and revised operational procedures and to publish them on the Department's website. This ensures that all affected parties have access to the circulars and can implement changes and new policies in a consistent manner.

**18.13** The complex nature of the Department's payroll is also relevant. As well as full-time staff in primary, secondary, community and comprehensive schools, it also includes part-time staff and temporary staff, such as those employed for substitution. The fact that teachers and non-teaching staff can be substituted for approved absences means that there is huge movement of personnel on the payrolls. The first step to implement the budget decision was to develop IT programmes to ensure that those appointed in 2011 were identified as new appointees and their pay scales revised to the new reduced scales and that new contracted appointees in the 2011/2012 school year were placed on the correct scales from the date of appointment. The second step was to identify the potential overpayments and to calculate the amounts involved.

### *Delay in Determination of New Salary Scale and Allowances*

**18.14** All system changes have to be introduced to the live payrolls without causing any disruption to the 94,000 payments issued each fortnight and without impacting on the integrity of the human resources and payroll systems. It is essential that all changes to systems are fully specified, developed and comprehensively tested to ensure that the complex systems operated are not negatively impacted.

**18.15** It was important, particularly at a time of heightened industrial relations difficulties with teachers and non-teaching staff, that proposed changes in rates of pay and terms and conditions of service were fully clarified before reductions in pay for new appointees were applied.

**18.16** When all aspects of the Budget decision regarding the reduction in the pay for new appointees from 1 January 2011 were clarified, the terms of the decision, the revised salary scales and a 'frequently asked questions' document were incorporated into a circular (40/2011). When the circular issued, the system changes to ensure that new appointees for the 2011/2012 school year were paid the correct amount were developed in the shortest possible timeframe. These changes were implemented during September and October 2011 on all the payrolls.

### *Estimated value of the overpayments*

**18.17** The teachers employed in secondary and community/comprehensive schools in the period January to June 2011 as new appointees were employed in a substitute and part-time non-permanent capacity. The Department's best estimate of the situation is that approximately 1,600 staff may have been incorrectly paid at the pre-2011 pay scales during the first half of 2011. It is expected that this number will reduce as additional information is received from individual teachers regarding their career history. The value of the overpayments is estimated at €560,000 (an average of €350 per teacher). The Department does not have an estimate of overpayment of salaries by Vocational Education Committees.

**18.18** The post primary payroll had the system changes applied and tested first and the output was fully analysed to ensure that the outcomes were as expected. There are significant differences in the primary and post primary systems and further development and testing had to be done before the changes could go live on the primary system.

**18.19** At this stage, the Department estimates that the number of overpaid teachers in the primary sector is 1,400. As additional information is received regarding previous service and contracts, this figure may reduce. The average value of the overpayments is expected to be similar to the post primary sector.

**18.20** The number of non-teaching staff placed on incorrect pay scales was 1,700. The estimated value of overpayments in those cases was €148,000.

### *Recovery of Overpayments*

**18.21** The current estimated value of the overpayments to be recovered is of the order of €1.18 million.[4] The policy of the Department is to recover all overpayments.

**18.22** The large numbers of substitute and part-time staff involved necessitated the development by the Department of a system to automate the recovery of potential overpayments arising from the changes to pay rates.

**18.23** The review of post primary and non-teaching staff cases has been progressed and repayment arrangements will be put in place by September 2012. On foot of the review, the Department will be contacting affected staff to outline details of individual overpayments. When the letters issue, it is expected that further clarification will be received regarding contracts and previous service so that a final determination relating to individual overpayments can be made. It is expected that, as teachers and non-teaching staff supply details of contracts and past service, the level of overpayments will reduce.

**18.24** The arrangements for post primary and non-teaching staff will also be extended to the primary sector. Deductions will be made from the salaries of contracted, substitute or part-time teachers and from pensions until the overpayments are recovered and it is expected that the vast majority of the arrangements will be in place before the end of 2012.

## Views of the Department of Public Expenditure and Reform

**18.25** The views of the Secretary General of the Department of Public Expenditure and Reform were sought on the delayed application of the reduced salary rates for new entrants to teaching positions in 2011. He was also asked if there were any other instances where there were delays in the implementation of the Government decision to reduce the pay rates of new entrants to the public service from 1 January 2011.

**18.26** In response, the Department stated that while it was aware that there was a delay on the part of the Department of Education and Skills in issuing their circular letters in relation to the new entrant salary scales for teachers and other education sector grades, it was understood that the 10% reduction was in fact being applied, retrospectively where appropriate, from the operative date of 1 January 2011. The Department of Public Expenditure and Reform is of the view that there is an obligation on the part of the Department of Education and Skills to recover any overpayment made to individual teachers and any other relevant grade as a matter of urgency.

**18.27** It is the responsibility of the management in each of the public service sectors concerned to ensure the implementation of the Government decision in respect of the pay reductions in question. The Department does not have a direct role in overseeing such implementation arrangements in the public service, other than in the civil service, and is not in a position to say whether there were similar instances in the wider public service of delays in the implementation of the Government decision to reduce the pay rates of entry grades by 10% from 1 January 2011.

4 Overpayments also arise in the normal administration of the teacher salary payments, for example because of the late notification of reductions in contract hours. The aggregate value of such overpayments was €1.97 million at 31 December 2011.

## Conclusions

**18.28** Following the budget decision on 7 December 2010, pay rates for new entrant teachers fell with effect from 1 January 2011. The Department of Education and Skills took seven months from budget day to prepare and issue the circular containing the revised pay scales and nine months to implement the required changes to its payrolls. The Department estimates the value of overpayments resulting from the delay in implementing the reduction to the pay of new entrants in 2011 is likely to be of the order of €1.18 million.

**18.29** One year after implementation of the pay rate changes, the Department has not yet contacted the individuals overpaid in the first part of 2011 or put in place repayment arrangements. The Department expects the repayment arrangements for the post-primary and non-teaching staff to be put in place by September 2012 and to commence for the primary sector in November 2012.

**18.30** While accepting that time would routinely be required to implement budget and other changes in large payrolls, it would have been more efficient had the Department regarded all staff added to the payrolls in 2011 as new entrants and applied the budget reductions to the salaries paid from the beginning of the year. Subsequently, pay rates could have been adjusted to pre-2011 rates as evidence was supplied of relevant previous employment in the public service. Because employees would have had a financial incentive to provide the information, this is likely to have been a more efficient approach to the challenge faced by the Department in implementing the new salary arrangements.

# 19 Official Development Assistance

**19.1** Official development assistance (ODA) is the transfer by state agencies of resources – either in cash or in the form of commodities or services – to developing countries or territories, or to multilateral development institutions.[1]

**19.2** Irish Aid is the division within the Department of Foreign Affairs and Trade that administers Ireland's programme of ODA.

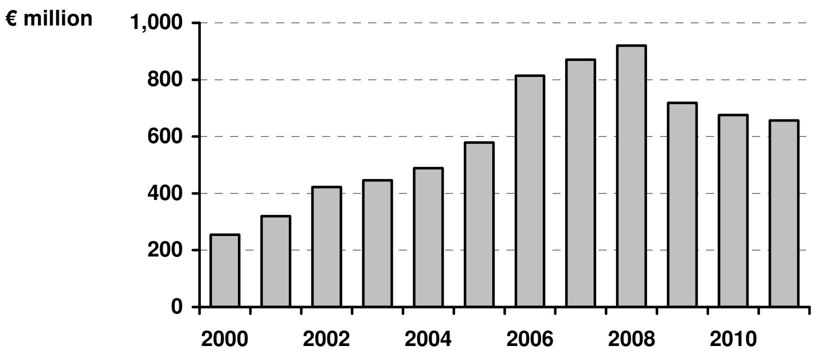
**19.3** The Department has an Evaluation and Audit Unit which aims to provide assurance that public funds administered by the Department are used for their intended purposes and that value for money is achieved. The Unit's work covers both the activities of the main Department, accounted for under Vote 28: Foreign Affairs and Trade and the development assistance accounted for under Vote 29: International Co-operation.[2] In view of the relative size of the budgets and the nature of the expenditure programmes, the Unit focuses particularly on Irish Aid operations funded under Vote 29.[3] The annual work plan for the Unit is approved by the Accounting Officer and agreed by the Department's Audit Committee.

**19.4** This chapter has been compiled to present all ODA expenditure in one statement. It also outlines the systems in place for audit and evaluation of the major components of the Irish ODA programme.

## Expenditure on Development Aid

**19.5** Irish ODA expenditure totalled €657 million in 2011, down from a peak of €921 million in 2008. This represents a decrease of €264 million, or 29%, over the last three years. Figure 19.1 shows the trend in the level of Irish ODA expenditure since 2000.

**Figure 19.1 Irish Official Development Assistance Expenditure (€ million), 2000 to 2011**




Source: Irish Aid Annual Reports

1 Transfers only qualify for inclusion in estimates of ODA if they are directed towards the promotion of the economic development and welfare of developing countries.

2 International Co-operation expenditure is being accounted for under Vote 27, since 1 January 2012.

3 The total gross expenditure for Vote 28: Foreign Affairs and Trade and Vote 29: International Co-operation, in 2011, was €209 million and €519 million respectively.

**19.6** ODA expenditure processed through Irish Aid is accounted for under Vote 29: International Co-operation. In 2011, €520 million of ODA expenditure came under Vote 29, representing 79% of total Irish ODA.

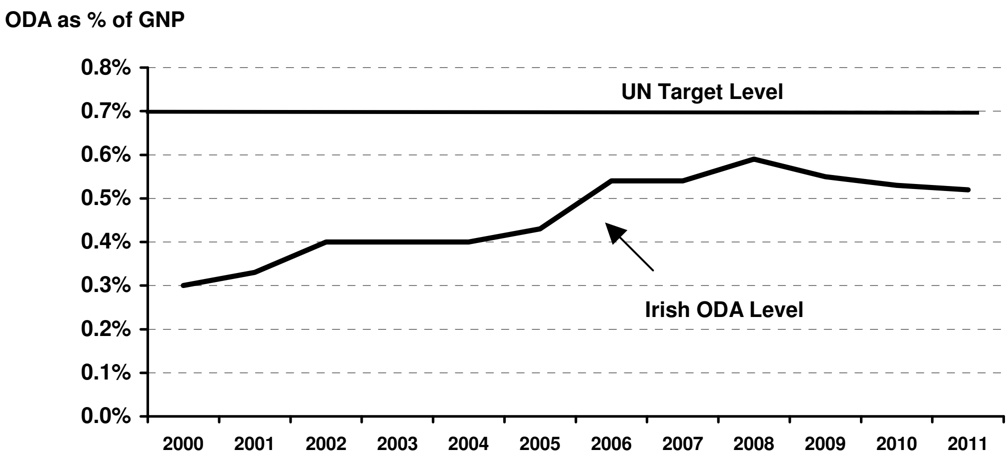
**19.7** A further €137 million of Irish ODA was processed through other government departments and accounted for on other votes, including Ireland's contribution to the EU development co-operation budget, payments to certain international bodies and repayments by the Revenue Commissioners under a scheme of tax relief for donations to relevant charities.[4]

**19.8** The United Nations (UN) has set a target for developed countries to contribute ODA equivalent to 0.7% of their Gross National Product (GNP) each year.[5] In 2005, the EU Council set an objective for Member States, except those who have joined since 2002, to reach the 0.7% target level by 2015.[6] The current Programme for Government contains a commitment to reach the 0.7% target level and states that the Government will seek to achieve this by 2015.

**19.9** Ireland's ODA contribution in 2011, at 0.52% of GNP, was 8th highest among OECD countries.[7] As Figure 19.2 indicates, Ireland's ODA progressively increased from 0.3% of GNP in 2000 to a high of 0.59% in 2008, before falling back to its current level of 0.52%.

**19.10** Five donor countries exceeded the UN target in 2011: Sweden (1%), Norway (1%), Luxembourg (1%), Denmark (0.9%) and the Netherlands (0.8%).[8] Luxembourg first reached the target level in 2000 and has met it each year since. The other four countries have consistently met the target since the 1970s.

**Figure 19.2 Irish Official Development Aid as a Percentage of GNP 2000 to 2011**




Source: Department of Foreign Affairs and Trade

4 Payments to international bodies are made by the Department of Finance, the Department of Environment, Community and Local Government and the Department of Agriculture, Food and the Marine and are accounted for on their individual votes.

5 UN General Assembly Resolution 2626 (XXV), 24 October 1970.

6 Council of the European Union Meeting No. 2660, External Relations Council, Brussels, 24 May 2005.

7 Figures supplied by the Department of Foreign Affairs and Trade.

8 OECD, Net Official Development Assistance (preliminary data for 2011), April 2012.

**19.11** Irish Aid provides assistance to developing countries either directly through bilateral contact with the countries themselves or indirectly through international aid organisations (multilateral assistance). A breakdown of how Irish ODA funding was applied is presented in Figure 19.3. Annex A presents an overview of the major constituents of ODA expenditure in 2011.

**Figure 19.3 Official Development Assistance, by Type 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Bilateral assistance | 576.0 | 614.8 | 454.9 | 412.9 | 414.4 |
| Multilateral assistance | 264.8 | 270.7 | 231.1 | 232.6 | 214.4 |
| Administration costs (Vote 29) | 30.1 | 35.1 | 32.2 | 30.5 | 28.2 |
| **Total gross expenditure** | **870.9** | **920.6** | **718.2** | **676.0** | **657.0** |

Source: Department of Foreign Affairs and Trade

**19.12** Excluding administration costs, approximately two thirds of Irish ODA is provided through bilateral co-operation programmes, with the remainder consisting of general contributions to the cost of development work undertaken by a range of multilateral organisations.

### *Bilateral Development Assistance*

**19.13** Irish Aid delivers bilateral ODA through a variety of channels. When deciding on the most appropriate delivery channel for particular aid interventions, Irish Aid takes into consideration the type of aid to be delivered and the environmental conditions within the country to be assisted. If Irish Aid considers that the political environment within a developing country is stable and it has confidence in the public financial management system, it may decide to deliver programmes of assistance through government systems. However, in the case of a humanitarian crisis in the same country, Irish Aid may decide that the most effective option is to deliver assistance through a non-governmental organisation (NGO) that has the specific skills required and is in a position to respond quicker than government agencies.

**19.14** There are five recognised channels of delivery for bilateral aid, each of which is used by Irish Aid in the delivery of some elements of its aid programme.

- Government – support can be provided for the government's general budget, for the budgets in targeted sectors or for specific programmes or projects.
- NGOs – support can be provided to NGOs towards implementation of their strategic plans or to carry out specific programmes or projects.
- Public/private partnership – support for international alliances and partnerships, e.g. international AIDS vaccine initiative and global water partnership.
- Multilateral – contributions to multilateral organisations towards specific interventions in specific countries.
- Other – typically consists of support for the work of research institutes or other educational institutions.

**19.15** Ireland delivered bilateral assistance worth €414 million in 2011. Figure 19.4 presents a breakdown of bilateral transfers.

**Figure 19.4 Bilateral Official Development Assistance, by Type 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| **Vote 29 International Co-operation expenditure** | | | | | |
| Assistance to programme countries | 185.0 | 218.6 | 195.0 | 181.7 | 180.5 |
| Assistance to other countries | 29.4 | 38.2 | 24.5 | 20.2 | 21.3 |
| Civil Society Support, including co-financing with NGOs | 117.6 | 134.2 | 107.6 | 99.9 | 92.0 |
| Global health, hunger and education initiatives | 96.5 | 67.6 | 27.8 | 18.6 | 23.9 |
| Emergency and humanitarian assistance | 120.8 | 108.4 | 67.7 | 64.2 | 66.2 |
| Other programmes | 17.8 | 39.5 | 25.1 | 22.2 | 22.6 |
| **Bilateral ODA by other government agencies** | 8.9 | 8.3 | 7.2 | 6.1 | 7.9 |
| **Total bilateral ODA** | **576.0** | **614.8** | **454.9** | **412.9** | **414.4** |

Source: Department of Foreign Affairs and Trade

*Assistance to Programme Countries*

**19.16** A total of €181 million was spent in 2011 on formal country assistance programmes which are long-term strategic partnerships with the governments of selected countries to support poverty reduction and development. The programme countries supported are Ethiopia, Lesotho, Malawi, Mozambique, Tanzania, Timor Leste, Uganda, Vietnam and Zambia. Development assistance is managed by the Irish embassies in programme countries and can be provided as support for the partner governments' national development plans, as well as through civil society organisations and NGOs in these countries.

*Assistance to Other Countries*

**19.17** Assistance of €21 million was also provided in 2011 for selected other countries. A programme is supported in South Africa and supervised by the Irish embassy there. A recovery programme in Sierra Leone and Liberia is delivered mainly through UN specialised agencies and NGOs and supervised from an office in Sierra Leone. Support was also provided for a programme in the Palestinian administered areas and for a HIV/AIDS programme in Zimbabwe that is delivered through NGOs.

*Civil Society Support*

**19.18** The Civil Society budget provides NGOs, missionary groups and other civil society partners with funding for development interventions. Expenditure in this area fell by 8% in 2011, to €92 million. The principal channels of expenditure are

- The Multi-Annual Programme Scheme (€56.7 million) – long term and predictable funding is provided to five Irish NGOs to support implementation of their strategic plans. The NGOs are Concern, Trócaire, Christian Aid, Goal and Self Help Africa.

- The Civil Society Fund (€16.8 million) – multi-annual funding is provided for projects across a range of social and economic sectors. In 2011, some 57 NGOs were funded under this scheme.
- Misean Cara (€16 million) – this management agent for missionaries provided sub-grants to 64 missionary organisations in 2011. It also supports capacity building and oversees development interventions.
- The In-Country Micro Projects Scheme (€1.3 million) – budgets are allocated to nine Irish embassies and one consulate to provide direct support for small-scale development projects. The scheme operates in developing countries where Irish Aid has no development programme but Ireland has diplomatic accreditation.
- Development of the NGO sector (€1.2 million) – funding is provided to build capacity in the NGO sector.

*Global Health, Hunger and Education Assistance*

**19.19** Expenditure on health, hunger and education schemes in 2011 amounted to €23.9 million, which represented a 28% increase on 2010. This compares to expenditure on such programmes totalling €96.5 million in 2007. Expenditure is mainly targeted at HIV/AIDS prevention and care, activity under the global hunger initiative and the provision of basic education in less developed countries. Aid is delivered through civil society organisations, UN agencies and global funds.

*Emergency and Humanitarian Assistance*

**19.20** Emergency and humanitarian assistance relates to emergency situations that arise as a result of natural disasters or humanitarian crises. The objective of this assistance is to save lives, alleviate suffering and maintain human dignity. Funding is provided to NGOs and international organisations, such as the UN and the Red Cross, that have a proven ability to deliver the required assistance quickly and effectively. Emergency and humanitarian assistance totalled €66.2 million in 2011, representing an increase of 3% on the equivalent figure for 2010.

**19.21** In order to facilitate rapid response, €18.8 million was contributed in 2011 (down from €25.9 million in 2010) to pooled funding arrangements, including the UN's Central Emergency Response Fund. Other UN organisations received €8.9 million, the majority of which (€6.4 million) related to the World Food Programme. A further €13.3 million was channelled through the Red Cross. The NGO sector was provided with €15.6 million, of which €12 million was provided to Irish-based organisations.

### *Multilateral Development Assistance*

**19.22** Multilateral assistance involves contributing to international aid organisations that pool funds from member countries and apply them for development purposes. Figure 19.5 presents a breakdown of the organisations funded.

**Figure 19.5 Multilateral Official Development Assistance, by Organisation 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| United Nations, including voluntary contributions to UN agencies | 111.9 | 102.1 | 60.1 | 59.9 | 60.7 |
| European Community agencies and initiatives | | | | | |
| EU Budget for Development Co-operation | 82.0 | 85.3 | 95.0 | 77.5 | 72.0 |
| European Development Fund | 15.3 | 22.0 | 22.0 | 23.2 | 29.5 |
| World Bank and other multilateral institutions | 46.4 | 53.6 | 32.8 | 28.3 | 30.8 |
| Co-financing with multilateral agencies | 9.2 | 7.7 | 21.2 | 43.7 | 21.4 |
| **Total multilateral ODA** | **264.8** | **270.7** | **231.1** | **232.6** | **214.4** |

Source: Department of Foreign Affairs and Trade

**19.23** Multilateral co-operation funding is directed mainly to the following areas

- UN Agencies – The UN plays a role in addressing poverty globally and in helping to deliver on agreed international objectives and the Millennium Development Goals. The majority of Ireland's support for UN funds and programmes contributes towards the cost of their core operations and activities. In addition, a proportion of Irish ODA supports specific reform measures and programmes in areas including democracy building and electoral reform, education and training, protection of human rights, developing health systems and protecting the environment.
- EU Development Co-operation – The European Union (including the contributions of its member states) is the largest provider of development assistance at a global level and influences development agendas at international level. The assessed ODA contribution from Ireland (€72 million in 2011) represents Ireland's deemed share of total overseas development assistance disbursed from the EU co-operation budget in 2011.
- The World Bank and regional development banks are significant aid delivery channels and important agents in policy and reform issues at country level. Ireland, through the Department of Finance, contributes to the World Bank's International Development Association and the Asian Development Fund. It engages with the banks on debt management, aid effectiveness and development financing policy, as well as on specific issues related to Irish Aid programme countries.
- Co-financing with multilateral agencies includes support for agricultural research to help the poor through the Consultative Group on International Agricultural Research and the Global Crop Diversity Fund. The development of entrepreneurship and small-scale business is supported through the International Labour Organisation.

## Audit Regime

**19.24** Audit work carried out by the Evaluation and Audit Unit aims to assess the Department's systems of internal control and provide assurance that funds are used for their intended purposes. The primary focus of audit work is on the appropriateness of the accounting and financial management systems of partner organisations, whether they are NGOs, multilateral organisations, government agencies or other bodies in receipt of funding.[9]

**19.25** The audit arrangements in respect of ODA funding provided through Vote 29 address three broad areas of expenditure

- programme country expenditure (€181 million)
- other bilateral assistance programmes (€225 million)
- multilateral assistance programmes (€85 million).

### *Programme Country Expenditure*

**19.26** Assistance is given to nine programme countries in accordance with approved multi-annual strategic plans. There is an element of ex-ante assessment for this expenditure, as the internal control systems of potential partner organisations are examined prior to the country strategy papers (CSPs) being approved.

**19.27** In accordance with the principles of the Paris Declaration on Aid Effectiveness, an increasing share of the Irish Aid ODA budget is channelled through government systems in programme countries. In such cases, the risk management procedures employed by Irish Aid include undertaking an assessment of the reliability, accountability and transparency of government systems.

**19.28** Financial management assessments are carried out by the Department's Evaluation and Audit Unit and encompass all elements of the public financial management system, including accounting, auditing, reporting and parliamentary oversight. Particular emphasis is placed on assessing the status, independence and capacity of the national auditor general's office, as Irish Aid consider these to be key factors in determining the reliability of public financial management systems.

**19.29** Irish Aid's policy is to carry out two assessments during each five year strategic plan for programme countries. The first assessment is carried out at the planning stage for each new CSP and its particular focus is on identifying the risks associated with channelling funds through government systems. The second assessment is carried out around the mid-point of the five year cycle and focuses on changes in the public financial management environment and on assessing progress in respect of agreed programmes for improvement.

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9 Partner organisations are the intermediary bodies through which funding is delivered from Irish Aid to the developing countries.

*Audit Reports*

**19.30** Irish Aid also seeks to gain audit assurance in respect of programme country expenditure. The approach taken to gaining that assurance is influenced by the delivery channel used by Irish Aid in particular countries. The sources of audit assurance include

- audit reports commissioned by partner organisations, e.g. if funding is provided to support a partner government's education budget, coverage will generally be achieved through reports carried out by the recipient country's national audit office
- audits commissioned by Irish Aid and carried out by internationally recognised audit firms, e.g. if funding is provided to a local government agency to deliver a specific project, Irish Aid may commission external consultants to independently audit the project
- audits of jointly funded interventions, e.g. if a particular programme or project is jointly funded by Irish Aid and one or more other donor countries, the funding partners may agree to commission a joint audit
- work carried out directly by the Evaluation and Audit Unit and by internal auditors posted at missions in recipient countries.

**19.31** Expenditure in programme countries, including management and administration costs, was €210 million in 2009 which is the latest year for which the audit programme has been substantially completed. The level of audit assurance achieved to date in respect of 2009 expenditure is 95% - Figure 19.6 outlines the source of that assurance.

**Figure 19.6 Source of Audit Assurance for 2009 Programme Country Expenditure**[a]

| Programme country | Partner commissioned audits (including NAOs)[b] | Commissioned by Irish Aid | Joint donor funded | Internal audit | Total |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Uganda | 27.4 | 4.3 | 0.4 | 1.5 | 33.6 |
| Mozambique | 11.4 | 4.4 | 26.9 | — | 42.7 |
| Tanzania | 32.1 | 1.8 | — | — | 33.9 |
| Ethiopia | 25.2 | 2.7 | — | — | 27.9 |
| Zambia | 17.5 | 4.6 | — | 0.1 | 22.2 |
| Vietnam | 12.4 | 1.7 | — | — | 14.1 |
| Lesotho | 10.5 | 1.6 | — | 0.2 | 12.3 |
| Malawi | 5.2 | 3.8 | — | — | 9.0 |
| Timor Leste | 2.5 | 0.3 | — | — | 2.8 |
| **Total** | **144.2** | **25.2** | **27.3** | **1.8** | **198.5** |

Source: Department of Foreign Affairs and Trade

Notes: a This figure captures assurance up to end May 2012.

b NAOs are the national audit offices of the respective countries.

*Audit Findings*

**19.32** Where material issues have been identified in the course of an audit, the audit report may contain a qualified opinion or the issues of concern may be set out in a management letter.

**19.33** Where audits of specific projects or programmes of funding are commissioned by Irish Aid or partner organisations, the findings and audit opinion will directly relate to Irish ODA. However, where assistance is delivered via programme country governments, either through general budget support or more targeted support in specific sectors, assurance is generally in the form of sectoral audits carried out by the programme country's national audit office as part of its annual certification programme. In these cases, Irish Aid must examine the audit reports to identify the issues relevant to Irish ODA.

**19.34** Figure 19.7 provides a breakdown, by audit opinion, of the audit reports on 2009 programme country expenditure.

**Figure 19.7 Audit Opinions for 2009 Programme Country Expenditure**

| Programme country | Total expenditure audited | Audit opinion | | |
|---|---|---|---|---|
| | | Unqualified | Qualified | Other[a] |
| | €m | | | |
| Uganda | 33.6 | 40% | 1% | 59% |
| Mozambique | 42.7 | 57% | 17% | 26% |
| Tanzania | 33.9 | 14% | 1% | 85% |
| Ethiopia | 27.9 | 77% | 23% | — |
| Zambia | 22.2 | 35% | 1% | 64% |
| Vietnam | 14.1 | 100% | — | — |
| Lesotho | 12.3 | 96% | — | 4% |
| Malawi | 9.0 | 100% | — | — |
| Timor Leste | 2.8 | 100% | — | — |
| **Total** | **198.5** | **55%** | **7%** | **38%** |

Source: Department of Foreign Affairs and Trade

Note: a Includes instances where the relevant National Audit Office expressed a qualified audit opinion in relation to at least one department/ministry but it was not possible to precisely quantify the amount of the Irish Aid grant affected and instances where audit reports did not contain clear audit opinions.

**19.35** Unqualified opinions were expressed in relation to just over half the programme country expenditure in 2009 for which audits have been completed. For 7% of the expenditure audited, the auditors issued qualified reports due to material issues uncovered during the audit. In the remaining cases, either the audit report did not contain a clear opinion, or an opinion was expressed but it was not possible to identify the precise amount of Irish Aid expenditure to which the opinion related.

**19.36** In 2009, Irish Aid provided funding of €29.6 million (including administration costs) to Ethiopia under its bilateral assistance programme. €27.9 million of the expenditure was audited and qualified audit opinions were issued in relation to 23% of the total audited. The qualified audit opinions related, in the main, to €6 million of funding provided to two large government programmes. Details are set out in Figure 19.8.

**19.37** The Department stated that Irish Aid has appropriate systems in place for structured monitoring of audit reports and for follow-up action, if required. Irish Aid reviews and analyses all audit reports and associated management letters and engages with partner organisations in relation to their content. The general practice is for Irish Aid to discuss the nature of any qualifications or other material issues raised with the partner organisation and for both parties to agree an action plan to resolve them. Implementation of the action plan is monitored by Irish Aid's internal auditors and no further funds are disbursed to the partner organisation until acceptable progress has been made.

**Figure 19.8 Qualified Audit Reports in respect of 2009 Irish Aid Expenditure in Ethiopia**

Qualified audit reports were issued in relation to €6 million in funding provided to two large government programmes.

- A grant of €4 million was provided to a local government programme with a total budget of €114 million – the balance of the funding was provided by the Government of Ethiopia. A qualified audit report was issued in respect of approximately €11 million of the programme expenditure in 2009. The principal reasons for qualification were non-verification of balance sheet items, non-reconciliation of expenditure and internal control weaknesses. Following the audit, Irish Aid met with the local government body concerned to discuss actions required to address the audit findings. Implementation is being monitored by Irish Aid's Internal Audit Unit.
- A grant of €2 million was provided to a multi-donor funded central government programme with an overall budget of €188 million. Programme expenditure of €17 million was qualified in 2009. The qualifications principally related to non-verification of cash balances and long outstanding advances. An action plan has been agreed to address the audit issues highlighted and progress towards implementation is assessed at monthly meetings between the donors and the Ethiopian Government.

Source: Department of Foreign Affairs and Trade

**19.38** In some cases, Irish Aid funds are pooled with other donor countries so issues raised in audit reports or management letters can relate to multiple donors. It is common practice for one party to act as lead donor for subsequent discussions with the partner organisation. All donors will subscribe to an agreed action plan to address the issues raised and funding will normally be withheld by all donors until acceptable progress has been made.

**19.39** The Department stated that there have been a number of cases where it has delayed or suspended funding, pending resolution of issues highlighted in audit reports and that, on occasion, it has requested and obtained refunds from partner organisations. For example in 2011, UNICEF compensated the Department to the value of €0.7 million in respect of stock that had been misappropriated on a food programme in Sierra Leone.

### *Other Bilateral Assistance*

**19.40** For funding provided to support the strategic plans of five large Irish NGOs under the Multi Annual Programme Scheme (MAPS), Irish Aid generally relies on the NGOs' own audit systems. However, during the MAPS II programme period (2007 – 2011), the Evaluation and Audit Unit also carried out one audit of each of the NGO partners. In 2011, the Unit completed audits of grants awarded to GOAL and Concern during 2009 under MAPS II and emergency and recovery funding schemes. The audit findings are set out Figure 19.9.

**19.41** In the case of other types of bilateral development assistance, the contract with the partner organisation stipulates that audit reports prepared by independent bodies must be submitted to the Department. Responsibility for the collection and review of these audit reports lies with management of the section within Irish Aid that deals with the partner organisation. The Evaluation and Audit Unit may be consulted by the section on specific issues. It also reviews controls relating to schemes or partners in case of identified risk. However, the Department does not have a structured system in place to ensure that reports are submitted as required or for the review of reports by the Evaluation and Audit Unit.

### *Multilateral Assistance*

**19.42** Given the nature of multilateral assistance programmes, involving the application of a pool of funds from multiple donor countries for development purposes, it is difficult to isolate and carry out an ex-post audit of the specific funds contributed by Ireland. Reliance is placed on the existing audit arrangements in force for the international aid organisations.

**19.43** In the case of UN organisations, funds are subject to audit by the UN Board of Auditors and each organisation's internal audit function reports to the governing body, on which Ireland is represented. Individual audit reports are made available to Ireland on request.

**Figure 19.9 GOAL and Concern Audit Findings**

The GOAL audit report noted that the scope of the audit had been limited by the unavailability of certain documentation requested including terms of reference for the Board of Directors, agendas and minutes of Board meetings, a report on an internal review of security and information on succession planning.

At an overall level, the audit found that expenditure had been incurred in accordance with the terms and conditions of funding and accounted for in the proper manner. It found that an appropriate structure was in place for programming MAPS II funds and that adequate systems were in place for monitoring, evaluation, quality control, budgetary control and financial reporting.

However, the report also set out concerns in a number of areas in GOAL including

**Corporate governance** – No evidence was found that the Board had a delegation and oversight relationship with management and there was a lack of technical expertise among Board members in the area of development. While the report notes that senior management has generally performed effectively, it was found that several adjustments had been made to the senior management structure since 2009 and there was no strategy to ensure its stability and sustainability.

**Risk management** – While the audit found that analysis of institutional risk informed GOAL's strategic planning, it also found that risk management was not being driven from the top and that no organisation-wide risk register was in place.

**Financial controls** – While noting the adequacy, in general, of internal financial control systems, the audit identified some inefficiencies and risks of error and manipulation relating to the lack of integration between IT systems and accounting packages in use.

**Management of relationship with implementing partners** – Little progress was noted towards the MAPS II priorities of increasing engagement with and developing the capacity of local NGO partners.

In relation to Concern, the overall conclusion was that funds had been used for the purposes intended, expenditure had been properly accounted for and the scheme guidelines had been complied with.

The audit found that systems were generally adequate from an accountability perspective. It noted organisation strengths in Concern in relation to corporate governance, risk management, audit arrangements, financial management and cost control. The report found that funding levels and reserves were comparatively buoyant and that progress had been made towards working in partnership with local NGOs.

The report included some recommendations for improvement including the need for the governing council to focus more on the delivery of strategic objectives and the evaluation of policy outcomes. It also recommended that the HR function be strengthened, the continued rollout of a results based management approach and the development of formal capacity building plans for local NGO partners.

Source: GOAL and Concern audit reports

## Evaluation Regime

**19.44** The evaluation function assesses the design, implementation and results of ongoing and completed projects in order to determine their efficiency, effectiveness, impact and sustainability. Irish Aid considers and develops evaluation strategy at the planning and design stage of new initiatives, which ensures clarity from the outset in relation to how performance and results will be measured.

**19.45** Evaluation reports are submitted to the Department's Senior Management Group and give rise to formal responses from management in the area under review. In instances where management does not agree with a particular recommendation, it can challenge the recommendation by submitting a case to the Evaluation and Audit Unit, which then issues a determination as to whether or not the recommendation is justified. Completed evaluations are presented to the Department's Audit Committee. The final reports are published and made available on the Irish Aid website.

**19.46** The selection process for evaluation topics takes account of the level of strategic importance of particular initiatives to the Irish Aid overseas development programme and the amount of expenditure involved. The broad scope of evaluation work is set out below.

### *Programme Countries*

**19.47** Funding agreements for programme countries cover a five-year period and it is the policy of the Evaluation and Audit Unit to carry out an evaluation in the final year of each cycle. Each of the nine programme countries has been the subject of at least one evaluation since 2004. Two formal evaluations of partner country aid programmes were completed in 2011. These related to

- the country strategy paper for Zambia (2007 – 2010)
- the country strategy paper for Mozambique (2007 – 2010).

*Country Strategy for Zambia*

**19.48** The evaluation reviewed the performance of the country strategy under the broad headings of development strategy, development processes, development results and development management.

**19.49** In terms of development strategy, the focus on poverty and inequality was found to be appropriate and supported by an environmental analysis. However, it found that the design of the country strategy was not as efficient as it could have been, due to the diverse range of activities included and the lack of integration of important cross cutting issues such as gender and HIV/AIDS. The report noted that the development of a results framework had helped to focus the programme on results but outcomes were not monitored at corporate level because the framework was not linked to the Irish Aid reporting system.

**19.50** In relation to development processes, the report concluded that Irish Aid had contributed significantly to the principles in the Paris Declaration and Accra Agenda and had been a key driver of the aid effectiveness agenda in Zambia. It was seen as a particular strength of the Irish Aid programme that most of it had been designed in collaboration with the Government of Zambia and other partners.

**19.51** The evaluation found that progress had been made towards achieving the country strategy's primary goal of reducing chronic poverty and gender inequality. The report also noted positive results in relation to the objective of increasing the capacity and space for civil society to engage with government on policy development. Mixed results were noted in respect of the third intended outcome of making government institutions more accountable for development results.

**19.52** In terms of development management, the report found that programme management issues had lessened the efficiency and effectiveness of programme implementation, with an impact on development results. However, it was noted that there had been recent improvements in programme management.

**19.53** The report contained a number of recommendations for the next country strategy. Irish Aid should

- focus on activities that worked well in the 2007-2010 country strategy
- focus on improving educational quality and pursue explicit strategies aimed at strengthening the linkage between education, the work around local development and the focus on governance
- continue work to support improvements in governance
- continue providing support to civil society organisations
- implement a results framework to be used to monitor progress on objectives and outcomes
- establish an effective performance monitoring framework for the programme.

*Country Strategy for Mozambique*

**19.54** The evaluation focused on specific areas including general budget support (GBS) and governance programmes, health and HIV/AIDS programmes, educational interventions and agricultural initiatives.

**19.55** The evaluation found that GBS continued to be an effective mode of aid delivery, facilitating dialogue between the Government and donors and supporting improvements in public financial management. It enabled donors to exert influence over the Government of Mozambique and to secure commitments on the implementation of governance reforms. The report found that GBS also enabled a dialogue on the Government's poverty reduction strategy, although it noted that the strategy had not succeeded to the extent originally envisaged. As well as sharing in the general results of GBS, the report specifically credited Irish Aid with securing a renewed commitment to GBS, helping to strengthen the GBS framework and helping to consolidate public financial management reforms linked to GBS.

**19.56** In terms of support for health and HIV/AIDS programmes, the evaluation found Irish Aid's approach to be appropriate, coherent, efficient and sustainable, although it stated that the effectiveness of sectoral policies and programmes needs to be monitored. The report noted that Irish Aid had contributed to performance in the health sector and had a positive influence on approaches adopted by other donors.

**19.57** The evaluation found that Irish Aid's support for education was highly relevant. The report set out tangible results including increased enrolment and completion rates, better supplies of inputs, better infrastructure and more teaching resources.

**19.58** The report found that Irish Aid's support to the agricultural sector was relevant and that the approach adopted was efficient, in principle. However, it noted that the practical experience was that funds did not adequately feed through into better service delivery for small farmers.

**19.59** The overall conclusion was that the Irish Aid country strategy was generally relevant and well aligned with Mozambique's needs and priorities. The aid programme was found to have been efficiently designed and implemented and to have contributed to improvements in policies and systems, as well as overall progress towards the Millenium Development Goals. The approach of working predominantly through government systems has been effective in maximising the impact of support provided, although it is harder to identify and isolate outcomes and impacts that are directly attributable to Irish Aid funding.

**19.60** The report makes a number of recommendations for Irish Aid to consider in the context of planning for the next country strategy paper in Mozambique. It recommends that

- Mozambique should remain an important long-term partner for Irish Aid and health, education and governance should remain priority areas for Irish Aid interventions
- the next country strategy should specify how Irish Aid expects its interventions to influence wider outcomes and the monitoring arrangements that will apply
- although Irish Aid should continue to employ a variety of aid modalities, general budget support should continue to represent a substantial part of the aid programme
- Irish Aid should continue to work with other donors and the Government of Mozambique to identify and document the results of joint initiatives
- careful consideration needs to be given to the balance between small project interventions and efforts to influence the national policy framework

- Irish Aid should continue its engagements at provincial level and to link its provincial engagement to the national programme for decentralisation.

### *Other Bilateral Programmes*

**19.61** Two evaluations were undertaken during 2011 of the second phase of the Multi Annual Programme Scheme (MAPS II) which had a budget allocation of over €300 million and covered the period 2007 to 2011. The evaluations focused on the contribution made by the MAPS II programme to reducing poverty and vulnerability.

**19.62** The focus of one evaluation was on the outcomes of MAPS II funded programmes undertaken by Self Help Africa. It consisted of an examination of existing evaluation reports and documentation with the aim of identifying the impact and outcomes achieved through MAPS II. The evaluation found that

- programmes were highly relevant to the priorities and policies of both donors and beneficiaries
- project and programme objectives were generally achieved but, in some instances, targets set may not have been sufficiently challenging
- the approach taken by Self Help Africa was cost effective in most cases
- there was a varying degree of sustainability among programmes with some expected to continue delivering benefits after funding has ceased and others considered less likely to be sustained.

**19.63** The scope of another evaluation covered the four remaining MAPS II partners, namely Concern, Trócaire, GOAL and Christian Aid Ireland (see Figure 19.10).

**19.64** The report recommended that Irish Aid should continue to provide flexible consistent funding to the four NGOs covered by the review, but should engage with the MAPS partners more regularly with the aim of increasing the strategic impact of programmes and improving linkages between MAPS initiatives and other Irish Aid interventions.

**19.65** For NGOs, the report recommended that they assess the need for strategic adjustments to their programming, place more emphasis on monitoring higher level outcomes and invest time and resources in shared learning and knowledge management.

**19.66** Since the MAPS II programme period ended in December 2011, the Department has designed a new performance based funding approach which involves grant allocations being determined using a resource allocation model. Under the new approach, funding agreements with partner organisations specify core development targets to be achieved over the four year funding cycle. In addition to the MAPS II partner NGOs, the new resource allocation model is used to allocate funding to a number of medium sized NGOs previously funded through multi-annual grant contracts. A total of €65 million, in 2012, has been allocated to 19 NGOs under the new arrangements.

**19.67** The evaluation arrangements in respect of the Civil Society Fund are stipulated in the individual funding contracts with recipients. With regard to Misean Cara, the next independent review is scheduled to take place towards the end of the current phase of funding (2012/13).

**Figure 19.10 Evaluation of Multi Annual Programme Scheme (MAPS II) 2007 to 2011**

At an overall level, the evaluation found that MAPS II funded programmes have made positive contributions to reducing poverty and vulnerability. However, the report noted that the potential of MAPS II had yet to be fully realised due to the slow pace of progress in some areas and the lack of clear linkages at the country level between NGO partner programmes and Irish Aid's country strategies.

The evaluation measured the contribution of MAPS II by reviewing four broad areas.

**Development results achieved** - The evaluation found that most MAPS II programming expenditure has delivered positive results at the household and community levels, including providing secure incomes for small farmers, access to water in remote villages and education facilities for disadvantaged children, but there was less evidence of higher level systemic changes in areas such as sub-regional delivery systems, policy development or legislation.

**Organisational capabilities** – The evaluation found that MAPS II has contributed to an increase in organisational capability across all four partner NGOs. The enhancements noted included improvements to financial systems, mechanisms for monitoring and tracking progress on the ground and adopting more joined up approaches at the country level. The report noted, however, that considerable effort is still required by all partner NGOs to improve their monitoring and evaluation systems, especially their capacity to identify and monitor higher level results.

**In-country partner capacity** – The evaluation found evidence that NGOs' in-country partners have enhanced their capacities and are becoming more sustainable but the evidence base was limited. Although small improvements were noted, the report stated that stronger efforts are required to track capacity improvements and the impact on the operations of in-country partners.

**Strategic relationships** – The evaluation found that the strategic relationship between Irish Aid and the NGO partners is the aspect of the MAPS II agenda that has developed least. In the countries where both Irish Aid and the NGO partners have representation, the report identified little connection between Irish Aid's strategies and those of the NGO partners. This contrasts with the experience within Ireland and internationally, where there are examples of strong and effective collaboration on specific issues.

Source: MAPS II Evaluation, IOD PARC, September 2011

**19.68** In the areas of emergency and humanitarian assistance and emergency preparedness and post recovery, accounting for expenditure of €66.2 million in 2011, most of the funding goes to international bodies with established evaluation practices and procedures.[10] On issues of strategic interest to Irish Aid, the Evaluation and Audit Unit can take an active part in some of these evaluation exercises. For example, the Unit participated in the evaluation of the UN Central Emergency Response Fund during 2011.

**19.69** For global health, hunger and education initiatives, accounting for €23.9 million in 2011, most of the funding is provided jointly with other donors and the various components are evaluated at agreed intervals.

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10 Including UN agencies, multilateral agencies and international NGOs.

### *Multilateral Assistance Programmes*

**19.70** The multilateral organisations, through which Irish ODA is delivered, have their own evaluation units and management boards which conduct regular reviews of all aspects of their operations. All reports of evaluations carried out are available to Irish Aid and many are also publicly available.

**19.71** In relation to ODA provided through EU institutions, the European Court of Auditors publishes its reports online. Evaluation reports produced by the Directorate General for Development and Cooperation (EuropeAid) are considered at the relevant EU Council working groups and published online.

**19.72** UN organisations generally have their own evaluation functions which report to their own boards of directors. In addition, a UN evaluation group coordinates the evaluation functions in each organisation to strengthen the evaluation regime across the UN system and to undertake evaluations in areas of common interest. The OECD Development Evaluation Group (Evalnet) works closely with the UN evaluation group to undertake peer reviews of the evaluation function within a number of UN funds and programmes.

**19.73** Evaluations of funding provided to the World Bank are carried out by the Independent Evaluation Group which also makes the reports available on its website.

**19.74** Ireland is currently the chair of the Multilateral Organisation Performance Assessment Network, which is a group of 16 donors with a common interest in assessing the effectiveness of major multilateral aid organisations. Evaluations completed during 2011 include the UN Food and Agriculture Organisation, the UN High Commission for Refugees, the UN Relief and Works Agency and the UN Environment Programme. Evaluations planned for 2012 include the UN Development Programme, the UN Children’s Fund, the Global Alliance for Vaccines and Immunisation, the African Development Bank and the World Bank.

### *Follow-up on Completed Evaluations*

**19.75** The Evaluation and Audit Unit uses a template to track both the post-completion status of evaluation reports (e.g. submitted for internal review, submitted to Audit Committee) and the implementation status of all individual recommendations. Meetings are held with management in the area covered by the review, to discuss developments in relation to the agreed recommendations.

**19.76** Figure 19.11 summarises the position in relation to implementation of recommendations arising out of evaluations completed during 2011.

**Figure 19.11 Status of Recommendations from Evaluations Completed in 2011**

| Status[a] | Evaluation of MAPS Phase II | Evaluation of Zambia country programme | Evaluation of Mozambique country programme |
|---|---|---|---|
| Total number of recommendations in report | 7 | 20 | 21 |
| Number accepted by management | 6[b] | 20 | 21 |
| Number implemented | 3 | — | 12 |
| Number in progress | 3 | 20[c] | 9 |
| Number not commenced | — | — | — |

Source: Department of Foreign Affairs and Trade

Notes: a The status shown is as at 1 May 2012.

b One recommendation was not accepted by management. It is the view of the Evaluation and Audit Unit, in this case, that the position taken by management is reasonable.

c All of the recommendations in the report relate to the design of the next country strategy paper. As the country strategy paper is still being developed, all proposed management actions are still in progress.

## Conclusions and Recommendations

**19.77** Irish ODA expenditure in 2011 totalled €657 million, which represents a decrease of 29% on the peak figure of €921 million recorded in 2008.

**19.78** Ireland's ODA was equivalent to 0.52% of GNP in 2011, continuing the downward trend that commenced from 2008 and moving further away from the UN target of 0.7% for developed countries.

**19.79** The Irish ODA programme is delivered through a range of channels, reflecting the particular environments in the countries assisted and the diverse nature of the assistance required. Given the number of partner organisations involved and the range of delivery channels used for the Irish ODA programme, an effective audit function is essential to provide assurance that funds reach their intended destination and are used for their intended purpose.

**Recommendation 19.1:** The Department should set up a central register of audit reports, across the entire programme of ODA, in order to record audit reports received and to facilitate follow up in relation to audit reports that are not received on time.

**Accounting Officer's Response:** Agreed. Registers of reports received are maintained at section and mission level. This will be further developed into a central record in 2013.

**19.80** The Department reports achieving a high level of audit coverage in respect of bilateral assistance. It has systems in place at programme country level to track audit opinions and ensure corrective action is taken.

**Recommendation 19.2:** The Department should establish a central system to record, and track over time the proportion of expenditure in each partner country receiving qualified / adverse audit opinions, the issues identified and the corrective action taken. This would provide assurance in relation to funds already advanced and inform the enhancement of control procedures for future funding.

**Accounting Officer's Response:** Agreed. The system in place at programme country level is being further developed in line with this recommendation.

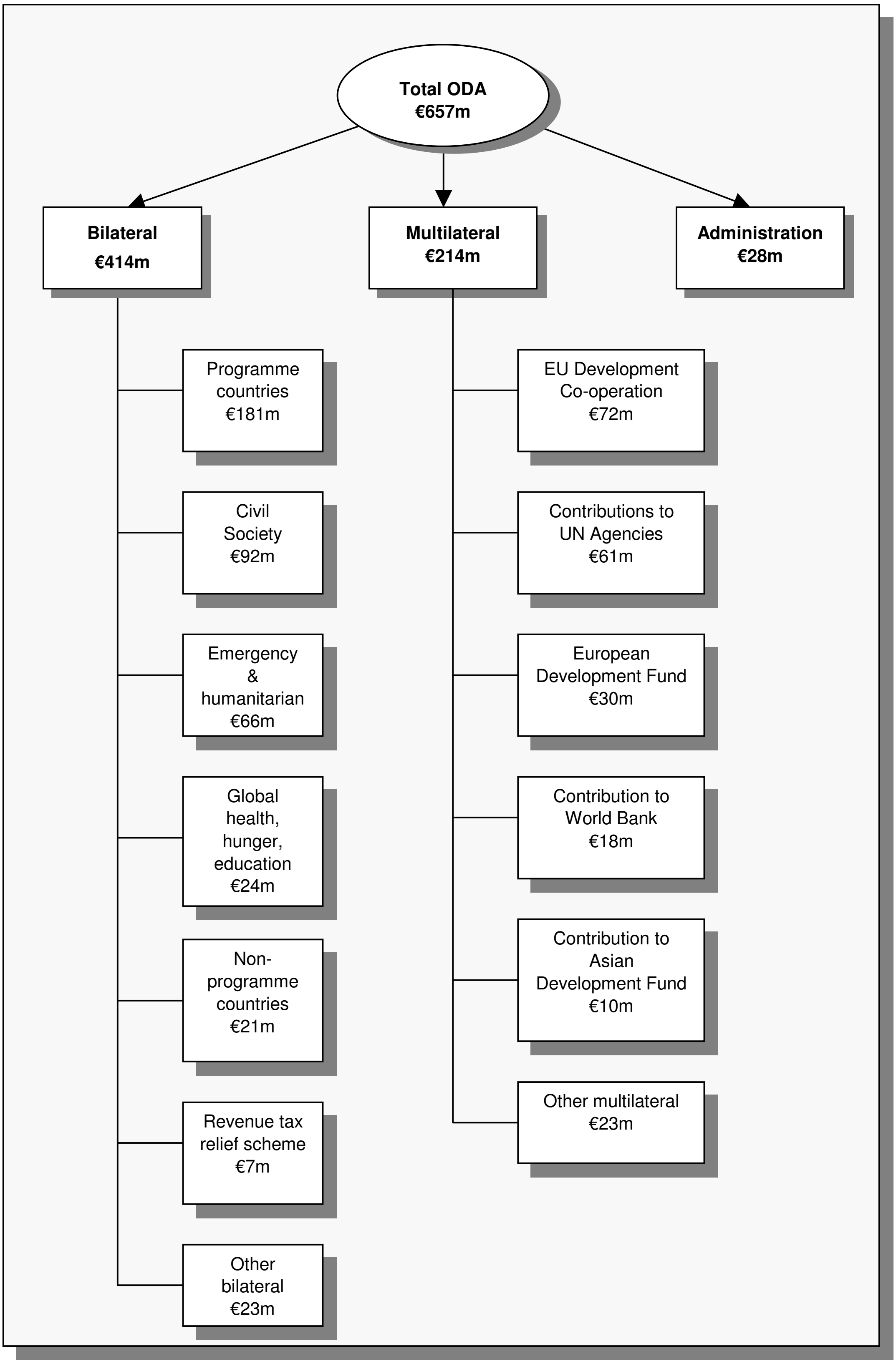
**19.81** Evaluation efforts are primarily focused on the funding provided to programme countries.

**19.82** A structured system is in place to track and follow up on evaluation recommendations made. The Department indicated that all recommendations from evaluations completed in 2011 had either been implemented or were in the process of being implemented.

**Recommendation 19.3:** For each of its ODA funding programmes, the Department should ensure that funding provided to partner organisations is linked to appropriate and measurable targets to facilitate meaningful evaluation.

**Accounting Officer's Response:** Agreed. Irish Aid partners are required to have performance management systems in place. This helps to ensure effective aid implementation and enables credible evaluation to take place. Performance management is an area that continues to evolve. As new best practice emerges, performance management systems will continue to be refined.

## Annex A Overview of Ireland's ODA Expenditure in 2011[a]




Source: Department of Foreign Affairs and Trade

Note: a Due to rounding, certain elements may not sum to the category total reported.

# 20 The Broadcasting Fund

**20.1** The Broadcasting Fund (the Fund) was established to support the production of new television and radio programmes in English and Irish. The programme subjects eligible for funding include programmes about Irish culture, heritage and experience, programmes to improve adult or media literacy or which raise public awareness and understanding of global issues. A further objective of the Fund is to develop the archiving of broadcasting programme material produced in the State.

**20.2** The Fund is managed and controlled by the Broadcasting Authority of Ireland (BAI)[1] and is financed through the transfer by the Department of Communications, Energy and Natural Resources (the Department) of 7% of the net television licence receipts annually.[2] Payments from the Fund cover both grants to support the production of radio and television programmes and related BAI administration costs.

**20.3** The Fund has been used to support two specific grant schemes since its initial establishment in 2003. The first scheme, known as 'Sound and Vision' was approved by the Minister for Communications, Energy and Natural Resources in October 2005 for operation up until the end of 2009. The second scheme known as 'Sound and Vision II' was approved by the Minister in January 2010 for operation until the end of 2014. Both schemes required and received approval by the European Commission (EC) under State aid rules.

**20.4** The total income of the Fund since its commencement in 2003 to the end of 2011 has been just over €100 million.[3] The outlay from the Fund up until the end of 2011 was €79 million. Payments of grants under the schemes account for just under €74 million of this expenditure with the balance relating to staff costs (€3 million) and other administration costs (€2 million).[4]

**20.5** At the end of December 2011, the Fund had reserves of approximately €22 million accumulated as outlined in Figure 20.1 below.

**Figure 20.1 Fund Income and Expenditure 2003 to 2011**

| | Income | Expenditure | Surplus/deficit |
|---|---|---|---|
| | **€ million** | **€ million** | **€ million** |
| **2003 - 2007** | 48.2 | 28.6 | 19.6 |
| **2008** | 11.1 | 15.2 | (4.1) |
| **2009** | 12.3 | 11.7 | 0.6 |
| **2010** | 15.0 | 11.1 | 3.9 |
| **2011** | 14.9 | 12.8 | 2.1 |
| **Total** | **101.5** | **79.4** | **22.1** |

Source: Broadcasting Authority of Ireland

1 The Fund was initially provided for in the Broadcasting (Funding) Act 2003 and was managed up until 2009 by the Broadcasting Commission of Ireland. The Broadcasting Act 2009 transferred responsibility for the Fund to the newly established Broadcasting Authority of Ireland.

2 The rate was 5% up until July 2009.

3 Approximately 96% of this came from television licence fees with the remaining 4% being interest earned from the temporary investment of funds.

4 Staff and administration costs represent apportionments of BAI staff and overhead costs.

**20.6** This chapter reviews

- the administration and management of the Fund
- the outputs and performance of the Fund and the extent to which it has been evaluated.

**20.7** Meetings were held with officials of the Department and the BAI to establish the background, financing and processes in place for administering and managing the Fund. Contract files were examined for a sample of projects supported under the Sound and Vision schemes. Analysis was carried out of a database of contracts maintained by the BAI.

## Administration and Management of Fund Grants

**20.8** Applications for funding are sought through funding rounds. The number and scheduling of funding rounds depends on factors including operational imperatives for the BAI and the timing of broadcasters' commissioning rounds. A BAI official is appointed round manager in respect of each funding round. The first funding rounds were held in 2006 and up to the end of 2011, eleven rounds of funding each had been held for radio and television.

**20.9** A summary of the status, at end 2011, of projects allocated funding from all funding rounds is set out in Figure 20.2.

**20.10** A total of €86 million has been allocated to 1,227 projects. By the end of 2011, approximately €74 million had been paid out leaving a balance of €12 million committed. As payments are made to projects in tranches, the total amount paid reflects staged payments to projects where contracts have been signed but are not yet completed as well as to completed projects. Annex A provides an analysis of the status at end 2011 of projects in all funding rounds.

**Figure 20.2 Status of Projects Allocated Funding at end 2011**

| | TV | Radio | Total | Percentage |
|---|---|---|---|---|
| **Number of projects allocated funding**[a] | 417 | 810 | 1,227 | 100% |
| of which | | | | |
| completed | 281 | 598 | 879 | 72% |
| in progress | 102 | 176 | 278 | 22% |
| awaiting contract | 34 | 36 | 70 | 6% |
| | **€ million** | **€ million** | **€ million** | |
| **Funding allocation**[b] | 76.3 | 9.8 | 86.1 | 100% |
| of which paid | 65.1 | 8.7 | 73.8 | 86% |

Source: Broadcasting Authority of Ireland

Notes: a Excludes projects withdrawn.

b The funding allocation is the net amount of grants awarded after adjusting for withdrawals, reductions and increases in funding.

### *Assessment of Applications*

**20.11** The assessment process has evolved since the commencement of the schemes. The current process involves a preliminary evaluation of applications carried out by BAI staff to determine whether all information has been submitted and whether the project is eligible for funding. Each application which passes this stage is then considered by an external assessor using specified criteria such as the quality of the proposal, additionality and innovation.[5] Another external assessor reviews that assessment and either validates or amends the outcome of the first assessment having regard to his/her own experience and expertise. An assessment panel, comprising BAI staff and the second assessor, reviews the application and assessors' reports together. The panel decide whether or not to recommend a project for funding.[6]

**20.12** On completion of the assessment process, a schedule of final recommendations is presented to the Authority for formal ratification as part of a general report on the outcome of the particular funding round. The report provides details of the unsuccessful as well as the recommended applications. In general, it outlines in respect of each recommended proposal the amount recommended for funding, the maximum percentage of eligible costs that will be paid, and the number and duration of programmes to be produced.

**20.13** Feedback on the outcome of the assessment process is provided to both successful and unsuccessful applicants in a standard assessment report template prepared by BAI staff based on the outcome of the assessment panel's deliberations. In addition, a letter of offer is issued to each successful applicant. The applicant is required to finalise a contract with the BAI within 12 months of the formal funding offer. Contracts are finalised through a process of negotiation on a case-by-case basis.

**20.14** An analysis of television and radio applications and their assessment for funding in round 11, held in 2011, is set out in Figure 20.3.

**Figure 20.3 Analysis of Assessment Process – Funding Round 11 – Television and Radio**

| | TV | | Radio | | Total | |
|---|---|---|---|---|---|---|
| **Applications received** | 98 | | 262 | | 360 | |
| **Applications rejected** | 55 | *56%* | 166 | *63%* | 221 | *61%* |
| at preliminary evaluation stage | 5 | | 63 | | 68 | |
| at assessment stage | 50 | | 103 | | 153 | |
| **Allocated funding** | 43 | *44%* | 96 | *37%* | 139 | *39%* |

Source: Broadcasting Authority of Ireland

5 A full list of the criteria is set out in Annex B.

6 A second round of assessment may be used where the number of qualifying projects in a round exceeds the funding available. However, this has only been used on one occasion.

**20.15** Just over 60% of applications for round 11 were rejected overall (56% for television and 63% for radio). The corresponding percentage for round 10 was 51% (53% for television and 50% for radio). For television, the amount recommended for funding exceeded the €7 million indicative allocation for that round by almost €900,000.[7] The amount recommended for funding in the case of radio programmes (€0.8 million) fell substantially short of the €1.5 million allocation reserved for that round. A similar situation arose in radio rounds 9 and 10.[8]

**20.16** As part of this audit, application and assessment records for ten projects allocated funding in three rounds spanning 2010 and 2011 were examined. With the exception of one case, the only assessment reports available for audit review were the standard reports used to provide feedback to applicants. These reports which were unsigned and undated did not clearly indicate the manner in which the application satisfied the assessment criteria. In general, they noted elements of the project budget that appeared excessive but it was not possible to link these with the funding recommendation.

**20.17** The reports prepared by the external assessors are not retained by the BAI. However, in one application case examined, three assessment reports were found on file. These set out a commentary and a rating under each assessment criterion but were not dated or signed. Each individual report recommended the provision of the full amount of funding sought by the applicant (€300,000). The recommendation for funding made to the Authority and subsequently ratified by it was for €270,000. The standard assessment feedback report also indicated that the amount recommended for funding was €270,000. While the reports provided scores under the assessment criteria, there was a lack of transparency with regard to the basis for the reduced funding recommendation.

**20.18** The Chief Executive Officer (CEO) of the BAI stated that the assessment reports retained on file in this case set out the individual views of the external assessors on the submission but that collectively, the panel agreed that a sum of €270,000 would be recommended for the project. He said that this collective decision was the only decision on the application and was subsequently communicated to the applicant. He stated that the individual reports should not have been held on file and that this was an administrative error.

### *Contracting and Contract Management*

**20.19** A number of issues relating to contract management were noted from the review of a sample of 25 projects and from analysis of the contract database maintained by the BAI. These are set out below.

- **Delays in finalising contracts** - Four out of the 25 cases examined did not finalise their contract within the 12-month period provided for in the rules of the scheme. The period taken to finalise these contracts ranged from 13 months to almost three years. The contracts database highlighted four other instances of a time gap of around three years between the offer of funding and a contract being agreed. It was not possible to verify compliance with the 12-month limit in all instances because the database was incomplete, particularly for the early funding rounds.

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7 The second assessment phase, as provided for in the scheme, was not carried out because sufficient accumulated funds were available to fund all qualifying applications from round 11.

8 From an indicative allocation of €1.5 million per round, the amount recommended for funding in round 9 was €0.96 million and €1.2 million in round 10.

- **Advances of funding** - In three of the 25 cases examined, 90% of the grant allocation had been paid out on signing of the contract resulting in significant project risk for State funds should projects fail to deliver. Review of the contracts database noted a total of 44 television projects, with an aggregate funding allocation of €13.6 million that were paid 90% or more of their allocation on contract signing. The CEO stated that these projects were low risk in that they were all linked to Section 481 funding, the nature of which was that all parties put in funds at an early date.[9] He also stated that this helped to leverage funds from other investors and had widespread support from the industry.
- **Monitoring** - Of the cases reviewed, 12 experienced slippage in their contracted delivery schedules with three exceeding their scheduled delivery dates by more than 12 months. The contracts database includes a total of 26 projects dating back to funding rounds in 2006 and 2007 that had not fully drawn down their funds at the end of 2011. Over €1 million has been paid to these 26 projects and just over €200,000 is outstanding.
- **Consideration of past performance of contractor** – There were indications in three of the 25 cases examined that an applicant's track record was not adequately considered at project assessment stage or when releasing funds on other projects to the same contractor. In these cases, previously funded projects had not been completed, were delivered late or had not submitted final audited accounts.
- **Cost verification** – In two of the cases reviewed, although the projects had been delivered, the final cost statements were not submitted.[10] Final payment has been withheld in one case and has not been sought by the contractor in the second case. The final payments outstanding represent 3% and 10% of the funding, respectively. Without an audited final cost statement, the BAI cannot satisfy itself as to the manner in which the funding provided was spent. An internal BAI review of compliance in 2009 identified the need for additional checking of the financial material being submitted by contractors. As a result, the BAI appointed a firm of accountants to carry out seven pilot audits in 2009 and 2010. No significant issues were identified.
- **Combined contracts** – In the latter half of 2010, the BAI introduced a combined contract whereby successful radio proposals with the same producer from a funding round may be combined into one contract for administrative efficiency. While a separate budget is negotiated for each individual project, only the combined budget forms part of the contract. The combined contract is not used in all cases.

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9 Section 481 of the Taxes Consolidation Act 1997 provides tax relief towards the cost of production of certain films. Tax relief on 100% of their investment is available to individual investors and to corporate investors.

10 A final cost statement is required before release of the final grant payment. Up to 2008, final payment was made on the basis of an unaudited cost statement. Since 2008, a final audited account of production expenditure is required.

### *Recoupment of Funding through Profit Generation*

**20.20** Since mid-2010, the standard funding contract provides for recoupment to the Broadcasting Fund when a production generates profits, where the amount of the grant is €200,000 or more. This provision may also apply to contracts for funding between €50,000 and €200,000. Previously, the BAI decided on a case-by-case basis whether to include a recoupment clause. No definitive figures are available for the number of contracts which provided for recoupment prior to the inclusion of the standard contract provision. However, the BAI estimates that no more than 5% of contracts concluded prior to 2010 would have included a recoupment clause. There has been no recoupment of funding to date as a result of these provisions.

**20.21** The onus is on the contractor to advise the BAI of any net receipts from the production and to keep accurate books and records in relation to the commercial exploitation of the programme.

**20.22** The audit noted that six out of the sample of 25 cases examined (17 of which related to television productions), had availed of Section 481 financing. In order to qualify for Section 481 relief, funds advanced by investors must be for 'bona fide' commercial reasons. On that basis, it is reasonable to expect that at least some of those productions would generate profit. The BAI estimate that, up to the end of 2011, it has funded in the region of 70 Section 481 projects.

**20.23** The CEO stated that given the nature of the scheme, the prospects of a project achieving the levels of profitability which would warrant implementation of the recoupment provision were limited. This clause had been designed to cater for a circumstance in which a funded project exceeded any expectations that may have existed at development phase. The CEO added, that in addition to inclusion of the standard clause within contracts, the BAI were committed to spot-checking projects which might have some potential in this area and that the new contract being introduced in 2012 also sought a greater level of disclosure in relation to performance post broadcast.

### *Sources of Finance and State Aid Rules*

**20.24** Under EC regulations, State aid for film and audiovisual works may not exceed 50% of the production budget except where production is judged to be difficult, or low budget, or that the programme will have limited geographic extension through language and culture. Low budget productions are those with a budget of less than €750,000 for television and less than €55,000 for radio. Productions in the Irish language are considered to have limited geographic extension.

**20.25** The BAI must satisfy itself where relevant that programme production is difficult. The criteria used by the BAI for assessing 'difficult to make' include: a lack of commercial potential; a lack of significant audience appeal; and the experimental nature and/or creative risk of the production.

**20.26** The analysis of the database noted one television bi-lingual production with a budget at application stage in excess of €860,000 that had been allocated funding by the BAI of €600,000 (70% of its budget). In addition, seven radio productions through the medium of English had budgets in excess of €55,000 and received BAI funding in excess of 50%.

**20.27** In relation to the procedures for monitoring compliance with State aid rules, the CEO stated that monitoring in respect of the low budget and language criteria were straightforward. With regard to difficult productions, he stated that in general terms, applicants were required to provide a rationale as to how the proposed programme was difficult to make. The assessors were then required to evaluate this rationale in coming to their overall determination. He confirmed that the BAI were satisfied that the EC requirements were being adhered to in respect of all applications made using these criteria.

**20.28** It was noted that certain larger television productions benefited from several sources of State funds such as Irish Film Board (IFB) funding and Section 481 tax relief funding. In addition, the audit identified funding from the Department of Education and Skills and the Department of Foreign Affairs for two projects. The audit noted two cases in which the finance plan set out in the contract indicated that total State funding of almost 70% and 86% of the total budgeted cost respectively, would be provided. These productions were in English and had budgeted production costs in excess of €2 million each.

**20.29** The CEO stated that the BAI had arrangements in place, in respect of Section 481 projects, to confirm to the Department of Arts, Heritage and the Gaeltacht that in the BAI's view, a project was difficult to make, low budget and/or in the Irish language.[11] There is currently no appropriate protocol in place for projects not within the scope of Section 481.

## Outputs and Performance

**20.30** In general, the purpose of the fund is to support the making of certain television and radio programmes and the development of archiving of programme material produced in the State.

### *Programme Making*

**20.31** The stated objectives of the grant schemes are to

- support the production of high quality television and sound broadcasting programmes based on Irish culture, heritage and experience
- increase the availability of programmes on Irish culture, heritage and experience to audiences in the State and support programmes that aim to explore these themes in innovative ways
- develop these programmes in the Irish language
- support programmes that represent the diversity of Irish culture and heritage
- record oral Irish heritage or aspects of Irish heritage which are disappearing, under threat, or have not been previously recorded
- develop local and community broadcasting through support for the production of programmes by this sector
- support the production of programmes which aim to improve adult or media literacy
- support the production of programmes which raise public awareness and understanding of global issues impacting on the State and countries other than the State.[12]

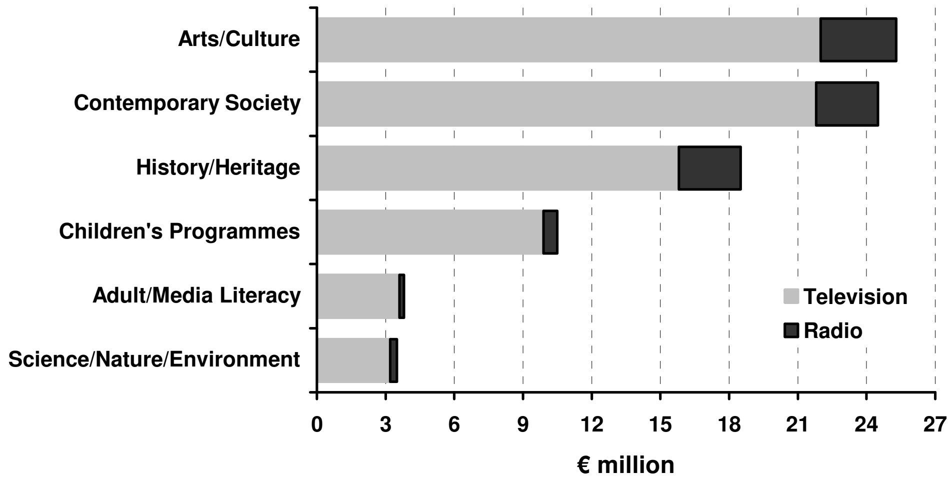
**20.32** The Fund may not be used to support programmes that are primarily focused on news or current affairs.

**20.33** Projects allocated funding to the end of 2011 are analysed by genre in Figure 20.4 below. Further analysis on language and service delivery criteria is presented in Annex C.

11 The Minister for Arts, Heritage and the Gaeltacht must confirm a film's eligibility for Section 481 funding under certain qualifying criteria.

12 The Sound and Vision II scheme extended the stated scheme objectives to include programmes dealing with the themes of media literacy and global affairs. These did not apply for the earlier scheme.

**Figure 20.4 Funding allocation by genre 2006 to 2011**




Source: Analysis by Office of the Comptroller and Auditor General

**20.34** The analysis shows that

- Almost 90% of the allocated funding went to support television productions and 10% to support radio productions.
- Arts/culture, contemporary society and history/heritage received the greatest funding allocations. Together they accounted for almost 80% of the funding allocation. Children's programmes were allocated 12% of the funding while programmes dealing with adult/media literacy and science/nature/environment received an allocation of 4% each.
- Just over 25% of the funding was allocated to the production of programmes in the Irish language, and a further 21% was allocated to bilingual programmes. The proportion of funding allocated to Irish language programmes for television was much greater than that for radio.
- Overall, 68% of the total funding allocation went to productions for broadcast on public radio and television with 22% for broadcast on independent commercial stations and 10% on community stations.
- No projects have been funded under the objective of raising public awareness and understanding of global issues as no applications have been received under this heading.

**20.35** No funding or output targets were set for the various objectives. Consequently, it is difficult for the BAI to determine the extent to which the objectives of the Fund are being achieved.

### *Programme Archiving*

**20.36** An objective of the Fund is to support the development of a scheme for the archiving of programme material produced in the State (not just productions supported by the Fund). It had been anticipated that an archiving scheme would be approved in early 2011 and an amount of €2.8 million was provisionally allocated for award in that year. However, the scheme has only recently been approved. It is now anticipated that the scheme will be launched in the autumn of 2012 and the first awards made in early 2013. Funding under the scheme will be allocated through a competitive process. It is envisaged that the proportion of the Broadcasting Fund allocated to archiving will not exceed 20% of the available funding in any year.

**20.37** With regard to the archiving of productions supported by the Fund, the BAI have an agreement with the Irish Film Archive of the Irish Film Institute (IFI) for the preservation and archiving of all those productions and for making that material available for on-site viewing by any interested party.

### *Programme Delivery and Broadcast*

**20.38** Funding is allocated on the basis that programmes will meet agreed criteria and contract specifications. Accordingly, there is a requirement for verification of programme material produced. Verification procedures were carried out on a selective risk analysis basis. However, following an internal review of contract compliance in 2009 and a review by two external assessors of the programme material submitted for two projects, the BAI identified the need for a more systematic approach to reviewing programme material.

**20.39** As a result, in 2012 the BAI engaged the IFI to verify that television productions were of broadcast quality, without technical fault and suitable for long-term preservation, access and exhibition. In addition, under the terms of that agreement, the IFI are required to report to the BAI on whether the material as viewed complies with relevant terms and conditions in the funding contract between the BAI and the producer. This process is currently being implemented. The BAI stated that the process may in future take place prior to the authorisation of the final contract payment. In addition, the BAI may itself review material prior to final contract payment. There is currently no verification process for radio productions.

**20.40** In order to comply with legislative provisions, it is necessary that productions funded are broadcast. A letter of commitment from a relevant broadcaster to broadcast the production during peak viewing/listening times is a pre-requirement for funding approval under the schemes.[13] In order to draw down stage payments, the contractor is required to submit a broadcaster's progress report. Confirmation from the broadcaster that the production has been delivered is required before final payment is made.

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13 Television programmes must be broadcast on a free television service which provides near universal coverage in the State or on an appropriate network provider or MMD system as part of a community content provision contract under Section 72 of the Broadcasting Act 2009. Sound broadcasting programmes must be carried on sound broadcasting services under a contract made by the BAI or operated by RTE.

**20.41** In one of the sample of 25 cases examined (12 of which had been completed and funding fully drawn down), the BAI issued the final payment of €80,000 without having received the necessary broadcaster delivery report. The BAI stated that they were satisfied that the broadcaster's letter of commitment to broadcast which accompanied a funding application for a third series of the production would suffice as confirmation of delivery of the second production series.

**20.42** Up to the introduction of a standard funding contract in mid-2010, contractors were not required to notify the BAI of the date and time of the planned broadcast. It was therefore difficult for the BAI to confirm that all completed productions had in fact been broadcast. The BAI stated that under the new standard contract being introduced from July 2012, a contractor would be required to provide the BAI with a broadcaster confirmation letter including a commitment to inform it of broadcast dates and supply audience reach information, if required.

### ***Impact of the Fund***

**20.43** The legislation requires that the BAI review the operation, effectiveness and impact of the scheme and report to the Minister within three years of its coming into effect and every three years thereafter or as requested by the Minister. The first such review was carried out in 2008. It was conducted by means of a stakeholder survey, research on the impact of the scheme on the audiovisual industry, collection of viewership and listenership figures from broadcasters and an internal review of the operation of the scheme.

**20.44** The statutory evaluation carried out in 2008 reported that the scheme had achieved considerable success in terms of increasing public access at national, local and community level to high quality radio and television programmes on the themes of Irish culture and experience. A substantial percentage (85%) of respondents to a survey conducted as part of that evaluation, agreed that the scheme contributed positively to the economic development and growth of the independent production sector in Ireland and had allowed production companies to retain staff full-time and to attract year-round work. 73% of respondents to the survey agreed that the scheme had contributed positively to the creation of employment opportunities in broadcasting in Ireland. In terms of viewership and listenership ratings and the achievement of industry awards, information was not reported on all productions.

**20.45** The next review is due to commence in September 2012. There is a need to capture impact data for the grant schemes. Indicators which might be considered where appropriate include: the number of viewers/listeners to a production, the number of recognised awards received, the number of times a production is broadcast, whether a production is broadcast in another country or on another channel and the impact of the scheme on employment in the sector.

## Oversight by Department of Communications, Energy and Natural Resources

**20.46** The Accounting Officer of the Department of Communications, Energy and Natural Resources stated that while the administration and management of the Fund was a matter for the BAI, the Department was concerned to ensure that this was done in the most efficient way possible that ensures that the purposes of the Fund are delivered and that value for money for licence fee payers is achieved. He stated that the Department has a corporate governance oversight role in relation to the BAI which enabled policy issues of concern to the Broadcasting Fund to be raised as appropriate. At a general level, he stated that it was the view of the Department that the Fund was being managed in a way to achieve its policy objectives, particularly the promotion of new television and radio programmes by independent production companies with a view to the production of programming on a broad range of issues and themes of relevance to Irish culture and society.

**20.47** The Accounting Officer stated that the Department would engage with the BAI in advance of the upcoming statutory review of the scheme to ensure that the findings of this chapter are incorporated into the terms of reference for the review. He stated that his Department would ensure that any recommendations arising from the review take account of the findings and focus on promoting effective and value for money achievement of the policy objectives of the Broadcasting Fund.

## Conclusions and Recommendations

**20.48** A significant proportion of applications fail to qualify for Broadcasting Fund financial support. Processing deficient applications is wasteful of resources for the BAI as well as for applicants. Further work is needed to improve the quality of funding applications being submitted and to reduce the associated administrative burden.

> **Recommendation 20.1:** The BAI should carry out an analysis of the reasons for the high volume of rejections and engage with stakeholders in relation to improving the quality of applications.
>
> **CEO's Response:** Agreed. The BAI has been working with stakeholders on an ongoing basis to address the high volume of rejected applications.

**20.49** There is a lack of transparency and accountability in the application assessment process.

> **Recommendation 20.2:** The BAI should ensure that the assessment process demonstrates a greater level of transparency. Reports should clearly state the outcome of all assessments by reference to scheme criteria.
>
> **CEO's Response:** Agreed in part. The final assessment report in the form of a feedback report is retained on file and forwarded to each applicant setting out the BAI's assessment with reference to the scheme criteria. Assessors' reports are not retained because they are part of the deliberative process and are not separate decisions as such. The final collective view of the assessment panel is what matters and not the individual views expressed during the process. The deliberations of the assessment panel are analogous to other decision-making processes of the BAI (and of other State bodies) whereby the final decision is recorded rather than the views of individual members of a Board. The review of the scheme scheduled to commence in September 2012 will include a review of the assessment process.

**20.50** Contracts for projects allocated funding are not always finalised within the timescale stipulated in scheme rules.

**Recommendation 20.3:** The BAI should report to the Authority when contract negotiations are not concluded within the 12-month period.

**CEO's Response:** Agreed in part. Systems introduced in the last number of years are helping to address the issue. In addition, it is proposed that the BAI executive consider extensions beyond the 12-month period on a case-by-case basis, with any extensions permitted reported subsequently to the Authority.

**20.51** Many projects receive a large proportion of funding prior to completion. While this may be necessary to ensure adequate financing is in place to complete the project, it increases the risk that State funds are provided for projects which are not delivered. Half of the 25 cases reviewed failed to meet their contract delivery schedules. In two cases, projects were delivered but final cost statements were not submitted. Without such information the BAI is unable to satisfy itself that funding provided is used for the purposes intended.

**Recommendation 20.4:** Where delivery schedules are not met or contract terms not adhered to, the BAI should consider seeking recovery of funds.

**CEO's Response:** Agreed. Systems introduced in the last number of years are helping to address these issues. In regard to the failure to submit final cost statements, the BAI intend to introduce standardised audit procedures for external auditors of grantees as well as an annual programme of audit by the BAI, for verification of compliance with these procedures.

**20.52** The track record of a contractor is not adequately considered at project assessment stage or when releasing funds on other projects to the same contractor.

**Recommendation 20.5:** The BAI should review their application assessment criteria to ensure adequate consideration is given to past contractual performance when reviewing any new applications for funding from the same contractor. Any requests for funding draw downs should be managed on a total contractor basis rather than an individual project basis.

**CEO's Response:** Agreed. A new contract, approved in July 2012, addresses these concerns and the track record of the applicant in respect of compliance within the scheme will be taken into account for any new contracts entered into.

**20.53** There has been no recoupment of funding from any profits generated by productions funded. The BAI were unable to definitively state the number of funding contracts which contained a recoupment clause. It estimates that it has funded in the region of 70 Section 481 productions, which are more likely to have profit-generating potential.

**Recommendation 20.6:** A register should be maintained of all contracts with a funding recoupment provision and all projects with Section 481 funding. These projects should be actively monitored.

**CEO's Response:** Agreed in part. The BAI's new database will be able to readily identify and provide the total number of Section 481 contracts in the future. It would be an inappropriate use of resources to extend monitoring of the recoupment provision beyond the current process of spot-checking projects with profit-generating potential. The new contract provisions seek greater disclosure of performance post broadcast.

**20.54** EC regulations stipulate that State aid to film and audiovisual works may not exceed 50% of the production budget except where production is judged to be difficult, the project is low budget or the programme has limited geographic extension through language and culture. With the exception of Section 481 projects, BAI monitoring does not take account of State funding from other sources.

**Recommendation 20.7:** The BAI should review procedures to ensure that all sources of State finance are taken into account when determining whether EC regulations are being complied with. Appropriate coordination with other State funders may be required.

**CEO's Response:** Agreed. The BAI will cooperate with other State bodies in devising and implementing procedures to give greater visibility to the application of the regulations.

**20.55** Funding of approximately €86 million has been allocated to 1,227 projects since the establishment of the first scheme in 2005. The majority of funding has gone to the production of television programmes with the ratio of funding allocations between television and radio at almost 8:1.

**20.56** No funding targets are set for particular categories of programme objectives. It is difficult therefore to determine the Fund's effectiveness. 80% of funding has been allocated to three genres – arts/culture, contemporary society and history/heritage. Irish language/bilingual programmes represent approximately 46% of the overall funding allocation. Productions for broadcast by public radio and television broadcasters were allocated the greatest proportion of funding (68%) with 22% going to productions for broadcast by independent commercial broadcasters and 10% for productions to be broadcast by community stations. There were no programmes funded under the objective of raising public awareness and understanding of global issues.

**Recommendation 20.8:** The BAI should consider setting output targets for categories of programming objectives.

**CEO's Response:** Agreed in part. The scheme is based on competitive open rounds with each application judged on its merits. Grants are awarded to the best applications so it is inevitable that some of the objectives will be achieved to a greater extent than others. This issue will be considered in the upcoming review of the scheme.

**20.57** A formal verification process to ensure programme delivery is of broadcast quality and in accordance with contract was put in place for television production in 2012. The BAI have begun to implement verification procedures for radio productions.

**20.58** Programmes produced are not monitored by the BAI to ensure that they are broadcast. Without formal verification procedures in place, there is a risk that some productions may not be broadcast thereby representing a loss of value for the State funds provided.

**Recommendation 20.9:** Procedures should be introduced to enable the BAI to verify broadcasting of productions funded, including possible retention of final grant instalments until confirmation of broadcast is received.

**CEO's Response:** Agreed. The BAI has already begun to implement revised procedures.

**20.59** Evaluation of the impact of the scheme in the review carried out in 2008 was largely based on a stakeholder survey and research on the impact of the scheme on the industry. The next review of the scheme is planned for September 2012.

**Recommendation 20.10:** There is a need for the BAI to consider how it can reasonably capture more objective impact data so that the benefits and contribution of the scheme can be more fully assessed.

**CEO's Response:** Agreed in part. The BAI will consider the recommendation in relation to impact data in the upcoming review of the scheme. While indicators of the type suggested are important, they are not necessarily entirely appropriate for a scheme of this nature.

## Annex A Status of All Projects at December 2011 by Funding Round

### *Television Funding Rounds*

| Funding Round | Year | Successful | Withdrawn | Net Number of Projects Allocated Funding | Completed | Contract Signed | Pending Contract | Net Allocation | Paid Out | Commitments |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | € m | € m | € m |
| **1** | 2006 | 38 | - | 38 | 35 | 3 | - | 10.4 | 10.4 | - |
| **2** | 2006 | 39 | 2 | 37 | 35 | 2 | - | 9.1 | 9.0 | 0.1 |
| **3** | 2007 | 44 | - | 44 | 42 | 2 | - | 8.9 | 8.9 | - |
| **4** | 2007 | 54 | 2 | 52 | 50 | 2 | - | 8.3 | 8.2 | 0.1 |
| **5** | 2008 | 24 | - | 24 | 21 | 3 | - | 3.8 | 3.8 | - |
| **6** | 2008 | 29 | - | 29 | 26 | 3 | - | 4.1 | 4.0 | 0.1 |
| **7** | 2009 | 27 | 1 | 26 | 23 | 3 | - | 3.9 | 3.9 | - |
| **8** | 2009 | 31 | 1 | 30 | 23 | 7 | - | 4.0 | 4.0 | - |
| **9** | 2010 | 39 | 3 | 36 | 11 | 25 | - | 6.8 | 5.8 | 1.0 |
| **10** | 2011 | 46 | - | 46 | 6 | 37 | 3 | 7.0 | 4.2 | 2.8 |
| **11** | 2011 | 43 | - | 43 | 0 | 14 | 29 | 7.9 | 1.5 | 6.4 |
| **Special Schemes**[a] | | 12 | N/A | 12 | 9 | 1 | 2 | 2.1 | 1.4 | 0.7 |
| **Total** | | **426** | **9** | **417** | **281** | **102** | **34** | **76.3** | **65.1** | **11.2** |

Source: Broadcasting Authority of Ireland

Note: a The BAI, may at its discretion, allocate funding in respect of programming based on special schemes under any of the thematic areas noted in the legislation. The purpose of these schemes is to encourage the development of programming on particular themes or to mark major anniversaries or events of particular historic or cultural importance.

### *Radio Funding Rounds*

| Funding Round | Year | Successful | Withdrawn | Net Number of Projects Allocated Funding | Completed | Contract Signed | Pending Contract | Net Allocation | Paid Out | Commitments |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | € m | € m | € m |
| **1** | 2006 | 45 | 1 | 44 | 44 | — | — | 0.5 | 0.5 | — |
| **2** | 2006 | 41 | 4 | 37 | 36 | 1 | — | 0.4 | 0.4 | — |
| **3** | 2007 | 75 | 4 | 71 | 67 | 4 | — | 1.1 | 1.0 | 0.1 |
| **4** | 2007 | 70 | 1 | 69 | 62 | 7 | — | 1.0 | 1.0 | — |
| **5** | 2007 | 60 | 6 | 54 | 49 | 5 | — | 0.6 | 0.6 | — |
| **6** | 2008 | 91 | 1 | 90 | 81 | 9 | — | 1.1 | 1.1 | — |
| **7** | 2008 | 95 | 5 | 90 | 71 | 19 | — | 1.2 | 1.1 | 0.1 |
| **8** | 2009 | 89 | 1 | 88 | 68 | 20 | — | 0.9 | 0.9 | — |
| **9** | 2010 | 88 | 1 | 87 | 67 | 19 | 1 | 0.9 | 0.8 | 0.1 |
| **10** | 2010 | 99 | 2 | 97 | 36 | 53 | 8 | 1.2 | 0.8 | 0.4 |
| **11** | 2011 | 75[a] | — | 75 | 11 | 38 | 26 | 0.8 | 0.4 | 0.4 |
| **Special Schemes[b]** | | 8 | N/A | 8 | 6 | 1 | 1 | 0.1 | 0.1 | — |
| **Total** | | **836** | **26** | **810** | **598** | **176** | **36** | **9.8** | **8.7** | **1.1** |

Source: Broadcasting Authority of Ireland

Notes: a This figure is after adjusting for combined contracts whereby 29 projects were combined into eight contracts.

b The BAI, may at its discretion, allocate funding in respect of programming based on special schemes under any of the thematic areas noted in the legislation. The purpose of these schemes is to encourage the development of programming on particular themes or to mark major anniversaries or events of particular historic or cultural importance.

# Annex B
# Assessment Criteria

### *General*

Does the proposal further the objectives of the scheme?

Is the proposal of strategic value in the achievement of the statutory objectives?

Is the proposal generally realistic?

### *Programme Themes*

Does the proposal cover one or more of the themes of the Scheme?

Will the proposal represent a new/innovative interpretation of one or more of the thematic areas?

### *Quality of Proposal*

Does the proposal clearly outline the quality of the content of the proposed programme?

Does the proposal outline the quality of production values used in the making of the programme?

Are the script and/or treatment of the proposal written to a high standard?

By what means, technical or otherwise, will the applicant make a quality programme?

How is it proposed to make a quality, high-standard programme?

### *Additionality*

Does the content of the programme add to the range of viewing or listening options for audiences in Ireland?

### *New / Innovative*

Does the format and/or content of the programme represent an innovative concept in terms of programming in Ireland?

### *Partnerships*

Has the applicant concluded any partnerships, formal or informal, with third parties that will enhance the programme making process?

Has the applicant concluded any financial partnerships that add value to the budget?

### *Resources*

The adequacy, availability and source of other funding to support the proposal.

The adequacy, realism and transparency of the applicant's financial proposal.

Does the proposal represent value for money?

### *Ethos of Community Broadcasting*

*(Additional criteria apply for applications emanating from the Community Broadcasting Sector).*

Does the proposal promote and preserve the ethos of community broadcasting?

Is the programme proposal based on community access?

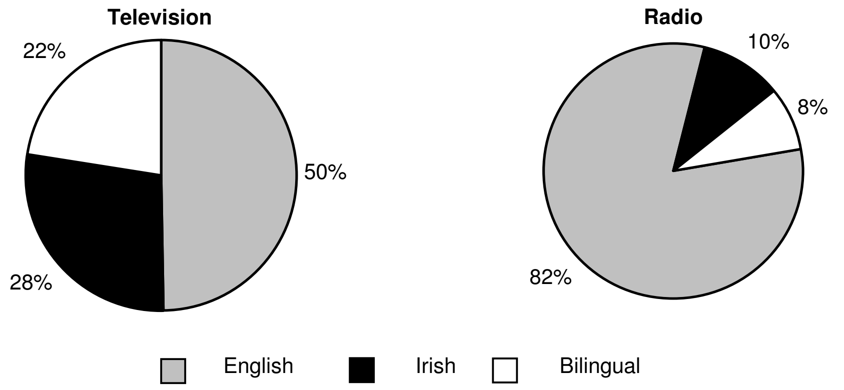
Does the proposal support active community participation?

Does the proposal support the development of skills for members of the community?

What impact will the programme have on the development of the broadcaster?

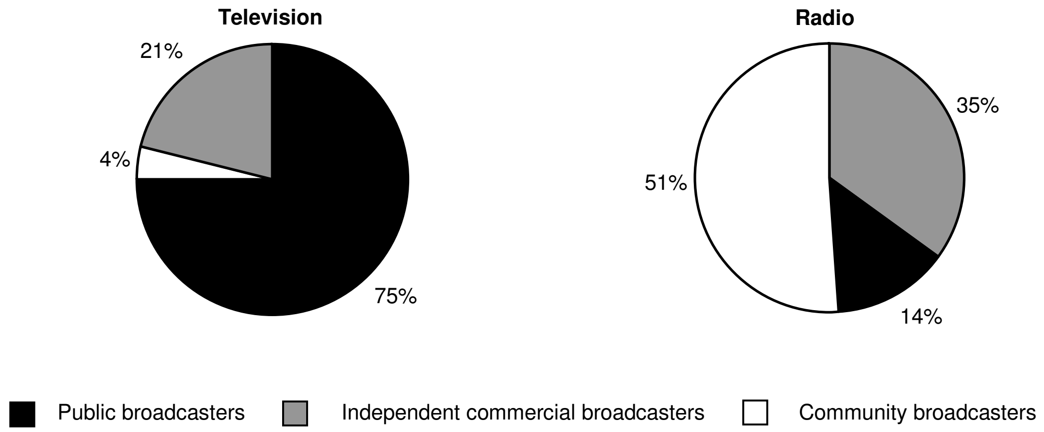
# Annex C Profile of Projects Funded 2006 to 2011

## *Funding by Language*




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

## *Funding by Service Type*




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

# 21 Expenditure on Welfare and Employment Schemes

**21.1** Approximately €20.1 billion was spent on welfare schemes in 2011. The vast bulk of this was spent by the Department of Social Protection (the Department). These funds were processed through Vote 38 and the Social Insurance Fund (SIF) — €11.1 billion[1] and €9 billion respectively.

**21.2** The Department makes three types of welfare payments

- Social insurance payments are made on the basis of Pay Related Social Insurance (PRSI) contributions. Payments made under the social insurance system are funded, in part, by contributions from employers and employees. Any deficit in expenditure is met by Exchequer subvention.
- Social assistance (or non-contributory) payments are made on the basis of satisfying a means test. Social assistance schemes are financed entirely by the Exchequer.
- Some payments (such as Child Benefit or Free Travel) are not dependent on PRSI contributions or a means test. These payments are funded entirely by the Exchequer.

**21.3** This chapter consolidates and summarises expenditure on welfare and employment schemes met from various public accounts, setting out the source of the funds applied.

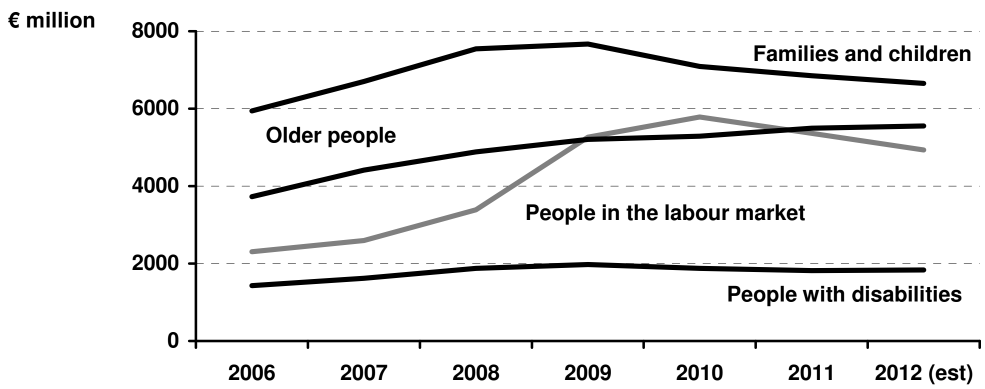
## Trends in Expenditure

**21.4** Figure 21.1 shows the recent trend for the main categories of welfare expenditure. Annex A presents a breakdown of welfare expenditure by category of recipient and by scheme.

**21.5** Expenditure under certain other programmes that could be considered to have broad welfare objectives have not been included in the consolidation including

- medical card expenditure met from the HSE's Vote, estimated at €1.8 billion in 2011
- certain educational expenditure such as the School Support Programme, which is designed to provide a variety of supports to pupils in areas categorised as disadvantaged.

**Figure 21.1 Trend in Expenditure on Social Welfare, by category of recipient, 2006 to 2012**



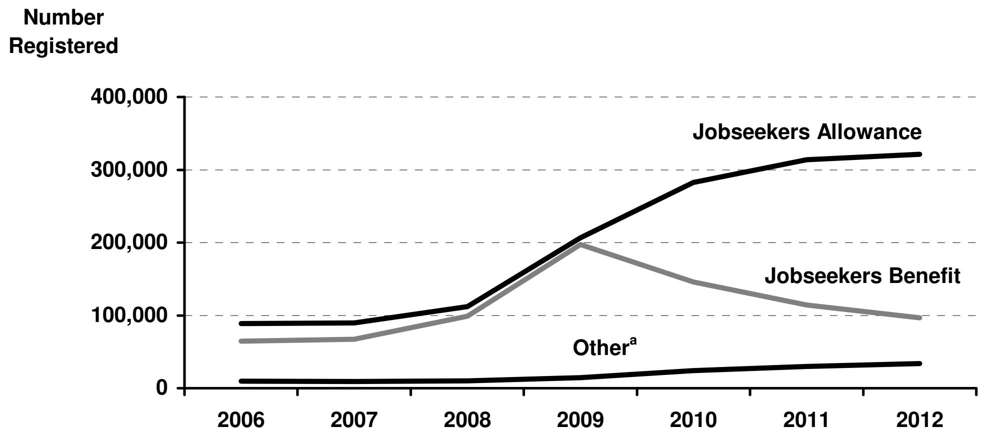

Source: Annex A

1 Net of subvention provided to, and administration costs recovered from, the Social Insurance Fund.

### *Support For People in the Labour Market*

**21.6** Expenditure on welfare support for people in the labour market increased rapidly up to 2010, reflecting increasing unemployment. Figure 21.2 shows the numbers on the live register between June 2006 and June 2012, by claim type.

**Figure 21.2 Trend in Live Register 2006 to 2012**




Source: Central Statistics Office Live Register June 2006 to June 2012

Note: a Principally includes unemployed persons who do not qualify for a Jobseekers payment but have applied for credited social insurance contributions.

**21.7** Overall, the number of people on the live register increased from 163,000 in June 2006 to 458,000 in June 2011. By June 2012, it had dropped slightly to 452,000.

**21.8** From 2009 onwards, Jobseekers Allowance claims continued to increase as individuals exhausted their entitlement to Jobseekers Benefit — up to June 2008, Jobseekers Allowance claimants accounted for just over half of all live register figures but by June 2012, this had increased to 71%.

**21.9** Overall, an 8% expenditure reduction is being projected in 2012 in relation to the provision of supports to people in the labour market. The bulk of this reduction relates to a €332 million projected decrease in expenditure on Jobseekers payments. This is based on

- a projected 4.5% decrease in the numbers of people claiming Jobseekers payments. The average weekly live register figure for 2012 is estimated at 425,000 as compared with 445,000 in 2011. The average live register figures January to June 2012 was 438,000.
- a reduction in the base payment entitlement from a six-day week to a five-day week, with effect from 25 July 2012, affecting part time or casual workers who account for about one fifth of those on the live register.

### *Support For Families and Children*

**21.10** Expenditure in relation to support for families and children decreased by 3.4% between 2010 and 2011 and a further decrease of 2.8% is projected in 2012. The decrease is principally accounted for by reductions in one parent family payment, Supplementary Welfare Allowance and treatment benefit.

## Welfare Funding

**21.11** The consolidated welfare expenditure includes expenditure under both the Department's Vote and the SIF, and welfare expenditure met from other Votes. By 2011, the Department was responsible for almost all welfare expenditure, following the transfer of responsibility for various schemes from the HSE and the Department of Children and Youth Affairs. Figure 21.3 summarises social welfare expenditure by source for the period 2008 to 2012.

**Figure 21.3 Source of Welfare Expenditure**

| Source of Welfare Funding | 2008 | 2009 | 2010 | 2011 | 2012 Est |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Social Insurance Fund | 8,400 | 9,783 | 9,458 | 9,004 | 8,903 |
| **Voted Expenditure** | | | | | |
| Vote 38 Social Protection | 9,192 | 10,503 | 11,051 | 11,057 | 10,719 |
| Vote 40 Health Service Executive | 120 | 103 | 11 | 11 | 9 |
| Vote 41 Children and Youth Affairs | 480 | 231 | 11 | 1 | 1 |
| Expenditure under other votes | 94 | 99 | 64 | 39 | 48 |
| Notional rent on State owned property | 17 | 16 | 15 | 10 | 10 |
| **Total Funding** | **18,303** | **20,735** | **20,610** | **20,122** | **19,690** |

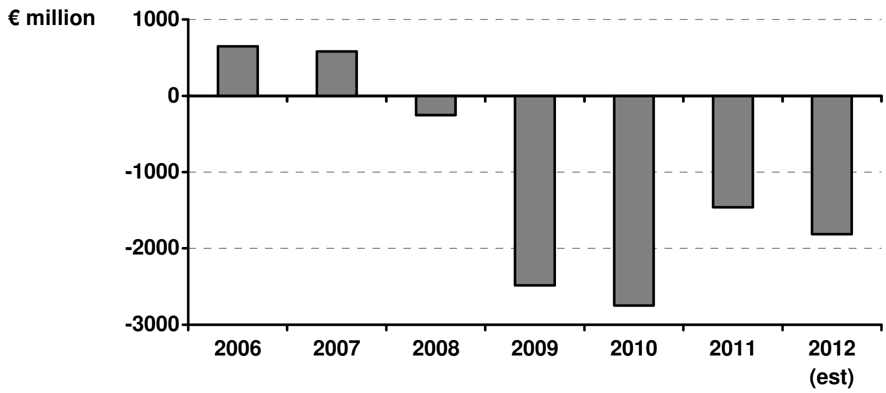
Source: Audited Appropriation Accounts 2008-2011; Audited Social Insurance Fund Financial Statements 2008-2011; Estimates for 2012 as voted by Dáil Éireann

### *Social Insurance Fund Deficit*

**21.12** PRSI contributions collected by the Revenue Commissioners from employers, employees and self-employed persons are paid into the SIF. Benefits under social insurance schemes are paid out of the SIF's current account. Under the Social Welfare Consolidation Act 2005, there is provision for the Exchequer to fund any deficit. Conversely, when receipts exceed payments, there is provision that funds that are not required to meet current expenditure are transferred to an investment account, managed and controlled by the Minister for Finance.

**21.13** Since 2008, expenditure has exceeded the income received in the SIF (See Figure 21.4). The shortfall was met until May 2010 from accumulated reserves and since then, the shortfall has been met by Exchequer subvention. In 2011, a total of €1.46 billion was paid from the Exchequer to the SIF. There is provision for a subvention of €1.82 billion in 2012.

**Figure 21.4 Surplus/(Deficit) on Social Insurance Fund 2006 to 2012**




Source: Social Insurance Fund Financial Statements 2006-2011; Estimated subvention to the Social Insurance Fund in 2012 provided for in Vote 37: Social Protection

### *Actuarial Review of the Social Insurance Fund*

**21.14** The Minister for Social Protection is required by law to commission and publish actuarial reviews of the financial condition of the SIF at least every five years.[2] The review of the Fund's position as at 31 December 2010 included projections from 2011 to 2066.[3]

**21.15** The main conclusion of the review was that the Fund's current deficit is projected to further deteriorate. It projected that the 2011 deficit will double to €3 billion by 2019 and will have increased to €26 billion a year by 2066. The projected Fund receipts and expenditure are shown in Figure 21.5.

**21.16** In the medium to long term, pension related expenditure was projected to become the most predominant component of the Fund expenditure, rising from 57% in 2011 to 85% in 2066. This projected increase is attributed to Ireland's rapidly changing population structure and in particular the large rise in the over-65 year old population, which is projected to increase from 11% of the total population in 2010 to 15% by 2020 and 24% by 2060.

**21.17** The actuarial review included an analysis of the sensitivity of the deficit projections to changes in the key underlying assumptions (see Figure 21.5). Changes in the assumptions for real earnings growth and life expectancy had the most significant impact on the projected SIF shortfall.

- The review assumed that real earnings would grow significantly, with the base case assumption including real earnings growth of 1.5% for the majority of the projection period. As shown in Figure 21.5, if real earnings grow by just 1% per annum, the projected deficit in 2066 is €16 billion rather than the €26 billion deficit projected under the base case.
- Based on the CSO Population and Labour Force Projections (2011 to 2041), the review assumed that life expectancy would increase by 7.4 years for males and 6 years for females between 2010 and 2060. When smaller increases in life expectancy were assumed (5.4 years for males and 5.5 years for females) the deficit for 2066 was projected at €21 billion. The lower rates of improvement in life expectancy were those used in the European Commission's 2012 Ageing Report.

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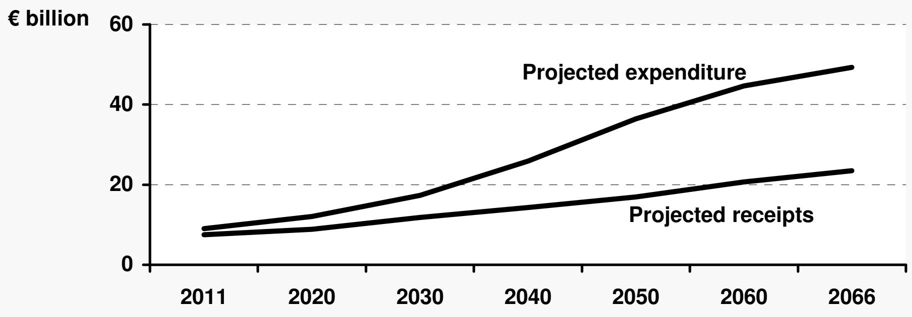
2 Section 10 of the Social Welfare Consolidation Act 2005.

3 Laid before the Houses of the Oireachtas in August 2012.

**Figure 21.5 Impact of Key Assumptions on 2010 Actuarial Review Projections**

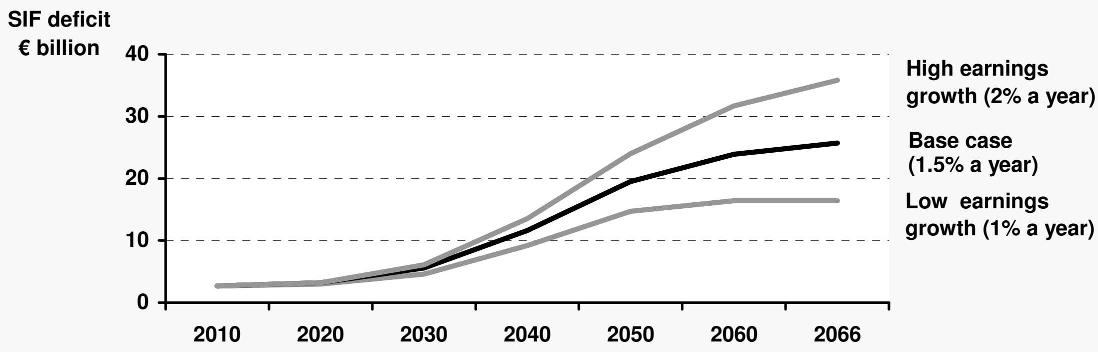
**Projected SIF Receipts and Expenditure, 2011 to 2066**




The actuarial review adopted the following key assumptions.[a]

- Real annual GNP growth was assumed to be 1.4% in 2013 and between 1.7% and 3.3% thereafter.
- The annual rate of inflation was assumed to be between 1.3% and 1.8% up to 2015 and 2% thereafter.
- Life expectancy was assumed to increase by 7.4 years for males and 6 years for females between 2010 and 2066.
- Real earnings growth is defined as income after taking into consideration the effects of inflation on purchasing power. In this regard, little change was projected to 2015. It was assumed that real earnings would grow at a rate of 1.8% a year between 2016 and 2020, 1.6% a year from 2021 to 2025 and 1.5% a year for the remainder of the projection period. It was assumed that most benefits will increase in line with real earnings growth.
- Employment growth was estimated at 0.9% a year between 2016 and 2020, between 1.5% and 1.7% a year between 2020 and 2030 and between 0.2% and 0.8% a year thereafter.
- The pensioner support ratio was projected to decrease from 5.3 workers for every individual over pension age in 2010 to 2.1 workers per pensioner by 2060. (As a result, there would be relatively fewer contributors to the Fund.)

**Sensitivity of Projected Deficit to assumptions on Real Earnings Growth**




Source: Actuarial Review of the Social Insurance Fund as at 31 December 2010 (August 2012)

Note: a The macroeconomic assumptions for the short term projections (up to 2015) were those set out by the Department of Finance in the stability programme update in April 2012. Assumptions relating to periods after 2015 were principally derived from the European Commission's 2012 Ageing Report, the CSO Population and Labour Force Projections (2011 to 2041) and International Monetary Fund projections.

## Employment Schemes

**21.18** In 2011, just under €1 billion was spent on employment support and activation measures. Following a Government decision on 27 April 2010, responsibility for certain employment schemes transferred to the Department. The Department took over responsibility for the FÁS employment programmes and services from 1 January 2011. As a result, the majority of expenditure on employment supports is now also met from the Department's vote. Details of expenditure on employment schemes for the period 2008 to 2012 are set out in Figure 21.6.

**Figure 21.6 Expenditure on Employment Schemes**

| **Expenditure Category** | **2008** | **2009** | **2010** | **2011** | **2012 Est** |
|---|---|---|---|---|---|
| | **€m** | **€m** | **€m** | **€m** | **€m** |
| FÁS - Administration and General Expenses | 150 | 150 | 133 | 129 | 83 |
| Employment Programmes and Integration Support | 533 | 508 | 460 | 465 | 366 |
| Employment Support Services | 161 | 194 | 278 | 343 | 537 |
| Employment Subsidy Scheme | — | 18 | 94 | 4 | — |
| Community Services Programme | 47 | 50 | 45 | 45 | 45 |
| **Total Expenditure** | **891** | **920** | **1,010** | **986** | **1,031** |
| ***Funded through*** [a] | | | | | |
| Vote 37 Social Protection | 161 | 194 | 286 | 856 | 924 |
| Vote 32 Jobs, Enterprise, and Innovation | 683 | 676 | 288 | 4 | — |
| Vote 26 Education and Skills | — | — | 399 | 126 | 107 |
| Vote 25 Environment, Community, and Local Government | 47 | 50 | 37 | — | — |
| **Total Expenditure** | **891** | **920** | **1,010** | **986** | **1,031** |

Source: Annual expenditure data is based on audited appropriation account figures (2008 to 2011); estimate for 2012 as voted by Dáil Éireann

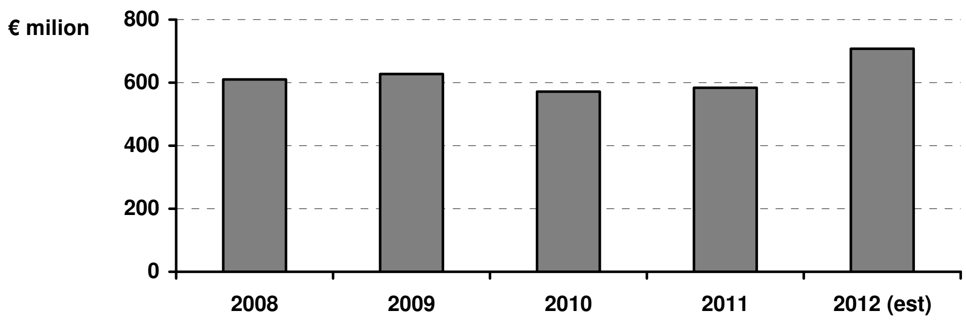
Note: a Historic provisions have been reclassified in line with the alterations in Department functions in 2010.

## Administration Costs

**21.19** Figure 21.7 shows the trend in the Department's administration costs from 2008 to 2012.

**21.20** There is a projected increase of 21% in 2012 for expenditure on administration, management and research. This is mainly due to the transfer of staff and associated budgets of the Community Welfare Service from the Health Service Executive to the Department on 1 October 2011 and FÁS Employment and Community Services staff into the Department on 1 January 2012.

**Figure 21.7 Trend in Administration Costs, 2008 to 2012 (est)**




Source: Annex A

## Conclusions and Recommendation

**21.21** Around €20.1 billion was incurred on welfare measures in 2011 – about 3% below the peak expenditure in 2009. However, there were more substantial changes in the funding for key categories of welfare recipients over the same period. Most volatility has been in relation to spending on income support for people in the labour market, reflecting high levels of Jobseekers claims. It is projected that expenditure on welfare to that group will drop further in 2012.

**21.22** The 2012 deficit on the SIF is expected to be €1.82 billion, some 25% above that which occurred in 2011. An actuarial review of the Fund, as at 31 December 2010, projected a substantial deterioration in the shortfall between receipts and expenditure in the long term.

**21.23** Long-term projections of SIF receipts and expenditure are necessarily based on a set of assumptions about uncertain future events. The 2010 actuarial review included assumptions in relation to economic growth, earnings growth, life expectancy and a range of other demographic factors. Projections in relation to the Fund shortfall are sensitive to assumptions in relation to real earnings growth and life expectancy, which have a significant effect on the projection result.

**Recommendation 21.1:** Given the importance of the actuarial projections of SIF receipts and payments for pensions policy, the basis for assumptions included in the statutory pensions review, and in particular the assumptions in relation to real earnings growth and life expectancy, should be subject to detailed analysis and testing, including multi-variable (scenario) testing.

**Accounting Officer's Response:** Agreed in part. The actuarial review report notes that the projections made are based on a wide range of assumptions about the future which are unlikely to be borne out in reality. The report includes an analysis of the sensitivity of projections to changes in macroeconomic assumptions including real earnings growth. The statutory requirement to undertake actuarial reviews at five yearly intervals provides an opportunity to revisit the underlying assumptions.

## Annex A Welfare Payments by Scheme and Category[a]

| Expenditure Category[b] | 2008 | 2009 | 2010 | 2011 | 2012 Est |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| **Support for Families and Children** | | | | | |
| Child Benefit | 2,454 | 2,495 | 2,213 | 2,076 | 2,079 |
| Child Related Payments[c] | 1,342 | 1,392 | 1,371 | 1,379 | 1,389 |
| One Parent Family Payment | 1,067 | 1,121 | 1,110 | 1,089 | 1,063 |
| Supplementary Welfare Allowance | 867 | 1,032 | 1,009 | 962 | 775 |
| Carer's Payment | 484 | 533 | 528 | 532 | 544 |
| Maternity Benefit | 316 | 331 | 324 | 309 | 312 |
| Treatment Benefit | 97 | 100 | 52 | 23 | 21 |
| Family Income Supplement | 170 | 167 | 186 | 205 | 199 |
| Respite Care Grants | 98 | 99 | 128 | 130 | 132 |
| School Meal Grants | 32 | 35 | 35 | 35 | 35 |
| Bereavement Grant[c] | 24 | 24 | 25 | 19 | 19 |
| Deserted and Prisoner's Wives | 111 | 106 | 98 | 90 | 86 |
| Adoptive Benefit | 2 | 1 | 1 | 1 | 1 |
| Early Childcare Payments | 480 | 231 | 11 | 1 | 1 |
| **Total Expenditure** | **7,544** | **7,667** | **7,091** | **6,851** | **6,657** |
| **Support for People in the Labour Market** | | | | | |
| Jobseeker's Benefit | 929 | 1,734 | 1,285 | 927 | 773 |
| Jobseeker's Allowance | 1,159 | 2,005 | 2,809 | 2,975 | 2,797 |
| Illness Benefit | 852 | 920 | 943 | 876 | 847 |
| Occupational Injury Benefit[c] | 112 | 112 | 105 | 102 | 98 |
| Partial Capacity Benefit[d] | — | — | — | — | 13 |
| Farm Assist Scheme | 85 | 93 | 111 | 114 | 115 |
| Redundancy and Insolvency | 202 | 350 | 490 | 326 | 247 |
| Health and Safety Benefit | 1 | 1 | 1 | 1 | 1 |
| Rural Social Scheme | 49 | 48 | 44 | 47 | 46 |
| **Total Expenditure** | **3,389** | **5,263** | **5,788** | **5,367** | **4,937** |
| **Support for people with Disabilities** | | | | | |
| Disability Allowance | 1,053 | 1,143 | 1,110 | 1,089 | 1,078 |
| Invalidity Pensions | 686 | 682 | 640 | 607 | 628 |
| Blind Pensions | 16 | 16 | 16 | 16 | 16 |
| Domiciliary Care Allowance | 110 | 123 | 96 | 100 | 104 |
| Blind Welfare Allowance[e] | 11 | 11 | 11 | 11 | 9 |
| **Total Expenditure** | **1,875** | **1,975** | **1,873** | **1,822** | **1,834** |

| Expenditure Category[b] | 2008 | 2009 | 2010 | 2011 | 2012 Est |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| **Support for Older People** | | | | | |
| State Pensions | 4,183 | 4,473 | 4,537 | 4,727 | 4,880 |
| Pre-retirement Allowances | 118 | 97 | 78 | 60 | 48 |
| Free Travel | 68 | 73 | 74 | 76 | 77 |
| Fuel Allowance | 176 | 200 | 228 | 266 | 214 |
| Electricity Allowance[f] | 157 | 166 | 172 | 179 | 148 |
| Telephone Allowance[f] | 112 | 120 | 119 | 112 | 108 |
| Free TV licence[f] | 56 | 56 | 58 | 58 | 59 |
| Natural/Bottled Gas Allowances[f] | 16 | 18 | 20 | 21 | 19 |
| **Total Expenditure** | **4,885** | **5,203** | **5,286** | **5,498** | **5,554** |
| **Administration, Management, Research etc** | | | | | |
| Administration and management | 518 | 543 | 514 | 487 | 601 |
| Agency and service grants | 86 | 81 | 55 | 45 | 47 |
| Notional rents | — | — | — | 10 | 10 |
| Expenditure under other votes | — | — | — | 39 | 48 |
| Other | 7 | 3 | 3 | 2 | 2 |
| **Total Expenditure** | **610** | **627** | **572** | **584** | **708** |
| **Expenditure on all Schemes[g]** | **18,303** | **20,735** | **20,610** | **20,122** | **19,690** |

Notes:

a Annual expenditure data is based on audited appropriation account figures (2008 to 2011) and audited SIF data (2008 to 2011). Estimates for 2012 as voted by Dáil Éireann.

b Employment Support Services, previously included in Support for People in the Labour Market, now included in Figure 21.6 – Expenditure on Employment Schemes.

c Previous years figures have been restated to take account of the re-categorisation of schemes.

d Partial Capacity Benefit is a payment made to insured people after a Medical Assessor of the Department assesses the restriction on their capacity to work.

e While a Government decision was taken in 2006 to transfer responsibility for the Blind Welfare Allowance schemes from the HSE to the Department, a date has not yet been set for this transfer.

f These four categories are now included in one category called Household Benefits Package as per the 2012 Estimates.

g Due to rounding, certain scheme expenditures may not sum to the category totals reported.

# 22 Welfare Overpayment Debts

**22.1** The Department of Social Protection (the Department) makes welfare payments to about 1.4 million people each week. Its overall budget for 2012 is approximately €21 billion.

**22.2** Cases of welfare payments in excess of entitlement may come to light where a claimant provides new information voluntarily or as a result of control activity by the Department. When an excess payment is identified, the payment is terminated or the amount is reduced to the correct level. A legally-enforceable overpayment debt may be recorded.

**22.3** The Department's Fraud Initiative 2011-2013, published in September 2011, recognised that an effective deterrence regime is important. It recognised that if a perception exists that the likely penalty or sanction for committing fraud is minimal relative to the potential gain, fraudulent activity will not be discouraged and is likely to continue. The Fraud Initiative noted that effective debt recovery is an integral part of the deterrent regime as it creates a climate where people who have received overpayments are aware of their responsibility to repay and that the Department will take appropriate steps to effect recovery of the debt.

**22.4** This chapter examines the Department's effectiveness in accurately recording overpayment debts, recovering amounts due and prosecuting cases where there is evidence of significant fraud. The management information available to enable the Department to assess the effectiveness of its efforts to recover overpayments was also examined.

**22.5** The audit fieldwork consisted of a review of the Department's policies in relation to the recording, recovery, cancellation and write-off of overpayment debt. Two local offices – Clonmel and Navan Road (Dublin) – and the Central Overpayment and Debt Management Unit were visited to examine implementation of the Department's debt management policy. In addition, the number of overpayment cases resulting in prosecutions and the outcomes achieved were examined.

## Overpayment Debts Outstanding

**22.6** The value of welfare overpayments recorded has increased steadily since 2007 (see Figure 22.1). Recovery of debt has also increased but, on an annual basis, the value of new overpayments exceeds the amount recovered. As a result, the total stock of overpayment debt due for recovery has increased from €232 million at the end of 2007 to €343 million at the end of 2011.

**Figure 22.1 Movement in the Department's debt balances 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| | €m | €m | €m | €m | €m |
| Outstanding debts at 1 January | 149.5 | 232.1 | 256.6 | 276.6 | 314.8 |
| Prior year adjustments | 61.6[a] | 1.8 | (1.0) | — | — |
| Overpayment debts recorded | 50.5 | 55.6 | 66.8 | 83.4 | 92.4 |
| Debts cancelled | (1.4) | (1.1) | (1.3) | (2.2) | (6.7) |
| Debts written off | (4.3) | (4.9) | (11.6) | (8.5) | (5.6) |
| **Total recoverable debts** | **255.9** | **283.5** | **309.5** | **349.3** | **394.9** |
| Debts recovered [b] | (23.8) | (26.9) | (32.9) | (34.5) | (51.5) |
| **Outstanding debts at 31 December** | **232.1** | **256.6** | **276.6** | **314.8** | **343.4** |

Source: Department of Social Protection

Notes: a Adjustments were required after the introduction of the Department's Overpayment Debt Management system in November 2006. The adjustments related to debts that had previously been written off for accounting purposes (€44 million) but were considered to be potentially recoverable and overpayments not previously recorded centrally (€17 million).

b Debts recovered through cash received, or welfare payments withheld.

**22.7** 72% of the value of overpayment debts recorded in 2011 were in relation to social assistance payments. In total, overpayments were recorded in relation to over 63,000 claimants in 2011 (See Figure 22.2).

**Figure 22.2 Number and Value of Overpayments 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| **Value of overpayments recorded** | **€m** | **€m** | **€m** | **€m** | **€m** |
| Social insurance | 17.7 | 18.5 | 20.3 | 27.7 | 26.0 |
| Social assistance | 32.8 | 37.1 | 46.5 | 55.7 | 66.4 |
| **Total** | 50.5 | 55.6 | 66.8 | 83.4 | 92.4 |
| **Number of overpayment cases** | | | | | |
| Social insurance | 26,250 | 29,490 | 24,630 | 26,300 | 23,750 |
| Social assistance | 20,150 | 19,610 | 17,880 | 26,300 | 39,560 |
| **Total** | **46,400** | **49,100** | **42,510** | **52,600** | **63,310** |

Source: Department of Social Protection

### *Causes of Overpayments*

**22.8** The Department distinguishes between overpayments it attributes to fraud or suspected fraud, client or departmental error, and Estate cases. Overpayments in Estate cases arise where mandatory returns to the Department from the estates of deceased individuals indicate that the individual may have received welfare payments in excess of entitlement. The breakdown of overpayments over the period 2007 – 2011 is shown in Figure 22.3.

**Figure 22.3 Breakdown of Recorded Overpayments 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 | |
|---|---|---|---|---|---|---|
| **Value of overpayments recorded** | **€m** | **€m** | **€m** | **€m** | **€m** | **%** |
| Client error | 19.7 | 24.1 | 31.5 | 42.4 | 40.5 | *44* |
| Fraud or suspected fraud | 21.4 | 21.1 | 20.7 | 25.9 | 34.9 | *38* |
| Estate cases | 6.7 | 7.3 | 10.6 | 9.9 | 11.5 | *12* |
| Departmental error | 2.7 | 3.1 | 4.0 | 5.2 | 5.5 | *6* |
| **Total** | **50.5** | **55.6** | **66.8** | **83.4** | **92.4** | ***100*** |

Source: Department of Social Protection

## Accurate Recording of Overpayments

**22.9** When an overpayment is detected, it is recorded on the Department's payment system and the Overpayment Debt Management system (ODM) — a separate computer system introduced in 2006 to manage overpayment debt.

**22.10** The extent to which overpayments were accurately recorded on the Department's payment system and on ODM was examined on a sample basis. In general, the cases examined in both local offices were accurately recorded on both systems.

**22.11** In Navan Road, a number of overpayments in respect of Supplementary Welfare Allowance (SWA) had been recorded on the Department's payments systems but had not been recorded in ODM. These accounted for 14% of the value of the sample cases examined. The Department stated that prior to October 2011, the Community Welfare Service, which had responsibility for SWA, did not have direct access to ODM. The practice was for Community Welfare Officers (CWOs) to forward details of SWA overpayments to the Department's local offices or to the Central Overpayment Debt Management Unit for upload to ODM, but this did not happen in all cases. The Accounting Officer noted that the non-recording of overpayment debts on ODM would not have affected the Department's efforts to recover the overpayment.

**22.12** The Accounting Officer stated that since the integration of the Community Welfare Service into the Department (in 2011), work has been ongoing to ensure that all former CWOs fully adhere to the Department's debt recording procedures. Divisional managers are also working to ensure that all future SWA overpayment debt is recorded in a more timely manner.

**22.13** A sample of 60 cases with overpayment balances recorded on ODM was also examined. It was found that all the overpayments in that sample were also recorded on the Department's payments system.

## Recovery of Overpayments

**22.14** The Department seeks to recover overpayments in a variety of ways, and takes account of whether the individual continues to receive welfare payments. The methods used include lump-sum payments from the claimant, standing orders, the withholding of arrears and/or deductions from future welfare payments.

**22.15** Recovery of overpayments is attempted in the first instance by local offices and scheme headquarters. Where an individual is claiming welfare payments, the Department can seek to recover the overpayment via a deduction from future entitlements. An overpayment on a scheme may be recovered from future payments under any other scheme, with the exception of Child Benefit. Deductions from Child Benefit may only be made for Child Benefit overpayments. In order not to impose undue hardship, the Department does not recover overpayment debts from bereavement or respite care grants.

**22.16** There is a statutory requirement that no deduction to recover an overpayment, regardless of the cause, will reduce the payment to an individual below the SWA rate appropriate to his/her circumstances. Consequently, the maximum amount the Department can usually recover from individuals, is the difference between their current entitlement and the applicable SWA rate. Larger deductions can be applied only if agreed in writing between the Department and the individual.

**22.17** Where the individual is no longer claiming welfare payments, the Department seeks to agree a recovery plan. In cases where the debt is over €1,000 and a recovery plan cannot be agreed, the overpayment is referred to the Department's Central Overpayment and Debt Management Unit.

**22.18** In cases where all recovery options have been pursued (by the local office and the Central Overpayment and Debt Management Unit) and the outstanding debt is in excess of €5,000, the overpayment is referred back to the local office so that legal proceedings can be considered.[1] Where the debt is less than €5,000, a letter is issued to the debtor advising that the debt will remain on the system and will be deducted from any future entitlements.

**22.19** The Department stated that its recovery procedures are the same irrespective of the cause of the overpayment. It does not distinguish in its approach between overpayment debts arising as a result of client or departmental error and those arising as a result of fraud. However, in cases of serious fraud, consideration is given to criminal prosecution. The amounts recovered by recovery method are set out in Figure 22.4.

**Figure 22.4 Overpayments recovered by method of recovery 2007 to 2011**

| Recovery Method | 2007<br>€m | 2008<br>€m | 2009<br>€m | 2010<br>€m | 2011<br>€m |
|---|---|---|---|---|---|
| Welfare benefits withheld | 11.2 | 11.3 | 16.9 | 19.7 | 24.2 |
| Cash from estate cases [a] | 4.8 | 7.1 | 8.7 | 7.2 | 14.1 |
| Other cash receipts | 7.8 | 8.5 | 7.3 | 7.6 | 13.2 |
| **Total recovered** | **23.8** | **26.9** | **32.9** | **34.5** | **51.5** |

Source: Department of Social Protection

Note: a Direct payments received in relation to Non-Contributory State Pension overpayments. Most of these overpayments are identified following the deaths of claimants.

1 This includes civil proceedings to recover debt and criminal prosecutions in the case of fraud.

### *Recovery Rate*

**22.20** The Department's success in recovering overpayments can be monitored in terms of amounts recovered each year relative to the total debt due for recovery in the year. Recoveries in 2011 amounted to 13% of the total recoverable debt. Between 2007 and 2010, the Department had succeeded in recovering between 9% and 11% of the total debts listed for recovery.

**22.21** A better measure of the effectiveness of debt recovery is the percentage of debt for a specific period which is recovered. As a result of current reporting limitations in the ODM system, the Department was not in a position to provide a report showing for each year, the total overpayments recorded, the amounts recovered, cancelled or written off to date and the current balance owing. However, the Department was able to provide data showing the current balance outstanding in relation to overpayments raised in the period 2007 to 2011. How debts were cleared in the intervening period (recovered, cancelled or written off) was not identifiable.

**22.22** An estimated 59% of the overpayments recorded during 2011 remained outstanding at the end of June 2012. The proportion of overpayment debt outstanding in respect of earlier years was progressively lower, which is consistent with the longer periods for recovery. Notwithstanding this, the estimated proportion of overpayment debt recorded during 2007 that remained outstanding some five years later was significant, at 39% (see Figure 22.5).

**22.23** Data provided by the Department indicated that approximately 26% of the debt at the end of June 2012 was less than 18 months old, with 27% aged between 18 months and five years and the remaining 47% being greater than five years old.

**Figure 22.5 Aged Analysis of Overpayment Debt, 2007 to 2011**

| | **Overpayments recorded** | **Balance outstanding (June 2012)** | **Proportion outstanding** |
|---|---|---|---|
| | **€m** | **€m** | **%** |
| **2007** | 50.5 | 19.5 | 39% |
| **2008** | 55.6 | 23.5 | 42% |
| **2009** | 66.8 | 31.1 | 47% |
| **2010** | 83.4 | 42.2 | 51% |
| **2011** | 92.4 | 54.7 | 59% |

Source: Comptroller and Auditor General analysis of overpayment data supplied by the Department

### *Recovery of Overpayments at Local Offices*

**22.24** Thirty overpayments recorded in Clonmel and thirty three in Navan Road were examined to review the success of the local offices in recovering overpayment debts.[2] Compliance with the Department's debt recovery procedures was also examined. At April 2012, the performance of the two local offices was as follows

- The Clonmel local office had recovered 21% of the value of overpayments raised in the sample cases and had active recovery plans in place in relation to a further 24%. No recovery plans were yet in place in respect of the remaining 55% of overpayments.
- At Navan Road, 12% of the value of overpayments in the sample cases had been recovered and active plans were in place to recover another 27%. It was found that no recovery plans were in place in respect of 59% of overpayments. The remaining 2% of overpayments had been cancelled.

**22.25** Cases where an overpayment balance was outstanding and where no active recovery plan was in place were examined, to assess the efforts made by the local offices to recover the overpayment and to review compliance with the Department's recovery guidelines. The results are set out in Figure 22.6.

**22.26** In relation to the 15 cases examined in Clonmel where a recovery plan was not in place, it was found that the local office had complied with the Department's guidelines on overpayment recovery in respect of 20% of the value of overpayments raised. In almost two thirds of the cases, overpayments had not been referred to the Central Overpayments and Debt Management Unit (CODMU), even though the debt exceeded €1,000 and the individual was no longer claiming welfare payments. In the remaining 16% of cases, the individual was in receipt of welfare payments but no deductions were being applied to recover the overpayment debt.

**Figure 22.6 Status (April 2012) of Sample Cases where no Recovery Plan was in place**

| | **As proportion of overpayment value** | |
|---|---|---|
| | **Clonmel** | **Navan Road** |
| Overpayment debt under appeal | 6% | — |
| Case referred to CODMU[a] (debt exceeding €1,000) | 6% | — |
| Case referred to Central Prosecutions | 8% | — |
| Case not referred to CODMU (debt below €1,000) | — | 1% |
| **Recovery actions compliant with guidelines** | **20%** | **1%** |
| Case not referred to CODMU (debt exceeding €1,000) | 64% | 98% |
| Claimant receiving current payments with no deduction | 16% | 1% |
| **Recovery actions not compliant with guidelines** | **80%** | **99%** |

Source: Comptroller and Auditor General audit testing.

Note: a The Central Overpayments and Debt Management Unit.

2 Eight cases related to overpayments in 2011, 45 related to 2010 and ten related to earlier years.

**22.27** In relation to the 18 cases examined at Navan Road where a recovery plan was not in place, it was found that departmental guidelines had been complied with in respect of just 1% of the value of overpayments raised. Almost all of the non-compliance related to instances where overpayments in excess of €1,000 had not been referred to the CODMU.

**22.28** During the audit, staff in Navan Road local office indicated that departmental guidelines relating to the recovery of overpayments had not been complied with because they had not been aware of the various guidelines and applicable circulars.

**22.29** The Clonmel local office has introduced its own system, within the framework specified in the Department's guidelines and circulars, to increase its effectiveness in managing overpayments. A 'red card' is attached to all case files where there has been an overpayment. The card details the overpayment amount, the date the overpayment arose and details of the recovery plan, if one is in place. This card remains in place until the overpayment has been fully recovered. This is a simple but effective way of highlighting claims with an overpayment debt and mitigates the risk of such files being destroyed in error.[3]

### *Recovery by the Central Overpayments and Debt Management Unit*

**22.30** The total number of cases referred from all local offices to the CODMU is set out in Figure 22.7.

**Figure 22.7 Overpayment cases referred to CODMU 2008 to 2011**

| | Number of cases |
|---|---|
| **2008** | 180 |
| **2009** | 258 |
| **2010** | 182 |
| **2011** | 244 |

Source: Department of Social Protection

**22.31** According to the Department's guidelines, cases should be referred to the CODMU if the overpayment is in excess of €1,000, the individual is no longer receiving welfare payments and a recovery plan cannot be agreed. The Department stated that the number of cases fulfilling these criteria in 2011 was approximately 4,500. The number of cases actually referred to the CODMU during 2011, at 244, appears low in comparison, about one in 20 of the eligible cases.

**22.32** As part of this examination, the number of cases referred to CODMU in 2011 by each of the Department's 61 local offices was reviewed. It was found that 35 local offices did not refer any cases to CODMU in 2011, 24 offices referred between one and ten cases and two offices referred more than ten cases.

3 The Department's policy in relation to file retention outlines general considerations to be taken into account in the decision to destroy files. Subject to the general considerations set out in the policy, the decision is at the discretion of individual scheme managers. The policy is not explicit in relation to the appropriate retention period for case files where there has been an overpayment.

**22.33** The 15 largest cases (totalling €800,000 in value) referred to the CODMU in 2011 were reviewed to examine its success in recovering amounts due and its recovery efforts in relation to those cases where a recovery plan was not agreed. It was found that the CODMU had active recovery plans in place in relation to five overpayments, accounting for 27% of the value of overpayments in the cases reviewed. At 31 December 2011, a total of €1,400 had been recovered in respect of the 15 cases reviewed — this represents less than 0.2% of the total value of the overpayments recorded.

**22.34** There were ten cases where the CODMU had no active recovery plan in place at end December 2011.

- In one case, involving a debt of €55,000, the CODMU sent a letter to the claimant in October 2011 but has not taken any further recovery action. The Department stated that no further action has been taken in this instance as the customer is querying the nature of the overpayment and the case has been referred back to the scheme area for further investigation. The Accounting Officer informed me that the status of the case was reviewed in May 2012 and July 2012 and is still under investigation. She stated that it is normal practice in such cases to await the outcome of the investigation, before taking any further debt recovery action.
- In another case, involving a debt of €38,000, a recovery plan was agreed and put in place but then the payments ceased. Letters were sent in September 2011 and January 2012 and cash amounts of €100 were received in response to each. The Department stated that it is the practice for some individuals to make irregular payments and that, in this case, a statement had been sent requesting the individual to continue making regular payments. The Accounting Officer noted that normal practice had been followed in this case and that a further request for recovery issued in May 2012.
- In the remaining eight cases, totalling €490,000 (an average of over €61,000 per case), the CODMU had followed the prescribed recovery procedures but had not succeeded in agreeing a recovery plan. Over one third of these overpayments, in value terms, was attributed to suspected fraud cases and the remainder was classified as due to client or departmental error.

**22.35** In relation to the three cases attributed to fraud, amounting to €171,000, the CODMU noted that

- One overpayment to the value of €89,000 had been referred back to the scheme area for legal proceedings to be considered. The Department's Central Prosecutions Service subsequently deemed that the case was not suitable for legal proceedings. The Accounting Officer stated that the Department will nevertheless continue to pursue the debt.
- In another case (involving a debt of €44,000), the original overpayment had amounted to €95,000 but €51,000 had been written off. The matter is being further reviewed by the CODMU.
- In the remaining case (involving €38,000), it was confirmed that an amount of €25 had been recovered, but the Department stated that recovery action had been suspended while it was being established whether the individual had made any more repayments which the CODMU had not been notified of. The Accounting Officer stated that this customer is continuing to make cash payments on an irregular basis and is being monitored by the CODMU.

**22.36** In relation to the five cases attributed to client or departmental error (with a combined value of €319,000), the CODMU noted that

- Two cases were referred back to the scheme area and it was decided that they were not suitable for legal proceedings. The Accounting Officer stated that the Department will nevertheless continue to pursue the debt.
- In another case, the whereabouts of the customer is not known, so recovery action cannot be taken.
- Of the remaining two cases, one is being pursued via a request for recovery sent to the welfare system in another state and the other is being queried with the relevant branch office. The branch office is seeking deductions from the claimant's partner who is in receipt of Jobseekers Allowance and is now being paid an adult dependent allowance in respect of the claimant.

### *Cancellation and Write-Off of Overpayments*

**22.37** The Department can decide to cancel or to write off overpayment debts. Overpayments can be cancelled in instances where it is deemed by a deciding officer or appeals officer that no overpayment actually occurred or that an overpayment was recorded in error. Overpayment debts can be written off (in accordance with relevant legislation) where it is deemed that there is no realistic prospect that the debt will be repaid. [4] Such cases can arise where an individual dies without leaving an estate, pursuit of an overpayment becomes statute barred, or where an overpayment debt is small and arises from an error by the Department. [5]

**22.38** Departmental guidelines provide examples of instances where overpayments may be cancelled or written off. The current system does not provide for the approval or review of a decision to cancel or write off overpayment debts. There is no segregation between the decision to cancel or write off an overpayment and the execution of that decision. There is no provision for regular review by management of cancellations and write-offs. However, local staff stated during the audit that write-offs and cancellations can only be recorded by officers with supervisory access on ODM – usually officers at the level of Staff Officer or higher.

**22.39** Files for a sample of cases in the two local offices visited were examined to establish whether adequate evidence was held in respect of the cancellation or write-off of overpayment debts. The majority of cases selected referred to overpayment debts written off or cancelled in the period 2009 to 2011.

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4 Provided for under Article 246 (5) of SI 142 of 2007.

5 When an overpayment arises, the Department must inform the individual within a six-year timeframe in order for recovery to be pursued.

**22.40** In relation to the sample of files reviewed at the Clonmel local office (30), the results were

- Documentation on 16 of the files examined provided adequate evidence in relation to the decision to cancel or write off the overpayment.
- In eight cases, there was inadequate documentation on file to explain the reasons for the decision to cancel or write off the overpayment.
- In three cases, review of the supporting documentation showed that no cancellation or write-off had actually taken place. The reductions in the overpayment balance actually arose from amounts being recovered from the customer but the transaction was incorrectly recorded on ODM as a cancellation or write off.
- Three files were in other offices and not available for review.

**22.41** In the Navan Road local office, the results of a sample of files reviewed (25) were

- Documentation on ten of the files provided adequate evidence in relation to the decision to cancel or write off the overpayment.
- In five cases, there was no documentation on file relating to the original overpayment or the decision to cancel it or write it off. In one of these cases, the claimant was not in receipt of welfare payments during the period in respect of which the overpayment was recorded on ODM.
- In one case, an overpayment (of €1,326) had been written off and a second overpayment (of €428) recorded but there was no documentation on file to explain the transactions.
- Six files were in other offices and were not available for review.
- Three files had been destroyed.

### *Performance Measurement*

**22.42** The ODM system introduced in November 2006 is the primary system for recording and managing the Department's overpayment debt. In order to be an effective management tool, a debt management system should have a number of features including an ability to produce management information to assist in evaluating effectiveness in recovering overpayment debt, and reports showing the total overpayment debt segmented according to the specific characteristics of the debt which would allow staff to devise and implement appropriate recovery actions. It would also be desirable for the system to have case working functionality which would allow for the automatic production of correspondence to the debtor as well as issuing alerts when recovery actions are required.

**22.43** The Department's ODM system was assessed against these criteria as part of this examination.

*Management Information*

**22.44** The Department does not routinely analyse overpayment debt outstanding, by size of debt, in order to identify high value cases that could be prioritised for further recovery action. It takes the view that all overpayments (including those of high value) are managed by the scheme area of payment.

**22.45** Analysis produced by the Department for the purposes of this examination showed that 2% of the debt cases at 31 December 2011 related to overpayments in excess of €20,000 and accounted for over one third of all overpayment debt outstanding. 70% of cases related to overpayments of less than €1,000 each and accounted for just over 8% of the value of debt outstanding.

**22.46** Ideally, the management information system would facilitate monitoring of debt management activity on a periodic basis using a number of key performance indicators including: the overall recovery rate for debt where a reasonable amount of time has elapsed; the recovery rate by individual local offices and the time taken to recover debt. However, it was noted that the system, as currently constituted, is not capable of producing reports which identify the overall recovery rate, by year and by scheme type and cannot produce reports which allow the effectiveness of recovery actions of individual local offices to be compared.

**22.47** The Department stated that the most reliable indicator of debt management is its success in recovering outstanding debt and that this is closely monitored year on year.

*Case Management*

**22.48** An overpayment debt management system would, ideally, be capable of recording the recovery actions taken on individual cases and automatically producing alerts when the next action is required.

**22.49** Both the local offices and the CODMU use spreadsheets to record and monitor the recovery actions taken in relation to individual cases. Reliance on this (effectively manual) system has led to delays and instances of follow-up correspondence not being issued within the timeframes specified in Department guidelines and procedures.

**22.50** In addition, the system does not produce a list of cases where, although a recovery plan had been agreed, the repayments have ceased. The Department should have automated alerts in such cases to ensure that recovery action can recommence.

*Enforcement Options*

**22.51** The 2010 Report on the Accounts of the Public Services noted the Department's intention to carry out a review during 2011 of its overall approach to recovery of overpayment debt. The Accounting Officer provided the following updates on the options identified.

- **Removing the current restriction on the recovery of overpayments —** This option was explored in the context of preparing the Social Welfare Act 2012, but a number of issues arose which were too complex to resolve in the legislative timeframe. A working group has been established within the Department with a view to making recommendations for any necessary legislative changes in late 2012.
- **Recovering overpayments through the tax system —** This option is likely to require legislative changes for both the Department and Revenue. Agreement in principle has been reached between the two parties and the necessary work to activate the measure is being progressed.
- **Recovering overpayments from other State payments including redundancy, farm payments and student grants —** Regarding the potential for recovering overpayments from farm payments and student grants, initial contact was made with the Departments of Education and Skills and Agriculture, Food and the Marine in March 2012 and discussions are ongoing in relation to the practical issues arising. The option of recovering overpayments from redundancy payments is still under consideration in the Department.
- **Pursuing overpayments from other EU member states —** EU regulations provide a mechanism to recover overpayment debts arising in one member state from social welfare payments made in another member state. However, a number of potential issues arise including the difficulty in establishing whether individuals have gone abroad, where they have gone and whether they are in receipt of social welfare payments in another member state. The Department is still considering how this option for recovery can be pursued effectively.

## Legal Enforcement

**22.52** Legal action by the Department may entail criminal prosecutions in relation to significant cases of welfare abuse and/or civil proceedings to facilitate the recovery of scheme overpayments or the collection of Pay Related Social Insurance arrears.[6]

### *Criminal Prosecution Cases*

**22.53** The number of cases referred for criminal proceedings in 2011, either under social welfare legislation or the Criminal Justice (Theft and Fraud Offences) Act 2001, was 381. The equivalent figure for 2010 was 341.

**22.54** At the beginning of 2011, the Chief State Solicitor's Office (CSSO) and local state solicitors had a total of 742 criminal cases on hand that had been referred to them by the Department. A further 207 cases were referred during 2011, bringing the active caseload for the year to 949.

**22.55** In 2011, the Department's Special Investigation Unit concentrated its attention on serious fraud involving impersonation and multiple claiming of social welfare payments. A total of 174 of these cases were referred by the Department to An Garda Síochána in 2011, for possible prosecution under the Criminal Justice (Theft and Fraud Offences) Act 2001, as compared to 132 in 2010.

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6 Apart from overpayments of welfare, debts to the Department may arise where employers evade payment of Pay Related Social Insurance (PRSI) contributions that are due.

**22.56** Overall, between 2% and 3% of cases classified as fraud are referred for prosecution. In general, cases prosecuted are those that involve high value overpayments. The average overpayment in cases that were the subject of court proceedings finalised in 2011 was €7,700, whereas the overall average of overpayment cases classified as fraud was around €1,700.

### *Outcome of Prosecution Cases*

**22.57** Excluding any cases finalised in court under the Criminal Justice (Theft and Fraud Offences) Act 2001, the number of criminal prosecution cases pursued by the Department against welfare payment recipients has been decreasing in recent years. A total of 209 cases were finalised in 2011, as compared to 246 in 2010 and 347 in 2009. In 2011, a further 56 cases that had been referred to the CSSO in prior years, and where summonses remained unserved, were finalised without court proceedings.

**22.58** Almost two thirds of the cases finalised in court resulted in fines being imposed. In some cases, the fines were accompanied by other penalties such as community service, a prison sentence or a suspended sentence. The average fine imposed in 2011 was just under €700.

**22.59** In addition to proceedings against welfare recipients, nine employer-related cases were finalised in 2011 (seven in 2010). Two of these cases were struck out. In five cases, fines were imposed, averaging €780 each. The Probation Act was applied in the other two cases.

**22.60** At the end of 2011, 675 criminal cases were on hand and at various stages of the prosecution process.

### *Civil Debt Enforcement Proceedings*

**22.61** The Department pursues civil proceedings as a means of recovering debts only where there is a reasonable expectation that the debtor has sufficient means to discharge the debt. The Department's use of civil proceedings to recover amounts due has been limited.

**22.62** Between 2007 and 2011, the Department finalised a total of 125 civil proceedings. Positive outcomes were achieved in 63 cases which included

- lump sum settlements agreed in six cases resulting in the recovery of debts amounting to €206,000
- the agreement of instalment arrangements in 52 cases
- judgements in favour of the Department in five court cases.[7]

**22.63** The remaining 62 cases were terminated due to changes in the circumstances of the debtor (39 cases) or because the case had become statute barred. At the end of 2011, the Department had 48 civil cases that had yet to be finalised. The equivalent figure at the end of 2010 was 51.

7 These included decrees awarded (two cases), instalment orders granted (two cases) and a judgement mortgage (one case).

## Conclusions and Recommendations

**22.64** In a high proportion of the sample examined at two local offices, it was found that cases were not being referred to the Department's CODMU in accordance with departmental guidance. Staff at one of the local offices indicated that they were not familiar with the relevant guidelines and circulars.

**Recommendation 22.1:** The Department should ensure that local office staff are familiar with and comply with guidance issued. In particular, the Department should put procedures in place to monitor recovery plans and ensure follow-up in cases where payments cease.

**Accounting Officer's Response:** Agreed. Guidelines on overpayment recovery have recently been re-issued to all divisional managers with instructions that they again be brought to the attention of the relevant staff. The ODM system provides the means for staff to flag cases for follow-up where recovery plans cease.

**22.65** Reviews conducted during the audit indicated that the prescribed recovery process was not complied with in a significant number of cases. Monitoring local office recovery rates and referral of cases to CODMU (by local office) would provide the Department with useful indicators of the extent to which local offices were complying with guidance in relation to recovery of overpayments. Such analysis is not currently conducted.

**Recommendation 22.2:** The Department should monitor the performance of local offices including debt recovery rates and rates of referral of cases to CODMU, so that good practice from those with high recovery rates could be shared with those having lower recovery rates.

**Accounting Officer's Response:** Agreed. The Accounting Officer stated that local offices have been asked to identify cases where overpayments exist and where a recovery plan is not in place and to identify good debt recovery practices in their local offices.

**22.66** For cases that were referred to CODMU in 2011, it was found that while the Unit succeeded in agreeing recovery plans for just over one quarter of the value of overpayment debt, at 31 December 2011, less than 0.2% of the debt had been recovered in relation to the fifteen largest cases with debts totalling €800,000.

**22.67** There are no set criteria that must be satisfied before an overpayment can be cancelled or written off. There is an approval procedure for decisions to cancel or write off overpayments but these transactions are not subject to management review, even on a sample basis. In a significant proportion of cases reviewed during the audit, there was insufficient information on file to verify the cancellation or write off.

**Recommendation 22.3:** A standard approach, across all offices, should be implemented by the Department in relation to the cancellation or write-off of overpayment debt. At a minimum, there should be a standard form detailing the background and reason for the decision, which should be completed and signed by the relevant officer. The Department should consider the implementation of an approval process and random reviews by management of decisions to cancel and write off overpayment debts.

**Accounting Officer's Response:** Agreed. The Department is examining the guidelines for write-off of overpayments and updated guidelines will be finalised in autumn 2012.

**22.68** In the period 2007 to 2011, approximately 36% of overpayments recorded were attributed to fraud or suspected fraud. In 2011, overpayments totalling €35 million were attributed to fraud. The rate of recovery of debt attributed to fraud is not known.

**22.69** The proportion of fraud cases where prosecutions are taken is low, typically in the range of 2% to 3%. The Accounting Officer stated that the Department aims to ensure that prosecutions are taken in more serious cases, where there is strong evidence of fraud. The factors that the Department takes into account when considering whether to commence legal proceedings include the duration of the fraud, the amount of the overpayment and any previous incidences of social welfare fraud.

**22.70** The Overpayments Debt Management (ODM) system introduced in 2006 is the primary system used by the Department to manage overpayments. The system requires development to enable effective management of the debt.

**Recommendation 22.4:** The Department should develop the ODM system in order to allow for effective pursuit of overpayment debt and provide adequate information to monitor overall departmental performance as well as the performance of individual local offices in recovering overpayments. The ODM system should facilitate the monitoring of recovery rates in respect of the period the overpayment was recorded broken down by the cause of the overpayment.

**Accounting Officer's Response:** Agreed in part. Since the introduction of ODM, the Department's ability to manage and report on its overpayments has been significantly enhanced. The legislation concerning overpayments is complex, so the system must accommodate a range of rules and requirements. The Department recognises that further enhancements are required and these are part of the planned evolution of the system which will be examined over the coming months. This examination will take account of the issues raised by the Comptroller and Auditor General and will also consider the feasibility and cost of developing the ODM system. In the meantime, the following actions are being taken to improve the Department's debt recovery procedures

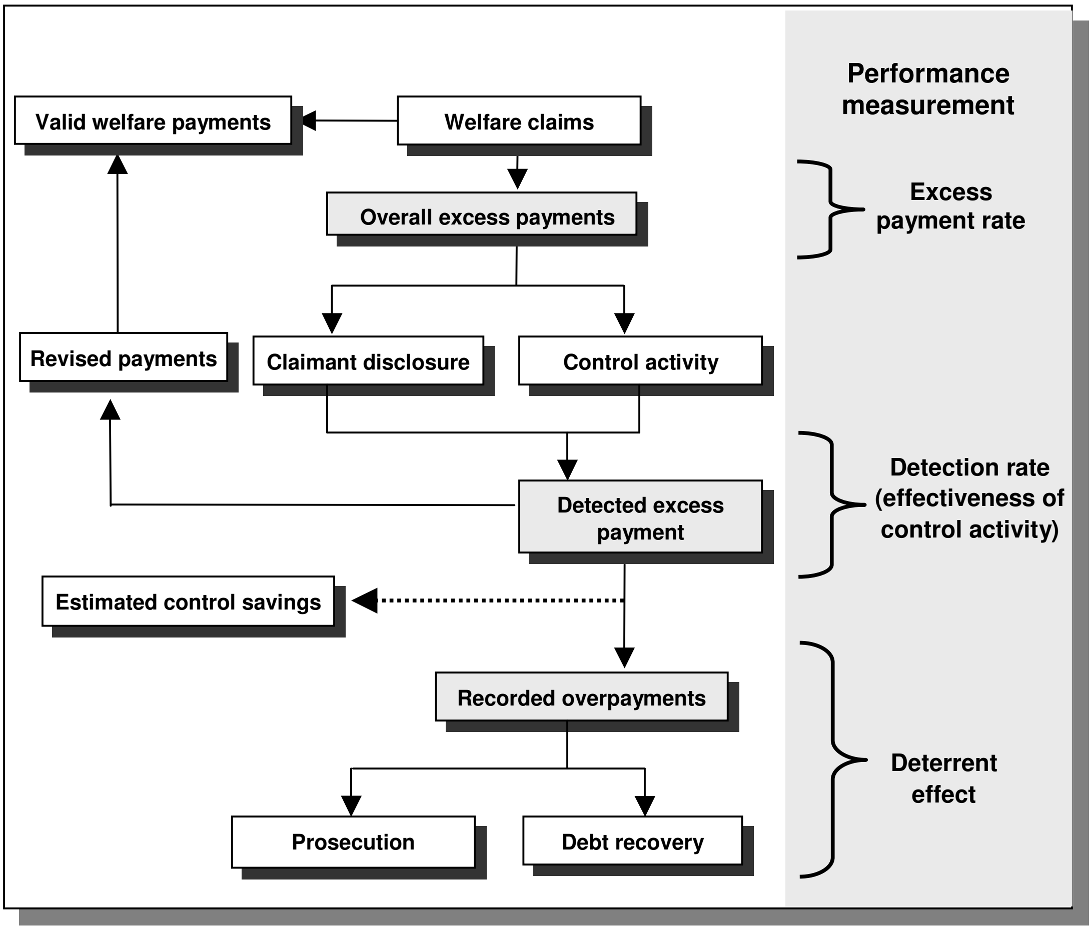
- All scheme owners and divisional managers have been requested to ensure that their staff are familiar with the debt management guidelines.
- All scheme owners and divisional managers have been requested to ensure that the maximum deduction appropriate in each overpayment case is put in place.
- Timely recording of Supplementary Welfare Allowance overpayments will be pursued through divisional managers.
- Guidelines for write-off procedures of overpayments will be updated.
- The central monitoring of local offices with regard to recovery will be examined.

# 23 Regularity of Social Welfare Payments

**23.1** The Department of Social Protection (the Department) is required to ensure that 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.

**23.2** Welfare payments in excess of claimants' entitlements may arise due to fraud, claimant error or departmental/administrative error. Where excess payments arise, the Department's objective is to promptly identify the excess payment and adjust the payment level accordingly. Where a deciding officer determines that an overpayment has arisen, the Department seeks to recover the overpayment from the claimant. The overall level of excess payments across welfare schemes must be distinguished from the level of detected excess payments and from recorded overpayments that are targeted for recovery (see Figure 23.1).

**Figure 23.1 Managing and Measuring Excess Welfare Payments**



## Fraud and Error Surveys

**23.3** The main factors identified as leading to excess payments are

- **fraud —** where the claimant intentionally provides incomplete or inaccurate information in order to receive benefits
- **claimant error —** which arises when the claimant has provided inaccurate or incomplete information, or failed to report a relevant change in circumstances (such as an increase in means or a change in medical condition), but there is no clear fraudulent intent on the claimant's part
- **departmental or administrative error —** where benefits are paid incorrectly due to inaction, delay or mistakes made by the Department and its staff**.**

**23.4** Surveys based on comprehensive reviews of randomly selected samples of cases provide a potential means for the Department to estimate the overall incidence of excess payment occurring in welfare schemes. The results of the surveys also potentially serve as a means of assessing the effectiveness of review activity, by providing a basis for evaluating the rate of detection by the Department of excess payments.

**23.5** The Department conducts periodic surveys in order to target its control activity on the schemes and beneficiaries where the risk of unwarranted payments is highest. In June 2012, the Department published the results of three recent irregular payment surveys which focused on Jobseekers Benefit, Disability Allowance and One Parent Family payments.[1]

**23.6** The Department had carried out previous surveys on each of the schemes, but an additional element was included in the latest surveys. This involved estimation of the net financial loss to the Department, whereby a claimant who is in receipt of an excess payment on a particular scheme may be eligible for a payment under another scheme, or may become an adult dependent of another claimant. In order to calculate the net financial loss, the survey methodology used was as follows.

- As in previous surveys, a random sample of cases was examined to review entitlement to payment. The level of irregular payment was calculated as the value of the excess payments as a proportion of the total payments to the sample cases.
- Cases where excess payments were identified were re-examined later in order to ascertain whether the claimant (whose payment had been reduced or terminated) was then in receipt of a welfare payment. Such cases would arise where the claimant had appealed the decision to terminate or reduce the welfare payment and the appeal had been granted, or because the claimant is found to be entitled to claim under a different scheme either in their own right or as an adult dependent.
- The net loss to the Department is calculated as the initial excess payment identified less any welfare payments the claimant is currently claiming.

**23.7** Previous surveys categorised excess payments as being due to fraud, customer error or departmental/administrative error. In the 2012 survey of Disability Allowance cases, the Department categorised excess payments as being due to fraud, customer/departmental error or medical ineligibility. The Department considers that a change in medical opinion as to the client's eligibility does not constitute either an error or a fraud.

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1 Because the results of the 2012 surveys only became available in June 2012, it was not possible to audit the survey process before completion of this report. The surveys will be audited against relevant criteria and the results will be reported in due course.

**23.8** A key requirement for reliable estimation of excess payments based on random selection of review cases is that all eligibility criteria are fully tested. In the case of Disability Allowance, this includes review of eligibility under the scheme's medical criteria. In the nature of some illnesses, the patient's medical condition can change over time. Treatment regimes may also change, resulting in improvements in some patients' ability, including in their capacity to work. Irrespective of the history of the case, a determination of current ineligibility for ongoing welfare payments because medical conditions are not met now means that the payment is in excess of entitlement.

### *Survey Results*

**23.9** The results of the three most recent surveys are set out in Figure 23.2.

**23.10** Where One Parent Family and Disability Allowance payments were terminated as a result of the fraud and error surveys, between 75% and 85% of claimants subsequently commenced claiming under different schemes, transferred to their partner's claim or were re-instated following appeal or the submission of a new claim. By comparison, just over one third of stopped Jobseeker Benefit claimants were receiving payments under a different scheme when re-examined.

**23.11** It was noted that the overall level of irregular payment reported in the 2012 survey of One Parent Family Payment cases (7.1%) was similar to the result in the previous 2007 survey (7.3%).

**23.12** The 2012 review of Disability Allowance identified an overall level of irregular payment of 18.4% — 3.1% as a result of fraud and error and 15.3% as a result of medical ineligibility. The level of medical ineligibility for Disability Allowance may have implications for the optimum level and timing of medical review of cases.

**23.13** The Department has stated that its response to medical ineligibility issues will be different to the response to other survey findings.

**Figure 23.2 Estimated value of Irregular Welfare Payments (selected schemes) - 2012 surveys**

| | Percentage of scheme payment | | |
|---|---|---|---|
| | **Value of irregular payments** | **Value of reinstated or transferred claims** | **Net loss** |
| **Jobseekers Benefit** | **2.5%** | **0.9%** | **1.6%** |
| *Of which, due to* | | | |
| *Fraud* | *0.1%* | — | *0.1%* |
| *Error* | *2.4%* | *0.9%* | *1.5%* |
| **One Parent Family Payment** | **7.1%** | **4.4%** | **2.7%** |
| *Of which, due to* | | | |
| *Fraud* | *6.7%* | *4.4%* | *2.3%* |
| *Error* | *0.4%* | — | *0.4%* |
| **Disability Allowance** | **18.4%** | **14.3%** | **4.1%** |
| *Of which, due to* | | | |
| *Fraud* | *2.1%* | *0.9%* | *1.2%* |
| *Error* | *1.0%* | *0.1%* | *0.9%* |
| *Medical ineligibility* | *15.3%* | *13.3%* | *2.0%* |

Source: Department of Social Protection survey results, June 2012 (unaudited)

## Overall Level of Irregular Payment

**23.14** The results of the surveys carried out in the past by the Department indicated that there was a significant problem of excess, and therefore irregular, payment in relation to many of the major welfare payment schemes it operates. While the scale of the problem is evidently greater for Vote-funded schemes, the estimated level of irregular payments under the social insurance funded schemes is also material. Figure 23.3 presents an estimate of the scale of irregular welfare payments in 2011, incorporating the latest survey results.

**Figure 23.3 Estimated Irregular Payments in Welfare Entitlements, by Scheme and Source of Funds**

| | Year of survey[a] | Scheme cost 2011 €m | Irregular payment level for scheme % | |
|---|---|---|---|---|
| **Vote-funded schemes** | | | | |
| Child Benefit | 2004 | 2,076 | 1.8 | |
| Family Income Supplement | 2005 | 205 | 3.3 | |
| State Pension (non-contributory) | 2007 | 972 | 2.1 | |
| Jobseekers Allowance | 2009 | 2,975 | 4.1 | |
| Disability Allowance | 2010 | 1,089 | 18.4 | (net cost 4.1%) |
| One-Parent Family Payment | 2011 | 1,089 | 7.1 | (net cost 2.7%) |
| **Social Insurance Fund schemes** | | | | |
| Illness Benefit | 2006 | 876 | 0.4 | |
| State Pension (Contributory/Transition) | 2009 | 3,755 | 1.1 | |
| Jobseekers Benefit | 2011 | 927 | 2.5 | (net cost 1.6%) |

Source: Department of Social Protection fraud and error surveys
Note: a Base year for survey.

**23.15** The level of irregular scheme payments varies widely between Vote-funded schemes. The materiality of the problem across un-surveyed Vote-funded schemes, many of which are means-tested, is not known.

**23.16** Some major expenditure schemes have not been subject to this kind of survey, and the latest survey results in relation to some schemes go back to 2004 and 2005. In light of the significant levels of scheme expenditure, the absence of fraud and error surveys in those schemes is a cause of concern.

- Expenditure on Supplementary Welfare Allowance was just under €1 billion in 2011. A partial survey of Rent Supplement cases, initiated by the Department's Control Division, was conducted by the Health Service Executive in 2007. The Department's current fraud initiative does not include plans for a survey of Supplementary Welfare Allowance.[2]
- Surveys have not been conducted in relation to carers' payment, widow/er contributory pensions and invalidity pensions. Expenditure on these three schemes amounted to €2.5 billion in 2011. It is noted that the Department's planned schedule up to 2016 provides for fraud and error surveys on these schemes.

2 The Department has stated that it is actively considering the timing of a survey in relation to Supplementary Welfare Allowance.

**23.17** It is important that the Department carry out fraud and error surveys on an ongoing basis in order to inform itself on the current level of fraud and error in its payments and amend its control regime accordingly.

**23.18** The Accounting Officer pointed out that the estimated level of irregular payment outlined in Figure 23.3 is based on results in some cases that are between five and eight years old. She stated that the rate of irregular payment is unlikely to have stayed constant during this period. She considers that the process of conducting the surveys would have impacted on control effectiveness in the following years. She added that the Department's approach is to conduct surveys on schemes with high levels of expenditure where the risk is considered higher. The Department is of the opinion that the un-surveyed Vote schemes have a lower level of risk. This is based on managerial knowledge of the schemes and the incidence and value of overpayments on those schemes.

## Detected Overpayments

**23.19** Where new information relevant to a current claim comes to light, the Department may formally determine that the claimant does not have an entitlement to the amount he/she is currently being paid. This normally results in the payment being terminated or reduced to the appropriate level, with immediate effect. Depending on the circumstances, the Department may also record an overpayment debt for recovery from the individual concerned.[3]

**23.20** In many cases where payments are reduced or terminated following a review, the Department does not record an overpayment debt. In cases of claimant or departmental error, the deciding officer reviewing the case may determine the effective date of a revised decision to be a current date, rather than a retrospective date, in which case no overpayment arises. In other cases, there may be no effective way of establishing the date the claimant's entitlement changed.

**23.21** The value of overpayments recorded in a year (whether due to fraud or other factors) is not a reliable measure of the underlying level of irregular payments in that year.

**23.22** The Department takes the view that the amount of fraud-related overpayments it records is the only reliable measure of excess payments due to fraud. However, recorded overpayments arise only in instances where excess payment is detected and a deciding officer concludes (based on the evidence available) that a claimant was not entitled to a welfare payment for a period of time. Overpayments recorded in a period may also relate to payments made in prior periods of account.

3 Where an overpayment debt is recorded, the claimant has a legal obligation to repay the amount to the Department. The obligation to repay arises under Section 335 of the Social Welfare Consolidation Act, 2005. Recovery of recorded overpayments is dealt with in Chapter 22 of this report.

## Implementation of Budget 2012 Changes

**23.23** The extent of irregular payment is influenced by the entitlement conditions set for schemes, the circumstances of target populations and the process used by the Department to assess claims and to exercise control over ongoing payments.

**23.24** The Department has experienced some difficulties in implementing changes introduced in Budget 2012 in relation to One Parent Family payments, Farm Assist and Fuel Allowance.

### *Payment Changes*

**23.25** Up to 2012, a One Parent Family claimant could earn up to €146.50 per week without affecting his/her entitlement. In Budget 2012, this 'disregard' threshold was reduced to €130 per week and over the next four years will reduce further to €60 per week. Above the relevant earnings threshold, entitlement declines as earnings increase, until entitlement ceases entirely.

**23.26** The calculation of means in relation to Farm Assist is based on gross yearly income less costs necessarily incurred in carrying out the self-employment, less an allowance for each dependent child. A proportion of the balance is assessed as means. From January 2012, deductions allowed in relation to dependent children when calculating assessable income were reduced and the proportion of income assessed as means increased from 70% to 85%.

**23.27** The Department's computer system records the manually computed assessed means figure and does not capture the individual components making up the earnings or means of a claimant. As a result, the Department could not apply the budget changes across the board using a programmed adjustment.

### *Review of Claims*

**23.28** The budget changes have been applied to all new One Parent Family and Farm Assist claimants since January 2012, but the changes can only be applied to existing claims through the review of individual cases. The Department is not raising overpayments in respect of amounts overpaid between the introduction of the budget changes and the implementation of those changes, as cases are reviewed. As a result, some clients were paid in excess of their entitlement from 1 January 2012 until the date the case was reviewed and any required changes to rate were implemented.

**23.29** In relation to One Parent Family

- 42,000 current claimants were identified as having had earnings in 2010, and were issued with review forms. Just under two-thirds of cases had been reviewed by end July 2012, and had their payments terminated or adjusted where required. Reviews of the remaining cases were expected to be completed by the middle of September 2012.
- A further 5,500 claimants had earnings in 2011. Review forms issued to those claimants in July 2012, and review of those cases is expected to be completed by end September 2012.
- The Department issued review forms in August 2012 to the remaining One Parent Family claimants (approximately 48,000), some of whom may have recent or undeclared employment earnings. However, most of these cases are not expected to have a change in their means.

**23.30** The implementation of the budget changes required manual review of approximately 11,000 Farm Assist claims. At the end of July 2012, approximately 80% of these cases had been reviewed.

**23.31** The Accounting Officer stated that the Department's approach to the implementation of the budget changes for existing claimants has been to prioritise the review of cases where adjustment to payment rates due to budget changes are most likely. However, this review will also result in changes to payment rates for other reasons such as a change in the claimant's means or entitlements since the last review. The Department is unable to provide a breakdown of the changes to payment rates as a result of review between those that were due to budget changes and those that arose for other reasons.

### *Fuel Allowance*

**23.32** Fuel allowance is paid to people who are dependent on long-term social welfare and who are unable to provide for their own heating needs. Claimants of means-tested schemes including State Pension, One Parent Family, long-term Jobseekers Allowance and Supplementary Welfare Allowance can claim a fuel allowance of €20 per week for certain weeks each year. Up to 2012, this allowance was paid for 32 weeks but this was reduced to 26 weeks in Budget 2012.

**23.33** Fuel allowance payments for winter 2011/2012 were due to cease on 6 April 2012. However, due to an error in updating this change on the Department's computer system, about 60,000 Jobseeker claimants were paid for an additional week resulting in an overpayment of €1.2 million.

**23.34** The Department wrote to the claimants concerned on 21 August 2012 to notify them of this issue and advise them that the overpayment will be recovered by deferring payments by one week when fuel allowance payments recommence in October 2012. The Department is of the view that a high proportion of claimants who were overpaid will still be in payment at that time. Where the overpayment cannot be recovered from future payments in respect of fuel allowance, the Department plans to record the overpayments and seek to recover them by other means.

**23.35** The Department stated that as a result of this error, it has reviewed and revised its procedures for updating scheme rate details on its payment systems.

## Conclusions and Recommendations

**23.36** The Department has in the past undertaken fraud and error surveys of randomly selected claims on some welfare schemes. Some major expenditure schemes, for example Supplementary Welfare Allowance, have not been subject to this kind of survey, and the latest survey results in relation to some schemes with high levels of expenditure date back to 2004 and 2005.

**23.37** In its most recent fraud initiative, the Department has committed to conducting two fraud and error surveys per year.

**23.38** The Accounting Officer noted that fraud and error surveys primarily provide the Department with an indicator of the estimated risk of the scheme surveyed in order to enable the Department to enhance control procedures and processes across the relevant schemes. She stated that the timing and conduct of the surveys will be reviewed annually and it is recognised that additional or different survey approaches may be required given specific business needs or emerging trends. She added that the timing of a survey in relation to Supplementary Welfare Allowance is being considered as part of a general review of control procedures in relation to that scheme.

**Recommendation 23.1:** The Department should consider adopting an approach which involves the design of scheme fraud and error surveys based on the annual expenditure in individual schemes. For example

- continuously reviewed payments — due to the materiality of expenditure (say, over €1 billion per year) the Department should conduct reviews of a small number of randomly selected claims for Jobseekers Allowance, State pensions, Child Benefit, widow/(er) and guardian payments, Disability Allowance and One Parent Family payments on a continuous basis (without reducing significantly the number of reviews carried out on a targeted basis).
- occasionally reviewed payments — in the cases of other schemes where expenditure is relatively material (e.g. where expenditure is in the range of €500 million to €1 billion a year), surveys should be conducted periodically.
- un-reviewed payments — schemes where annual expenditure is less than €500 million per year would not be reviewed if there are ongoing resource constraints, except in cases where the Department was aware of high levels of risk and/or of significant payments in excess of entitlements.

**Accounting Officer's Response:** Agreed in part. The Department will consider adopting the approach to fraud and error surveys outlined above. However, the value of conducting random reviews on a continuous basis for the material schemes listed will have to be examined. The current methodology for fraud and error surveys is resource intensive.

**23.39** The results of the Department's surveys to date suggest there is a significant level of irregular scheme payments in relation to Vote-funded schemes. These irregular payments may not always result in an equivalent financial loss to the Department as claimants may be entitled to claim under a different scheme or may be included as an adult dependent with another claimant. However, even when this is taken into account, the residual levels of loss appear to be significant. For example, in the most recent surveys completed in relation to Vote-funded schemes, the Department estimated the net loss due to irregular payments at 2.7% in relation to One Parent Family payments and 4.1% in relation to Disability Allowance.

**23.40** I have referred in my certificate on the Department's Appropriation Account for 2011 to the level of irregularity, which I consider material in the context of the overall expenditure recorded in the Vote.[4]

**23.41** In addition to ongoing irregular scheme payments, the Department has had difficulty implementing some budget changes introduced in Budget 2012.

**23.42** Due to limitations with the Department's current computer systems, changes relating to earnings and means in the assessment of entitlement to One Parent Family and Farm Assist payments can only be implemented for current claims through review of individual cases. As a result, certain claimants received payments in excess of entitlement. The Department is unable to provide an estimate of the level of excess payments that has occurred due to delays in implementing budget changes and it does not plan to seek recovery of those excess payments. Modifications to the Department's computer payment systems are planned to ensure that such changes can, in the future, be implemented from the date the legislation is enacted.

**23.43** Reductions in fuel allowance were not properly updated to the Department's payment system in respect of certain categories of Jobseeker claimants, resulting in overpayments of some €1.2 million. The Department plans, where possible, to recover these overpayments from the fuel allowance payments due to re-commence in October 2012. Where an overpaid claimant is no longer in payment, the Department plans to record an overpayment and seek to recover it from future welfare payments. In addition, the Department stated that it has strengthened the controls around updating of changes to its computer payment systems.

> **Recommendation 23.2:** The Department's computer systems should be adapted to record key data used in decision making on individual claims and have an in-built calculation function capable of processing rate adjustments efficiently, including the generation of explanatory communications to affected claimants.
>
> **Accounting Officer's Response:** Agreed. The Department plans to enhance its computer system so that it can capture and store data in relation to means and earnings as well as issue and capture the results of scanned documents so that, in future, it can implement changes from the effective date of the legislation. This functionality is available in the Department's latest generation of computer systems which are designed to support processes as well as payments. The transfer of schemes from older systems to the newly developed systems is an ongoing process. At the end of August 2012, over one third of the Department's schemes, representing three quarters of the current claimload, had been transferred.
>
> **Recommendation 23.3:** The Department should strengthen its data file control procedures. These controls should ensure that all changes to standing data are authorised and all authorised changes are fully implemented. Such controls could include the formalisation and documentation of system change procedures, authorisation at an appropriate level of all changes to standing data, confirmation of change reports from the Department's computer payment systems, and post implementation testing of changes.
>
> **Accounting Officer's Response:** Agreed. The Department has a considerable number of controls around its data file control procedures and monitors the effectiveness of these on an ongoing basis. In light of the recommendation above, the Department will review and strengthen them appropriately.

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4 Under section 3(5) of the Comptroller and Auditor General (Amendment) Act 1993, an audit certificate on an appropriation account must refer to any material case in which a Department has failed to apply expenditure recorded in the account for the purpose or purposes for which the appropriations made by the Oireachtas were intended, or transactions recorded in the account do not conform to the authority under which they purport to have been carried out.

# 24 Supplementary Welfare Allowance

**24.1** The Supplementary Welfare Allowance Scheme is the 'safety net' within the overall welfare system. It is aimed at persons whose means are insufficient to meet their needs and those of their dependents. The main purpose of the scheme is to provide immediate and flexible assistance to persons in need who do not qualify for welfare payments under any other State scheme.

**24.2** An individual will normally qualify for Supplementary Welfare Allowance if they are living in the State, satisfy a habitual residence condition and a means test, have applied for any other relevant benefit or allowance they may be entitled to, and have registered with Solas (formerly FÁS) if they are of working age. Payments consist of basic income support and/or a supplement in respect of certain living expenses a person may not currently be able to meet. The supplements available include payments to assist with rent, mortgage interest, heating, special dietary requirements, exceptional or urgent needs, and back to school expenses.

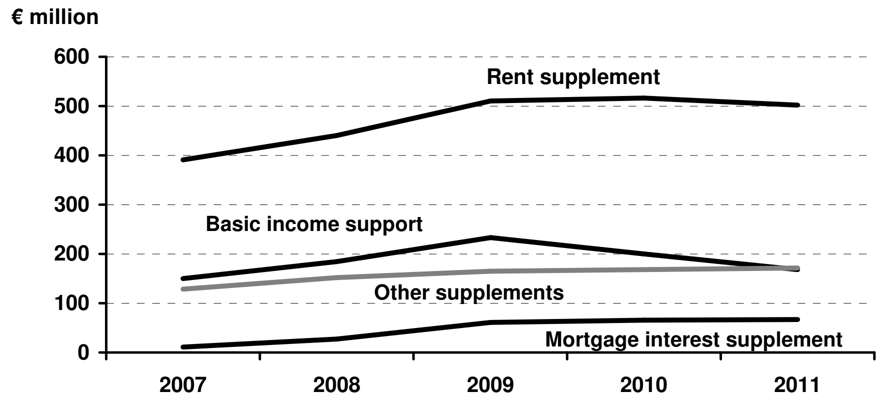
**24.3** Up to October 2011, the Supplementary Welfare Allowance Scheme was administered by the Community Welfare Services Division of the Health Service Executive (HSE) on behalf of the Department of Social Protection (the Department). On 1 October 2011, the Community Welfare Service staff were formally transferred to the Department, which now has direct responsibility for the scheme administration.

**24.4** Total expenditure on Supplementary Welfare Allowance (excluding administration costs) amounted to €911 million in 2011. Three categories of payment accounted for 81% of all expenditure on the Supplementary Welfare Allowance Scheme in 2011. They are

- basic Supplementary Welfare Allowance — a weekly allowance paid to those awaiting a decision on an application under another social welfare scheme or who do not qualify under any other scheme (total expenditure in 2011 was €169 million)
- rent supplement — support towards the cost of private rented accommodation (total expenditure in 2011 was €503 million)
- mortgage interest supplement — support for homeowners towards mortgage interest payments (total expenditure in 2011 was €67 million).

**24.5** Between 2007 and 2011, overall expenditure on Supplementary Welfare Allowance increased by 33%. Figure 24.1 shows the trends in the categories of Supplementary Welfare Allowance.

**Figure 24.1 Expenditure on Supplementary Welfare Allowance 2007 to 2011[a]**




Source: Department of Social Protection statistical information reports

Note: a Scheme administration costs are not included.

**24.6** This chapter reports the results of a review of the Department's progress in relation to the introduction of a risk-based control policy in relation to Supplementary Welfare Allowance. It also examines the effectiveness of controls designed to prevent invalid claiming of supplementary allowances and the Department's management of payments of rent supplement in the context of decreases in market rents.

**24.7** The audit fieldwork included a review of the Department's overall control policy in relation to Supplementary Welfare Allowance. It also included visits to two local offices, in Galway and in Bishop's Square (Dublin), to examine the implementation of controls in respect of a sample of claims in payment. Trends in prevailing market rates for rent were also analysed.

## Scheme Control Strategy

**24.8** The Department's Fraud Initiative 2011-2013, published in September 2011, set out an approach to control of individual schemes which includes an initial quantification of the level of excess payments, the identification of the risks in each scheme and the development of an appropriate control policy.

**24.9** The Department monitors the level of excess payment for individual schemes through the conduct of periodic surveys. These surveys involve a thorough review of a random sample of claims in payment to establish if the claimant is being paid the right amount. The results of these surveys provide useful information in relation to the underlying level of payments in excess of entitlement and allow the Department to assess the effectiveness of its current control policies.

### *Quantification of the Baseline Level of Fraud and Error*

**24.10** The Department has not conducted a fraud and error survey in relation to Supplementary Welfare payments, since taking over direct responsibility for administration of the scheme in October 2011.

**24.11** A fraud and error survey was carried out in relation to rent supplement in 2007 by the HSE.[1] Samples of cases were examined in four HSE regions. The survey found excess payments amounting to 2.9% of total expenditure in the sample, with 2.2% relating to fraud and 0.7% relating to error. The HSE compared the result to an exercise carried out in 2005 by the UK Department of Work and Pensions in respect of a similar (housing benefit) scheme, which had estimated that excess payments accounted for 5.2% of expenditure. On the basis of the survey results, the HSE categorised rent supplement as a low to medium risk scheme.

**24.12** The Accounting Officer stated that the timing of a fraud and error survey in relation to Supplementary Welfare Allowance is being considered as part of a general review of control procedures relating to the scheme.

### *Scheme Risk Assessment*

**24.13** At scheme level, the nature of risks attaching to each type of welfare payment varies. In some schemes, relatively high assurance can be taken from pre-processing checks, and eligibility may not be likely to change subsequently. In other schemes, there is a risk that welfare payments may continue despite changes in circumstances and qualifying conditions. In addition, new forms of payment like electronic funds transfer may introduce new risks since they reduce the level of human contact. As a result, it is important to periodically identify the major risks attaching to individual schemes, in particular, where significant changes have occurred in the economic environment or the scheme delivery methods.

**24.14** The most recent risk assessment on Supplementary Welfare Allowance was completed in 2008 by the HSE. The Department has stated that it is currently updating the risk assessment documents for all areas, including Supplementary Welfare Allowance, to take account of new legislation and procedures and practices.

### *Development of a Control Policy*

**24.15** The challenge of a risk-based strategy is to combine information from the assessment of environmental and scheme based risks to develop a policy that ensures control activity is targeted so as to review cases where the risk of overpayment is highest. The Department's control policy for Supplementary Welfare Allowance requires a detailed checklist to be followed when processing applications and investigating entitlement under the scheme.[2] A management audit is carried out on a random sample of 5% of transactions for the current month and 1% of transactions for the previous three months. The aim is to check whether entitlements have been properly established and whether standards and guidelines are being complied with. Reviews of continuing entitlement are required at different frequencies.

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1 The survey process and results were not audited by this Office.

2 The control policy was developed prior to the transfer of direct responsibility for scheme administration from the HSE to the Department.

- For basic Supplementary Welfare Allowance payments, the policy requires that claims should be reviewed weekly in cases where the claimant is awaiting a decision on an application under another scheme. Otherwise, claims should be selected for review on the basis of other risk factors including the likelihood of change in the client's circumstances, means or needs.
- For rent supplement and mortgage interest supplement, all claims should be reviewed twice yearly, with one being a comprehensive review including a home visit if necessary and the other being a financial and family composition review.

### *Integration Changes*

**24.16** The Department has implemented a number of changes in the control system since taking over responsibility for administration of the scheme. The restructuring of the Department's regional activities into thirteen divisional areas, each with a divisional manager, is expected to result in a greater level of consistency in service delivery and more effective control functions. Planned initiatives include

- the delivery of training, from September 2012 onwards, to staff administering Supplementary Welfare Allowance, which will cover control issues including file administration and the proper maintenance of records
- the compilation of a summary checklist for use by managers in the Community Welfare Service which will deal with overpayments and recovery, data protection, system management and file maintenance
- the establishment of a working group to consider control procedures specific to Supplementary Welfare Allowance which will examine current practice, identify risks and recommend improvements. The Department expects that by the end of 2012 the work of this group will be finalised and recommendations made will begin to be rolled out.

## Basic Supplementary Welfare Allowance

**24.17** Between 2007 and 2011, total expenditure on basic Supplementary Welfare Allowance increased by 12%. The number of recipients increased by 26% over the same period.

**Figure 24.2 Basic Supplementary Welfare Allowance[a] 2007 to 2011**

| Year | Recipients (at 31 December) | Expenditure €m |
|---|---|---|
| **2007** | 27,380 | 150.4 |
| **2008** | 35,550 | 184.5 |
| **2009** | 42,780 | 233.5 |
| **2010** | 37,500 | 200.0 |
| **2011** | 34,600 | 168.8 |

Source: Department of Social Protection statistical information reports

Note: a Excludes direct provision allowance.

**24.18** Figure 24.2 sets out the net expenditure on basic Supplementary Welfare Allowance after taking account of any amounts recouped from other schemes. In many cases, interim basic Supplementary Welfare Allowance payments are made to claimants who are awaiting decisions on claims under other schemes. If the claim under another scheme is subsequently approved, any interim amounts paid under basic Supplementary Welfare Allowance are recouped from the other scheme. In 2011, the amount recouped from other schemes was €137 million.

### *Take-on Controls*

**24.19** In order to prove entitlement before basic supplement claims are put in payment, a claimant is required to provide a variety of documentation and evidence including

- claimant identity — applicants are required to present a Personal Public Service Number (PPSN) when making their applications, and may also be asked to produce identity papers e.g. a birth certificate or passport
- claimant means — means testing is carried out as part of a claim assessment to establish the incomes of the claimant and of other household members
- habitual residence — a number of factors are used to establish whether the claimant is habitually resident in Ireland.[3]

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3 The five factors taken into account are the length and continuity of residence in Ireland or the Common Travel Area (if less than two years, a claimant is considered not to be habitually resident), the length and purpose of any absence from Ireland, the nature and pattern of employment, the applicant's main centre of interest, and the future intentions of the applicant, as they appear from all the circumstances.

**24.20** The operation of take-on controls was reviewed in relation to a sample of ten basic supplement claims at each of the two local offices visited during the audit. The controls in relation to claimant identity and habitual residence were found to be operating effectively. However, records of means testing did not have copies of bank statements on file in five cases in Bishop's Square and in two cases in Galway.

**24.21** The Accounting Officer stated that training scheduled to commence in September 2012 will address issues including file administration and the proper maintenance of records.

### *Control Over Claims in Payment*

**24.22** The Department's control reviews of interim pay cases involve a weekly check on whether a decision has been made in relation to the primary claim. It entails matching declared data on a claim against up-to-date data on the computer system e.g. ensuring that the primary claim remains open and is not in payment. It may also entail examining and validating that any income or means likely to change from week to week has not changed. If any change has occurred, a basic supplement claim would fall to be altered or terminated.

**24.23** Where a claim under another scheme has been disallowed, the recipient can make a claim for basic supplement based on ineligibility for payments under mainstream schemes and having means below minimum levels. Such cases account for about one quarter of all claims in payment. Subsequent case review dates are set by the departmental case officer and will depend on the nature of the case. For example, if the claimant is ill but not entitled to Illness Benefit, the claimant's next appointment with a medical consultant will be inserted as a review date.

**24.24** A sample of 20 basic supplement payments was examined (ten in each local office) to establish if the cases had been reviewed for continuing entitlement as required. In all cases, there was evidence that a satisfactory review had been conducted within the required timeframe.

### *Overpayments*[4]

**24.25** Details of the overpayments recorded in relation to basic supplement for the period 2009 to 2011 are set out in Figure 24.3.

**Figure 24.3 Recorded Overpayments of Basic Supplementary Welfare Allowance 2009 to 2011**

| Year | Number of cases | Overpayments recorded | |
|---|---|---|---|
| | | Total €000 | Average € |
| **2009** | 620 | 863 | 1,392 |
| **2010** | 1,048 | 1,501 | 1,432 |
| **2011** | 903 | 1,648 | 1,825 |

Source: Department of Social Protection

4 Prior to 2009, all overpayments of Supplementary Welfare Allowance were recorded together so it is not possible to separately identify overpayments that related to basic supplement.

**24.26** As a result of increased claimloads, there has been a significant increase in the time claimants wait for decisions in relation to entitlement under primary schemes with a potential knock-on impact in terms of number and average duration of interim basic supplement payments, and the requirement for more frequent review of means in relation to this category of claimant. The Accounting Officer stated that analysis carried out by the Department in respect of Supplementary Welfare Allowance indicated that the primary reason for overpayments is non-disclosure by claimants of means, income or earnings. In response, the Department plans to

- further automate matching with commencement of employment notifications where the claimant will be notified that payment will be suspended unless they contact the Department within a specified time period
- continue data matching exercises with other Government departments and public bodies and investigation of information received in anonymous or confidential reports
- meet with staff administering the Supplementary Welfare Allowance scheme as part of ongoing training and increasing awareness of control in the Department.

## Rent Supplement

**24.27** Rent supplement is available to people in private rented accommodation who are having difficulty paying their rent and who are getting a social welfare or HSE payment, or have part-time low-income employment.

**24.28** The number of people in receipt of rent supplement rose from just under 60,000 in 2007 to nearly 97,000 at the end of 2011 – an increase of around 62%. The annual expenditure was around half a billion euro each year from 2009 to 2011. Figure 24.4 sets out details of rent supplement claims over the period 2007 to 2011.

**Figure 24.4 Expenditure on Rent Supplement 2007 to 2011**

| Year | Recipients | Expenditure |
|---|---:|---:|
| | **(at 31 December)** | **€m** |
| **2007** | 59,730 | 391.5 |
| **2008** | 74,040 | 440.5 |
| **2009** | 93,030 | 510.8 |
| **2010** | 97,260 | 516.5 |
| **2011** | 96,800 | 502.7 |

Source: Department of Social Protection statistical information reports

**24.29** Rent supplement payments are not confined to recipients of basic supplement. Only around 10% of the 96,800 recipients of rent supplement at the end of 2011 were receiving basic supplement as their primary welfare payment. At the end of 2011, 14% of Jobseekers Allowance recipients, 17% of One-Parent Family Payment recipients and 10% of Disability Allowance recipients were also receiving rent supplement.

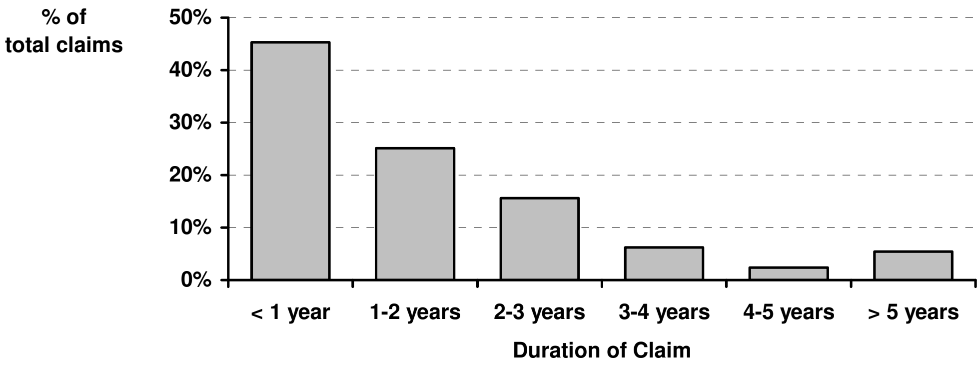
**24.30** The Department sets maximum rent rates by reference to the location of the property and the composition of the claimant's household. Households paying rent in excess of the applicable limits are generally not eligible to receive rent supplement payments. However, exceptions may be allowed in certain circumstances, such as illness or disability of a dependent. The amount of rent supplement payable to an individual claimant is the rental cost of the property (which must be below maximum rate set), less an amount that each applicant must contribute, less any means assessed.[5]

5 The minimum weekly personal contribution was €24 in 2011 but increased to €30 with effect from 1 January 2012. An additional weekly minimum contribution of €5 was also introduced in respect of couples.

### *Target Duration of Claims*

**24.31** Rent supplement is intended to provide income support on a short-term basis, but no limit on the duration of claims is in place. In practice, less than half of the rent supplement claims at the end of 2011 had been in payment for less than one year. Around 14% of the claims had been in payment for more than three years (see Figure 24.5). In cases where recipients have changed address, the claim at the new address may have been recorded as a 'new claim' and the duration spent at the previous address may not be reflected in Figure 24.5.

**Figure 24.5 Duration of Rent Supplement Claims December 2011**




Source: Department of Social Protection

**24.32** The Accounting Officer stated that it is the Department's intention to refocus the rent supplement scheme on its original objective which is the provision of a short-term income support to those who have become temporarily unemployed. The expectation is that long-term reliance on State support for rent payments will be dealt with through alternative schemes – the Rental Accommodation Scheme (in operation since 2004) and the Housing Policy Initiative (announced in 2011). In March 2012, the Government outlined the transfer of responsibility for the provision of rental assistance to persons with a long term housing need from the Department of Social Protection to housing authorities under a new Housing Assistance Payment.

### *Relationship between Scheme Rent Levels and Market Rents*

**24.33** In a 2011 review report, the Department estimated that it was funding approximately 40% of all households in the private rental sector under the rent supplement scheme.[6] The State funds a further 15% of the rental market through the Rental Accommodation Scheme and the Social Housing Leasing Initiative (about 40,000 units of accommodation in total in 2011). Rental rates applied in the latter schemes are, in the main, derived using rental levels in the rent supplement scheme as a benchmark. Frequent review is important to ensure that maximum rent levels paid by the Department reflect market conditions and do not drive up rents for tenants not in receipt of rent supplement.

6 Rent Limits Review Report 2011

*Market Influence*

**24.34** Analysis conducted during the 2011 review showed a significant correlation between market rents and the Department's maximum rent supplement limits. The 2011 review concluded that since the previous review in June 2010, rental values had stabilised at or near the Department's maximum rent limits for rent supplement. This suggests that the maximum rent limits set by the Department have a significant influence on market rents.

**24.35** The Department's report on the review of rent limits in 2011 concluded that maximum limits were generally too high. The review indicated that many landlords use the maximum limits set by the Department as the starting point for negotiations with both rent supplement tenants and non-rent supplement tenants.

*Relationship between Market Rents and House Prices*

**24.36** In a normal market, rents and house prices should generally move together – as houses become more expensive, rents would also be expected to rise. However, housing price bubbles typically involve prices getting out of line with rents for similar properties. When a bubble ends, rents may adjust less than house prices. This resolution pattern is borne out by trends in house prices and rental indicators (see Figure 24.6). This shows average rents stabilising since January 2010, while house prices continued to fall.

**24.37** Rental yield is an important concept when considering the relationship between house prices and rent levels - it effectively measures the annual rate of return on investment in housing property.[7] If rents are stable or increasing, a fall in house prices will increase the rental yield. Figure 24.6 shows the trends in the estimated average rental yields since 2006 in relation to housing properties in Dublin city and Galway city.[8] In each case, the yield has increased as residential property prices continued to fall. However, this is the prospect for investors considering buying property, and does not reflect the situation for existing landlords who receive much lower rental yields relative to their original investment.

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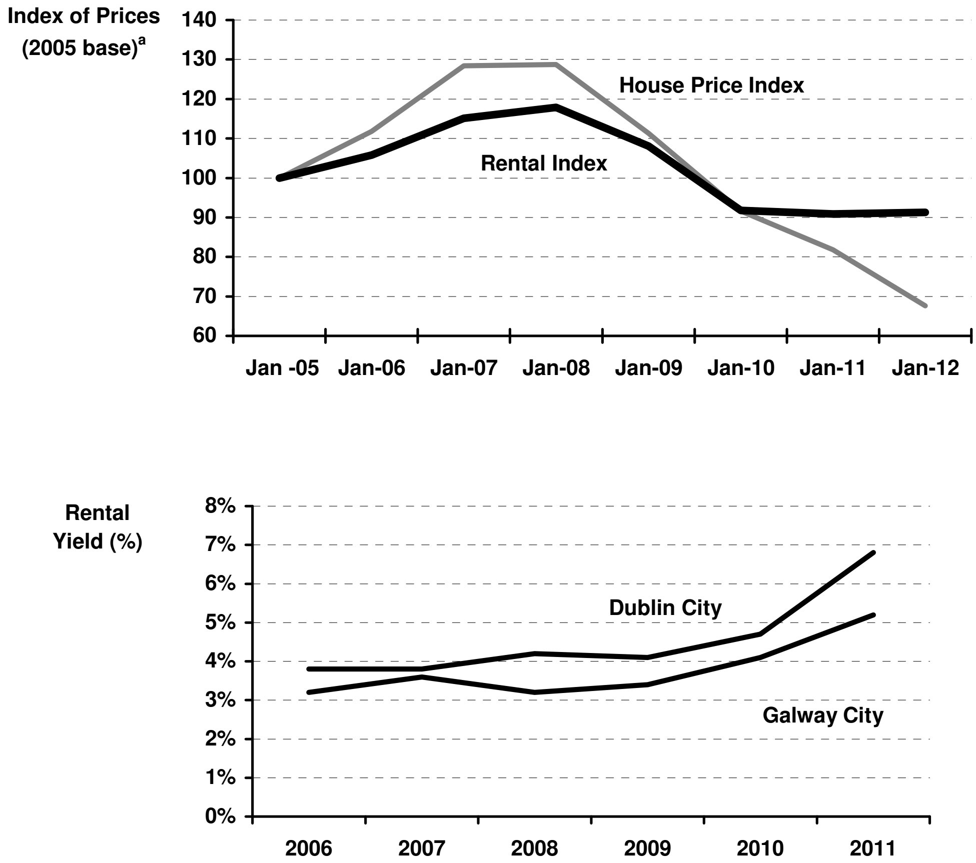
7 The gross rental yield of a property is calculated by expressing the annual gross rental income as a percentage of the market price of the house. When calculating the net rental yield, rental income is expressed net of expenses, such as mortgage interest.

8 Figures for Dublin City are the averages of North Dublin City, South Dublin City and Dublin City Centre.

**Figure 24.6 Relationship between House Prices and Rent Levels 2005 to 2011**




Source: CSO Residential Property Price Index and Daft.ie Rental Reports

Note: a The base is 100 at January 2005 for the house price index and the rental index.

*Setting Rent Limits*

**24.38** Maximum rent limits are set on a county-by-county basis with reviews conducted every eighteen months to two years. Reviews were conducted during 2008, in June 2010 and at the end of 2011. A further review is scheduled for June 2013. The data sources used for each review included rental indices published by the CSO, rental market reports produced by private rental and sales website Daft.ie and information from the Private Residential Tenancies Board (PRTB). It is important to note that the Daft.ie data used relates to advertised asking prices and may not reflect reductions subsequently secured during negotiations. There is no firm data available on the actual agreed rents paid nationwide.

**24.39** The review methodology applied by the Department has changed over time in order to better reflect market conditions and, in particular, rental levels applicable to rent supplement tenants. However, the Department specifies rent limits in terms of the composition of households (e.g. single person in shared accommodation; couple; one-parent family with one child) rather than in terms of accommodation type (e.g. bedsits; one bedroom accommodation; single room in a house-share).

**24.40** The 2011 review established rent limits for each household type based on available data on rents for the cheapest 40% of the matching accommodation type (referred to as the 40th percentile price).[9] A final test was conducted to check whether proposed rent limits were sufficient to obtain suitable accommodation in each county's major urban areas and limits were adjusted where necessary.

**24.41** The 2011 review resulted in reductions in rent limits being applied to almost all categories of properties in all locations. The Department estimates that the average reduction in the limits was 12%. However, the reduction in the maximum rent levels is not expected to result in a corresponding reduction in scheme expenditure in the short term because

- the revised rent limits may not be applied to existing claimants until the next case review which can be up to six months after the change in the limits
- claimants who are unable to agree a reduced rent with the landlord in line with the reduced limits may be given a further thirteen weeks at the higher rate to enable them to source alternative accommodation
- in some cases, the rent paid may already be below the revised maximum rates set for the relevant county.

**24.42** The Department estimates that the savings in 2012 arising from the revised limits will be €22 million — a reduction of 4% in total expenditure on rent supplement year on year.

*Implementing Rate Changes*

**24.43** As part of the examination, the arrangements for implementing the revised January 2012 limits were examined in the two offices visited.

- In the Dublin office, staff were instructed to inform all claimants immediately of the changes to rent supplement rates. Claimants were given a period of about six to eight weeks to renegotiate their rent costs with the landlord. By the end of February 2012, the revised maximum rental levels had been implemented in full for over 90% of claims in payment.
- In the Galway office, rent supplement reviews were conducted during May and June 2012 and customers were given until the end of June to renegotiate rents with landlords. Rent supplement payments were adjusted or suspended in cases where no reply was received. The Department stated that the revised maximum rental levels have now been implemented in full, apart from a small number of exceptional circumstances where it is deemed appropriate to pay higher amounts.

9 For example, if there were 1000 units of three bedroom accommodation available for rent in a particular county, 400 of them would be priced at rents at or below the 40th percentile price.

### *Data Sharing with Other Bodies*

**24.44** Since 1 January 2011, rent supplement is not payable unless the landlord has provided his/her tax reference number or has given a reasonable explanation for not doing so.[10] All rent supplement application forms must include the PPSN of the landlord. The Department provides Revenue with details of all rent supplement payments, on an annual basis, with the aim of ensuring tax compliance by landlords.

**24.45** There is currently no requirement for evidence to be provided to the Department that the landlord is registered with the PRTB. However, the Department sends data in relation to dwellings where the tenant is in receipt of rent supplement to the PRTB on a quarterly basis.

**24.46** The Accounting Officer stated that while in general, landlords are legally obliged to register tenancies with the PRTB, certain tenancies are exempt and as a result it would not be practical for the Department to insist that a tenancy be registered with the PRTB before rent supplement is paid.[11] She also noted that in cases where landlords are obliged to register with the PRTB, they can register within one month of the commencement of the tenancy at a standard fee or later at a higher fee.

### *Take-On Controls*

**24.47** In addition to the basic documentation and evidence required to verify entitlement to Supplementary Welfare Allowance, there are three further significant requirements in respect of rent supplement entitlement.

*The 'Six Month' Rule*

**24.48** Applicants must provide evidence that they have been living in private rented accommodation, or accommodation provided under a social housing scheme, or in accommodation for homeless people for six months out of the preceding twelve months. If unable to satisfy the six month rule, applicants must provide evidence of being assessed and deemed eligible for social housing by a housing authority.

**24.49** The audit found that evidence of the claimant's compliance with the six month rule or eligibility for social housing was available in all of the sample cases examined.

*Tenancy Details*

**24.50** The amount of rent paid by the claimant is the key determinant of the amount of rent supplement they are entitled to, so strong controls are needed to confirm the accuracy of the declared rental amounts. The Department's guidelines require the claimant to provide a copy of a formal tenancy agreement, rent book or other evidence that a bona fide tenancy exists, and of the amount of rent payable.

10 Section 7 of Social Welfare and Pensions Act, 2010.

11 Exempt properties include dwellings let by a voluntary body or dwellings in which the landlord is resident.

**24.51** The audit found that copies of the formal tenancy agreement or the rent book were not on file in 80% of cases examined. In those cases, the amount of the rent was confirmed only by way of the information provided by the landlords in the claimants' application form.

**24.52** Landlords are obliged under the Housing (Rent Books) Regulations, 1993, to provide their tenants with a rent book or other documentation to like effect and local authorities carry out inspections to enforce the rent books regulations. Rent books were available in 85% of the 63,600 properties inspected between 2007 and 2010.[12] For inspections carried out in 2010, the proportion of absent rent books was only around 10%.

**24.53** The Accounting Officer stated that the Department has recently introduced powers of enquiry for appropriate staff to formally request and oblige landlords to provide information in respect of their rent supplement tenants, principally to verify the existence of the tenancy and the agreed rent.[13] She further stated that topics to be covered in staff training planned for delivery from September 2012 onwards will include the maintenance of proper records in respect of rent supplement applications.

*Standard of Accommodation*

**24.54** The Department requires that, for rent supplement to be payable, the residence must be reasonably suited to the residential and other needs of the claimant and the rent payable by the claimant should be just and proper having regard to the nature, character and location of the residence. The Department has not developed objective criteria to assess whether individual dwellings are of a suitable standard for the rent supplement scheme. While it could not quantify the rate of refusal, it acknowledged that it is rare for an officer to refuse rent supplement on the grounds that the accommodation is not to the required standard.

**24.55** Home visits can provide evidence that the claimant is living at the address they have stated. They can also be used to assess the standard of accommodation and its suitability for the claimants' residential needs. It was noted that the two local offices visited adopted very different approaches to the conduct of home visits. In the Dublin office, all 15 cases examined had a home visit at claim award stage. In contrast, the audit found that 14 of the 15 rent supplement claims examined in Galway had never been the subject of a home visit, either when the claim was put into payment, or at a later review stage.

**24.56** The Accounting Officer stated that staff administering the rent supplement scheme are not required to make a judgement on whether accommodation is of a suitable standard as they are not qualified to do so. However, she noted that staff can decide that a rent supplement is not payable where the Department has been notified by a local authority that standards are not being complied with. If such a notification from a local authority relates to an existing claimant, the situation is discussed with the claimant and the Department attempts to act in his/her best interest.

**24.57** Figure 24.7 outlines the inspection activity of local authorities over the period 2007 to 2011.

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12 Statistics supplied by the Department of Environment, Community and Local Government.

13 Section 14 of the Social Welfare and Pension Act, 2012.

**Figure 24.7 Local Authority Inspections of Rental Property 2007 to 2011**

Minimum standards for rental accommodation are prescribed by means of regulations made under section 18 of the Housing (Miscellaneous Provisions) Act, 1992. The Department of Environment, Community and Local Government introduced the Housing (Standards for Rented Houses) Regulations, 2008, which took effect on 1 February 2009. The standards specify requirements in relation to a range of matters including structural repair, fire safety, sanitary facilities, lighting, heating and ventilation. Landlords have a legal obligation to ensure that their rented properties comply with these regulations. The sanctions that may be imposed for non-compliance with the regulations were increased by the Housing (Miscellaneous Provisions) Act, 2009.

The regulations set out the criteria to be used to assess the standard of rented accommodation. Responsibility for conducting inspections and enforcing the regulations rests with the relevant local authority. The cost of inspection and enforcement is supported by funding provided out of the proceeds of tenancy registration fees collected by the PRTB.

It is a matter for each individual local authority to decide its enforcement strategy and inspection arrangements. However, in discharging their responsibilities, authorities have been asked to have regard to guidelines published in November 2007, which contain a range of recommendations including the targeting of inspection activities.[a]

The number of inspections actually carried out varies between local authorities. In 2011, the number of inspections carried out by county councils ranged from 75 in Longford to 1,142 in Cork. For town councils, the highest number of inspections carried out (in Sligo) was 661, but it was noted that five town councils had not carried out any inspections in the last three years. (The Department of the Environment, Community and Local Government has pointed out that some county councils are now conducting inspections on behalf of town councils within their geographic areas).

The table below illustrates the inspection intensity and the outcome of inspections between 2007 and 2011.

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| **PRTB registrations** | 202,100 | 206,100 | 234,600 | 231,800 | 260,100 |
| **Dwellings inspected**[b] | 12,050 | 14,880 | 18,000 | 18,700 | 16,760 |
| **% of properties inspected** | 6% | 7% | 8% | 8% | 6% |
| **% of properties inspected that did not meet standard** | 20% | 19% | 24% | 25% | 37% |

Source: Department of Environment, Community and Local Government and PRTB.

Notes: a Good practice in Housing Management: Guidelines for Local Authorities – Standards in the Private Rented Sector: Strategic Planning, Effective Enforcement, (Centre for Housing Research, November 2007)

b Follow up inspections were carried out in respect of some properties, but this does not increase the proportion of properties inspected.

### *Control Over Claims in Payment*

**24.58** The Department's policy states that all claims in payment should be reviewed twice yearly. However, the guidelines are not specific in relation to the intensity of the review, which can range from as little as a letter seeking reconfirmation of data, to a home visit.

**24.59** A review letter is sent to each claimant and the payment is terminated if the enclosed form is not completed and returned. Part of the form, relating to means is completed by the claimant, and the landlord completes a section outlining the rent payable. In some cases, this process may be followed up by a home visit. The audit found that

- In both locations, four of the 15 cases (27%) examined did not have evidence of a review being conducted in the previous twelve months, contrary to requirements. However, reviews had been conducted in all cases in the previous eighteen months.
- In the Galway office, the 15 cases examined had most recently been reviewed by letter only.
- In the Dublin office, the 15 cases received letters, and home visits were subsequently conducted in two cases, following a review of the information provided by the claimant.

**24.60** A total of 1,520 rent supplement claimants – equivalent to around 1.6% of all claimants at the start of the year - had overpayments recorded against them in 2011. These had a total value of €1.9 million (see Figure 24.8).

**Figure 24.8 Rent Supplement Recorded Overpayments 2009 to 2011**

| Year | Number of cases | Overpayments recorded | |
|---|---|---|---|
| | | Total | Average |
| | | €000 | € |
| **2009** | 534 | 898 | 1,682 |
| **2010** | 1,331 | 1,795 | 1,349 |
| **2011** | 1,520 | 1,894 | 1,246 |

Source: Department of Social Protection

## Mortgage Interest Supplement

**24.61** Mortgage interest supplement is paid to people who are having difficulty paying their mortgage and are getting a Social Welfare or HSE payment, or only have part-time employment. Mortgage supplement assists with the interest portion of mortgage repayments only and may be paid in cases where the applicant is making capital repayments on the mortgage.

**24.62** In 2007, the numbers claming mortgage supplement stood at about 3,700 but this had increased to 18,700 at the end of 2011 (see Figure 24.9). Annual expenditure increased commensurately.

**Figure 24.9 Mortgage Interest Supplement[a] 2007 to 2011**

| Year | Recipients | Expenditure |
|---|---|---|
| | (at 31 December) | €m |
| 2007 | 3,710 | 11.6 |
| 2008 | 7,650 | 26.9 |
| 2009 | 14,720 | 60.9 |
| 2010 | 17,650 | 65.1 |
| 2011 | 18,700 | 67.4 |

Source: Department of Social Protection statistical information reports

Note: a Local authority mortgage interest supplement claims are not included in the figures shown.

**24.63** As is the case with rent supplement, MIS is intended to be a short-term income support. Figure 24.10 sets out details, for the period 2007 to 2011, of the length of time claims have been in payment. Only 37% of claims at end 2011 had been in payment for less than a year. More than one in five of the 1,850 claims put in payment during 2007 were still in payment at the end of 2011.

**Figure 24.10 Age Analysis of Mortgage Interest Supplement claims[a] 2007 to 2011**

| | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| **Duration of claim** | | | | | |
| Less than 1 year | **1,850** | 5,140 | 9,030 | 7,720 | 6,880 |
| 1 to 2 years | 820 | **1,190** | 4,020 | 6,200 | 4,950 |
| 2 to 3 years | 380 | 550 | **800** | 2,570 | 4,140 |
| 3 to 4 years | 210 | 270 | 400 | **560** | 1,880 |
| 4 to 5 years | 160 | 160 | 160 | 270 | **410** |
| 5 years and over | 290 | 340 | 310 | 330 | 440 |
| All claims | 3,710 | 7,650 | 14,720 | 17,650 | 18,700 |

Source: Department of Social Protection

Note: a Local authority mortgage interest supplement claims are not included in the figures shown.

### *Administration of the Scheme*

**24.64** Although MIS is aimed at those experiencing mortgage difficulties, prior to 18 June 2012, claimants were not required to provide evidence of renegotiations with the mortgage provider. Such renegotiations could result in a period of forbearance, such as a payment holiday period, a move to interest only payments, or increasing the duration of the mortgage term.

**24.65** In July 2010, the Department published the findings of a review of the MIS scheme. The review found that the scheme's overall objective of providing short-term income support remained valid in the current mortgage market and economic conditions, even in the presence of current forbearance policies. However, the review identified a number of issues with the operation of the scheme and made recommendations for improvement. It concluded that a high number of claimants were not contacting their lenders to renegotiate the terms of their mortgages in advance of applying for MIS support. In addition, the report concluded that MIS could act as a disincentive to seeking or retaining employment due to high income replacement rates. The report's recommendations included

- MIS should not be provided where repayments of the capital element of the loan are being made to the lender.
- The applicant should negotiate a six month period of forbearance with the lender before the State intervenes in providing MIS.
- An overall time limited period, in the region of two years, should be introduced to ensure that MIS does not impact on behaviour in terms of seeking or retaining work.

**24.66** In relation to the recommendation that MIS should not be paid where capital repayments are being made to the lender, the Accounting Officer stated that this issue is currently under consideration by her Department and the Department of the Environment, Community and Local Government.

**24.67** The Department introduced a new eligibility criterion with effect from 18 June 2012, to the effect that applicants for MIS must have secured alternative payment arrangements with their lender for a period of not less than twelve months, prior to submitting an application. The purpose of the new condition is to ensure that the eligibility criteria for the scheme reflect the forbearance arrangements set out in the Code of Conduct for Mortgage Arrears issued by the Central Bank in January 2011. The Accounting Officer stated that, as at 3 August 2012, approximately 150 applications for MIS have been refused because this condition was not satisfied.

**24.68** In relation to the timeframe for MIS, the Accounting Officer stated it is not an appropriate long-term support and it needs to be replaced with a more sustainable solution. She stated that an interdepartmental working group on mortgage arrears had recommended the establishment of two new schemes, 'mortgage to rent' and 'mortgage to lease'.[14] The Department recently announced the establishment of a mortgage to rent scheme which it is hoped will assist around 100 families in its first year.

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14 Under the proposed schemes, ownership of the house transfers to an approved housing body or the mortgage lender. The existing owners then rent their homes as social housing tenants, and the State will, where necessary, subsidise the rental.

### *Take-On Controls*

**24.69** In addition to evidence of the claimant's identity, means and habitual residence, an application for MIS must be accompanied by details from the lending agency including the current status of the mortgage, the amount advanced, current arrears, monthly interest payments and any legal actions against the applicant. The applicant must also provide a copy of all documentation supplied to the lending agency in support of the original mortgage application.

**24.70** A review of 20 MIS cases (ten in each local office visited during the audit) showed that

- Three quarters of cases did not have significant arrears at the time the claim was awarded.
- In all ten cases reviewed in Galway and in six cases reviewed in Bishop's Square, the mortgage payment comprised both principal and interest, with the State funding the interest portion of the payment and the claimant funding the principal portion of the repayment.[15]

### *Control Over Claims in Payment*

**24.71** The policy and format of the review process for MIS payments is similar to that applied in respect of rent supplement. Claimants are sent a form annually. The first part of the form relates to means and is for completion by the claimant, while the second part is for completion by the lending agency and provides information in relation to the current repayment amount, the proportion of the payment which is interest and the level of arrears, if any, on the loan.

**24.72** In a sample of 20 MIS payments (ten in each local office) examined, it was found that reviews had been conducted within prescribed timeframes in all cases. However, in both Bishop's Square and Galway, half of the sample of cases reviewed did not have a mortgage account statement on file showing the claimant's recent mortgage payment history.

**24.73** The Department recorded overpayments totalling €271,000 against 202 MIS recipients in 2011 – around 1% of the total number of claims in payment (see Figure 24.11).

**Figure 24.11 Mortgage Interest Supplement Recorded Overpayments 2009 to 2011**

| Year | Number of cases | Overpayments recorded | |
|---|---|---|---|
| | | Total | Average |
| | | €000 | € |
| **2009** | 52 | 80 | 1,538 |
| **2010** | 187 | 281 | 1,503 |
| **2011** | 202 | 271 | 1,342 |

Source: Department of Social Protection

15 In the remaining four cases in Bishop's Square, the mortgage was on an interest-only basis.

## Conclusions and Recommendations

### *Control System*

**24.74** The economic environment and the administrative arrangements in relation to Supplementary Welfare Allowance payments have changed considerably in recent years. Each category of payment has very different scheme risks and claimant profiles. In effect, they are separate schemes with quite different focuses administered within a common organisational structure. It may be more meaningful to view them as separate schemes, and to devise separate control policies.

**Recommendation 24.1:** In order to ensure that control resources are targeted appropriately, the Department should, in respect of each individual scheme

- obtain up to date information in relation to the underlying level of excess payment occurring
- identify the key scheme risks
- devise an appropriate control policy informed by an analysis of the reasons for payments in excess of entitlements.

**Accounting Officer's Response:** Agreed. As part of a general review of control procedures for Supplementary Welfare Allowance, the timing of the next fraud and error survey is being considered. The Department intends to conduct a fraud and error survey of one of the individual elements of the scheme (basic Supplementary Welfare Allowance, rent supplement and mortgage interest supplement) in 2013 and to conduct surveys in respect of the remaining elements in subsequent years.

**Recommendation 24.2:** In relation to reviews of claims in payment, the control policy for each individual scheme should outline the type and frequency of review to be completed — ranging from a desk review of claim papers, the issue of letters to selective customers, database checking, or home visits.

**Accounting Officer's Response:** Agreed. A working group has been established to consider control procedures in respect of Supplementary Welfare Allowance. The group is examining current practices, identifying risks and recommending improvements. By the end of 2012, the working group will have finalised its review and the resulting recommendations will begin to be implemented.

### *Basic Supplementary Welfare Allowance*

**24.75** Almost three quarters of all basic Supplementary Welfare Allowance claims relate to people awaiting decisions on applications under another social welfare or HSE scheme. As a result of increased claimloads, there has been a significant increase in the time claimants wait for decisions under primary schemes e.g. Jobseekers Allowance or Invalidity Pension.

**Recommendation 24.3:** The Department should investigate the impact on the duration of basic supplement claims of increased waiting times for decisions on other schemes and consider the implications for the review policy in respect of basic supplement claims in payment.

**Accounting Officer's Response:** Agreed. Jobseeker claimants account for over half of basic Supplementary Welfare Allowance payments made to claimants awaiting a decision on applications under another welfare scheme. The introduction of the National Employment and Entitlements Service, currently being trialled by the Department, will reduce the requirement for recourse to basic Supplementary Welfare Allowance for jobseekers claimants.

**Recommendation 24.4:** In particular, it should investigate the possibility of establishing an automated link between basic Supplementary Welfare Allowance claims and claims under primary schemes so that a claimant's basic supplement claim is automatically stopped when a decision is made on his/her claim under a primary scheme.

**Accounting Officer's Response:** Agreed. The Department has a major programme of process redesign and modernisation, including the development of new computer systems which provide for automatic messaging between schemes. The timeline for the transfer of the Supplementary Welfare Allowance scheme to the new generation computer systems is dependent on priorities and best use of resources.

### *Rent Supplement*

**24.76** Rent supplement is, in effect, a major welfare scheme in its own right, costing around €500 million a year and relied upon by almost 100,000 households.

**Recommendation 24.5:** In order to manage the risk of excess expenditure, it is recommended that the Department should have better information to allow it to analyse expenditure by household composition, the type of accommodation rented and the location of the accommodation.

**Accounting Officer's Response:** Agreed in part. The system used by the Department to administer the rent supplement scheme does not provide sufficient detail to facilitate the level of analysis recommended. As part of a major programme of process redesign and modernisation, the Department has developed and is rolling out a new computer system, through which 70% of schemes are now being paid. The Accounting Officer stated that the timeline for transfer of rent supplement to the new system has yet to be finalised.

**Recommendation 24.6:** It is recommended that the Department should set out its objectives for rent supplements in terms of the housing need it is expected to address e.g. the target duration of support, target demographic groups, housing standards, cost of accommodation provision, etc.

**Accounting Officer's Response:** Agreed. The Department aims to return rent supplement to its original objective of providing short-term income support to people who have become temporarily unemployed. The Department is represented on a multi-agency steering group to develop proposals to transfer responsibility for the provision of assistance to individuals with a long-term housing need from the Department of Social Protection to housing authorities.

**24.77** The Department reviews maximum rent levels paid every eighteen months by reference to market rates. The methodology used has been refined in recent years in order to arrive at a rate which is more suitable to rates applicable to rent supplement tenants.

**24.78** The rental levels set by the Department have an impact on market rates since rent supplement tenants comprise a significant element of the rental market. The Department's analysis concludes that it is to some extent a 'price setter' as opposed to a 'price taker' in the rental market. The analysis completed in the 2010 and 2011 reviews concluded that many landlords use the maximum limits established by the Department as a benchmark in setting rent prices for both rent supplement and non-rent supplement tenants.

**24.79** There are delays in the implementation of revised rental limits. In relation to the revised rates issued by the Department in January 2012, audit work revealed differences between local offices in the approach to implementation. One office had attempted to revise rates for all claimants within a six week period. In the other office, the changes were implemented as part of a review process conducted during May and June 2012.

**Recommendation 24.7:** The Department should adopt a consistent policy in relation to the implementation of revised maximum rental levels. Where the revisions lead to reductions in the amounts paid, the Department should seek to implement the changes as quickly as possible.

**Accounting Officer's Response:** Agreed in part. Revised rates are applicable to new applications with immediate effect and to existing tenancies at the next review, which can be up to six months later. The Department agrees that revised rates should be implemented as soon as possible. However, the Accounting Officer stated that increasing the frequency of reviews would place a significant administrative burden on the Department and would have an adverse impact on customer service.

**24.80** In relation to Rent Supplement, specific issues were identified during the audit in relation to validation of the rent payable and assessment of the standard of accommodation provided.

**Recommendation 24.8:** The Department should obtain copies of rent books in order to validate the rent being paid.

**Accounting Officer's Response:** Agreed in part. Staff training to be delivered from September 2012 onwards will cover control issues including file administration and the proper maintenance of records. In addition, staff have recently been granted powers of enquiry to formally request and oblige landlords to provide information in respect of their rent supplement tenants. This provides a further mechanism through which the Department can verify the existence of a tenancy and validate the rent amount.

**24.81** The discrepancy in the home visit rates in offices visited during the examination is striking, and may reflect different legacy approaches taken in HSE regions. Given the expenditure being incurred by the State on rents paid to private landlords and the vulnerability of many of those dependent on welfare assistance, it is important to ensure that accommodation of an acceptable standard is provided.

**Recommendation 24.9:** Occasional home visits to rent supplement recipients should be undertaken. In cases where deficiencies in the standard of accommodation are evident, the accommodation should be referred to the relevant local authorities for inspections. Results of such referrals should be monitored and taken into account in reviews of claims.
**Accounting Officer's Response:** Agreed. Home visits are undertaken where there is a valid reason for doing so. Where it comes to the attention of departmental staff that accommodation appears to be below the required standard, the concerns are notified to the relevant local authority for follow up. Where the Department has been notified by a local authority that standards are not being complied with, it can decide to refuse an application for rent supplement. If such a notification from a housing authority relates to an existing tenant, the situation is discussed with the tenant and the Department attempts to act in his/her best interest.

### *Mortgage Interest Supplement*

**24.82** Legislation was implemented in June 2012 which provides that MIS will not in future be payable until applicants have secured and complied with alternative payment arrangements with their lender for a period of not less than twelve months. The Accounting Officer stated that other recommendations made in the July 2010 report on a review of MIS are currently being considered within the Department.

# Part 4  Other Matters

# 25 Accounts of the National Treasury Management Agency

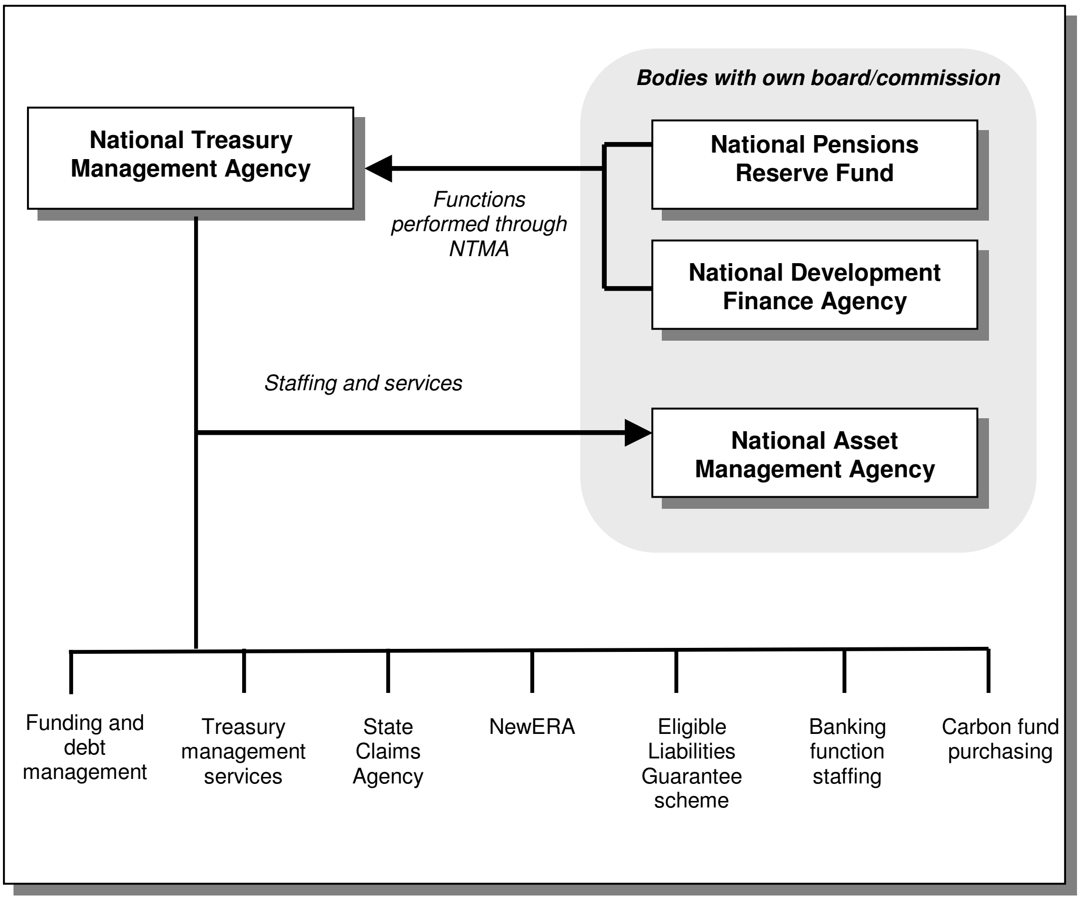
**25.1** Section 12 of the National Treasury Management Agency Act 1990 (the Act) requires the Agency to keep accounts of all moneys it receives or expends in the form approved by the Minister for Finance, and to submit them for audit by the Comptroller and Auditor General. Following completion of the audit, the Agency must submit the accounts to the Minister for Finance. The Minister must present the accounts to the Houses of the Oireachtas.

**25.2** Separately, Section 12 (3) of 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 Agency each year. This chapter is the report for 2011 under that section of the Act.

## Functions and Roles of the Agency

**25.3** The National Treasury Management Agency is a complex organisation with multiple functions and roles that now extend beyond its original function of managing Ireland's national debt. The Chief Executive Officer of the Agency reports directly to the Minister for Finance. The Agency operates without a board but has an Advisory Committee to assist and advise on matters the Agency refers to the Committee. A summary of the Agency's main functions and roles is outlined in Figure 25.1.

**Figure 25.1 Main functions and roles of the National Treasury Management Agency**



### *Funding, Debt Management and Treasury Services*

**25.4** The Agency borrows moneys on behalf of the Exchequer and manages Ireland's national debt which at the end of 2011 was €119.1 billion after taking account of cash and other financial assets.

**25.5** The funding and debt management division in the Agency performs a number of other functions including treasury operations for the National Asset Management Agency (NAMA) and the National Pensions Reserve Fund (NPRF), providing a central treasury service for State bodies and local authorities and managing the assets of the Dormant Accounts Fund.

### *State Claims Agency*

**25.6** The NTMA manages personal injury, property damage and clinical negligence compensation claims on behalf of certain State authorities through the State Claims Agency (SCA). Awards and associated costs of the SCA in 2011 amounted to €110 million. The estimated cost of settling the claims that remained outstanding at 31 December 2011 was €991 million.

### *Eligible Liabilities Guarantee Scheme*

**25.7** Under the Eligible Liabilities Guarantee scheme (the scheme), certain eligible liabilities, including deposits and debt securities of up to five years maturity in participating institutions are guaranteed by the Minister for Finance. The NTMA operates the scheme on behalf of the Minister for Finance. While the scheme is administered by the Agency, the Accounting Officer of the Department of Finance is accountable for fees collected under the scheme. At 31 December 2011, amounts covered by the scheme totalled €102 billion in four participating institutions. Under State aid rules, the scheme requires the approval of the EU Commission at six-monthly intervals. In June 2012, the Commission approved the extension of the scheme to 31 December 2012.

### *Banking System Functions Staffing*

**25.8** In March 2010, the Government delegated certain banking system functions of the Minister for Finance to the NTMA. The delegation related, in particular, to management of the State's interest in the credit institutions covered by the banking guarantees and the negotiation of capital support to those institutions. The delegation was revoked with effect from 5 August 2011 and the NTMA Banking Unit has since then been seconded to the Department of Finance.[1] At the direction of the Minister, the costs of the Banking Unit, comprising staff costs and certain consultancy costs, continue to be met by the NTMA. Costs incurred in the period from 5 August 2011 to 31 December 2011 amounted to €6.3 million.

### *New Economy and Recovery Authority*

**25.9** In September 2011, the Government announced the establishment of the New Economy and Recovery Authority (NewERA), initially on a non-statutory basis, within the NTMA. Functions of NewERA include

- reviewing the capital investment plans of commercial semi-state companies, from a shareholder perspective and corporate governance of the commercial semi-state sector[2]

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1 The delegation was revoked under Statutory Instrument number 395 of 2011.

2 Initially the companies within the remit are ESB, Bord Gais, EirGrid, Bord na Móna and Coillte.

- working with Departments to develop and implement proposals for investment in line with the NewERA programme for Government commitments in energy, water and next generation telecommunications
- working with the NPRF to bring forward proposals for investment of available resources in the NewERA initiative
- working with the NPRF to develop a strategic investment fund
- where requested by Government, advising on, and if appropriate overseeing, any restructuring or disposal of commercial semi-state company assets
- based on progress with the initial phase of its work, considering a model for a holding company structure which could own the shares in commercial semi state companies.

### *Carbon Fund Purchases*

**25.10** On behalf of the State, the Agency administers the purchase of carbon credits required to meet Ireland's climate change obligations through the Carbon Fund, which was established by the Carbon Fund Act 2007. At the end of 2011, the Carbon Fund held assets with an acquisition value of €99 million.

### *National Pensions Reserve Fund*

**25.11** The Agency is manager of the National Pensions Reserve Fund (the Fund). The Fund's legislative remit was amended in 2009 and 2010 to allow the Minister for Finance to direct the NPRF Commission to make certain investments and certain payments to the Exchequer. The Fund held net assets of €13.4 billion at the end of 2011.

### *National Development Finance Agency*

**25.12** The National Development Finance Agency (NDFA) is the statutory financial advisor to State authorities in respect of all public investment projects with a capital value over €30 million. It also has responsibility for the procurement and delivery of Public Private Partnership projects in sectors other than transport and the local authorities. The NDFA performs its functions through the Agency. Fees and expenses incurred by the NDFA in the performance of its financing and advisory functions in relation to NDFA projects amounted to €3.1 million in 2011. A further €5.9 million was incurred by the NTMA in providing business and support services to the NDFA.

### *National Asset Management Agency*

**25.13** The Agency assigned staff and provided services to the National Asset Management Agency (NAMA) during 2011 for which a cost of almost €27.7 million was incurred and recharged to NAMA[3]

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3 The total administrative costs of NAMA were €128.4 million in 2011 (€46.2 million in 2010).

- Just under €24 million was incurred in respect of staff costs including €20.9 million for 200 staff directly employed by the NTMA and assigned to NAMA and €3.1 million in respect of the apportioned cost of NTMA employees operating shared services including IT, human resources and finance
- €3.7 million was incurred in respect of other costs incurred by the NTMA, including rent, office services and consultancy costs.

## Accounts of the Agency

**25.14** The Agency's accounts for 2011 have been audited. My report on the audit was issued on 29 June 2012. The accounts, including an administration account and accounts relating to the national debt, have been presented to the Minister who laid copies of them before both Houses of the Oireachtas on 19 July 2012.

**25.15** I am satisfied that the accounts properly present the transactions of the Agency for 2011 and its balances at year end. Chapter 2 outlines the Agency's debt management activities in 2011.

# 26 Collection of Motor Taxation

**26.1** A liability to pay motor tax arises when a vehicle is used in a public place. There is also a legal requirement to display a current motor tax disc on vehicles in public.[1]

**26.2** There are two separate bases for motor taxation of cars: the rate of tax on cars registered pre-July 2008 is based on engine size while the rate for cars registered from July 2008 is based on the $CO_2$ emissions level of the vehicle. Rates based on the weight of the vehicle apply in the case of goods vehicles. A range of other rates applies in the case of vehicles such as buses, taxis, motorcycles and tractors.

**26.3** Some vehicles are exempt from payment of motor tax, including state-owned vehicles, diplomatic vehicles and adapted vehicles for disabled drivers. Owners of such vehicles must register their vehicle status and receive an exemption class accordingly. The requirement to display a current disc remains in place for an exempt vehicle.

**26.4** Several bodies play a role in the collection, administration and enforcement of motor tax

- The Office of the Revenue Commissioners (Revenue) is the national vehicle registration authority and captures vehicle details at the time of payment of Vehicle Registration Tax. Only vehicles registered with Revenue can be taxed.
- The Department of the Environment, Community and Local Government (Environment) has responsibility for motor tax policy and the related services provided by local authorities including motor tax collection.
- The Department of Transport, Tourism and Sport (Transport) has responsibility for the collection of online motor tax. It also maintains the National Vehicle and Driver File, which records all vehicles registered in the State and facilitates collection of motor tax.
- Local authorities are responsible for the receipt of motor tax collected through their motor tax offices. Traffic wardens enforce the legal requirement to display a motor tax disc on the windscreen of a vehicle in a public place.
- An Garda Síochána enforces the legal requirement to have a vehicle in use taxed and to display a motor tax disc on a vehicle. They issue and process the collection of fixed charges in cases of failure to display a current motor tax disc and instigate prosecutions where fixed charges are unpaid. In addition, an Garda Siochána may instigate a prosecution where a person is found using a vehicle without having a current disc.
- The Courts Service is responsible for the collection and processing of prosecution fines in relation to motor tax offences.

**26.5** Motor tax is collected by twenty-nine local authorities and through Transport's online service. Amounts collected are paid into the Local Government Fund (the Fund), which is administered by Environment. In the region of €1 billion is paid into the Fund from motor tax each year.[2]

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1 Main legislation: Roads Act 1920; Finance (Excise Duties) (Vehicles) Act 1952 (changes to rates are made by amending the Schedule to the 1952 Act in various Motor Vehicle Acts), Finance (Excise Duties) (Vehicles) (Amendment) Act 1960, and Finance (No 2) Act 1992.

2 The proceeds of the 2012 increase in motor tax rates will be paid to the Exchequer. In the past, the Exchequer also contributed to the Fund, but no Exchequer funding has been provided in 2012. The proceeds of the household charge are being paid into the Fund.

**26.6** Expenditure from the Fund supports local authorities for general discretionary funding of their everyday activities, for improvement and upkeep of non-national roads and for a number of local government initiatives. The Fund also reimburses Transport for the driver and vehicle licensing costs incurred (€13 million in 2011).

**26.7** Current annual rates of motor tax range from €157 to €2,258 for private cars.[3] Figure 26.1 shows the number of vehicles taxed and related motor tax receipts over the five years to 2011.

**Figure 26.1 Motor Tax Receipts 2007 to 2011**

| Year | Number of vehicles taxed at year end | Motor tax receipts[a] |
|---|---|---|
| | '000s | € million |
| **2007** | 2,417 | 941 |
| **2008** | 2,471 | 1,042 |
| **2009** | 2,441 | 1,045 |
| **2010** | 2,389 | 1,008 |
| **2011** | 2,397 | 992 |

Source: Department of Transport, Tourism and Sport

Note: a Receipts relate to payments for motor tax discs. Other motor tax income, such as that related to trade plates, certificates of roadworthiness, trailer licences, and public service vehicle licences, are not included.

**26.8** This chapter reviews

- the systems in place to monitor evasion of motor tax
- the system in place for maintaining the register of vehicles and issuing tax renewal notices
- management of tax exemption periods
- the deterrent effect of fixed charge penalties on non-payment of motor tax.

**26.9** Meetings were held with officials from Environment and an Garda Síochána to ascertain the processes involved in the collection and enforcement of motor tax. Discussions were also held with Transport in regard to online services and data maintained on the National Vehicle and Driver File. Data provided by Transport and an Garda Síochána was reviewed, analysed and compared as part of the audit.

3 The rates for other vehicles range from €24 to €4,833.

## Measuring the Extent of Evasion

**26.10** The effectiveness of the systems in place for collecting and enforcing the payment of motor tax can only be assessed if the extent of evasion is measured and tracked over time.

**26.11** In general, the extent of evasion of motor tax can only be assessed using survey techniques. In 2001, a roadside survey was carried out. Based on the results, it was estimated that the level of persistent evasion of motor tax was just under 5%.[4]

**26.12** There is no regular assessment of the extent of evasion in Ireland. In contrast, the Department for Transport in the United Kingdom carries out a roadside survey each year to estimate the level of vehicle owners' compliance with the requirement to pay Vehicle Excise Duty and as evidence of the effectiveness of the collection procedures in place (see Figure 26.2).[5] The survey for 2011 found there was a tax evasion rate of about 0.7%.

**Figure 26.2 Estimate of Extent of Evasion of UK Motor Tax**

The Department of Transport in the United Kingdom undertakes regular surveys whereby sightings of vehicle registrations are collected at sites distributed across the country. Cameras are positioned at the roadside at these sites and automatic number plate recognition software collects details of registration numbers. Motorcycle registration numbers are collected by roadside enumerators. The plate numbers recorded are checked to establish which vehicles are taxed. Statistical analyses are then used to derive estimates of the rate of unlicensed vehicles and revenue lost from evasion.

In the 2011 UK survey, there were over one million valid sightings of registration numbers at 256 sites, which found that about 0.7% of traffic on UK roads did not have a valid tax disc. It estimated that the lost revenue from evasion in the UK in 2011/2012 could have cost around £40 million.

*Source: UK Department of Transport, Vehicle Excise Duty Evasion Bulletin, Statistical Release, December 2011 and Vehicle Excise Duty Evasion Statistics : Notes and Guidance*

**26.13** While no recent national roadside survey on motor tax has been carried out in Ireland, Transport has analysed data for vehicles that traversed the M50 barrier free toll on four separate days during 2010 and 2011. These vehicles were checked against data held on the National Vehicle and Driver File. Figure 26.3 summarises the findings from that review.

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4 Survey of motor tax, motor insurance and NCT compliance 2001, undertaken jointly by Environment, National Roads Authority and an Garda Síochána.

5 Biannual basis from 2012.

**Figure 26.3 Motor Tax survey results (at M50 toll) 2010 and 2011 (selected dates)**

| Sample date | Vehicles registered[a] | Motor tax expired | | |
|---|---|---|---|---|
| | | ≤ 1 month | > 1 month | Total |
| **7 July 2010** | 70,111 | 3.9% | 6.0% | 9.9% |
| **24 September 2010** | 63,989 | 2.9% | 4.8% | 7.7% |
| **31 March 2011** | 66,007 | 1.7% | 5.0% | 6.7% |
| **23 June 2011** | 69,108 | 1.7% | 5.0% | 6.7% |

Source: Department of Transport, Tourism and Sport

Note: a Excludes unregistered vehicles (e.g. vehicles not registered in the State) and misreads traversing the toll.

**26.14** The analysis by Transport found that

- Over 7% of vehicles travelling on the M50 on the sampled dates did not have current motor tax.
- When vehicles where the tax had expired within one month of the date of travel are excluded, the apparent rate of evasion was about 5%.
- Just under half of the vehicles identified as not having a valid tax disc on the sampled dates were taxed three months later. Payment covered the period of travel in less than half of these cases.

**26.15** An evasion rate of 5% would equate to an under collection of motor tax in the region of €50 million per annum, based on sums collected in 2011. It would also represent an evasion rate seven times greater that that estimated in the UK.

## Collection

**26.16** When vehicles are registered with Revenue, the vehicle details are transferred to Transport for input onto the National Vehicle and Driver File (NVDF).[6] The purpose for which the vehicle will be used, which determines the motor tax class, is not input at this stage but is recorded when the vehicle owner first taxes the vehicle. As the NVDF is the central source of information for facilitating the collection and enforcement of motor tax, it needs to be kept up to date.

**26.17** The NVDF contains records of 5.8 million vehicles. At April 2012, 5.1 million of these had a vehicle status of 'current', with the remainder classified as scrapped or exported.[7] Of the 5.1 million vehicles with a status of 'current', 2.5 million were taxed as at the end of March 2012. The actual status of the remaining 2.6 million vehicles categorised as 'current' is unclear.

6 The NVDF also holds data on the 2.6 million persons who hold driving licences and learner permits.

7 Vehicle classifications also include written off and 'end of life'. End of life vehicles are passenger cars and light commercial vehicles which are scrapped in accordance with the Waste Management (End of Life) Regulations 2006.

**26.18** The Accounting Officer of Transport stated that the ‘current’ status indicator changes where a vehicle is formally notified as scrapped or exported. He stated that of the 2.6 million untaxed ‘current’ vehicles, 1.8 million transferred in 1998 from an earlier computer system and some 0.5 million of these have had no motor tax activity in the intervening 14-year period. Further analyses of the 2.6 million records also reveal that nearly 1 million vehicles are over 20 years old strongly suggesting that these are unlikely to be circulating on the roads and have, in fact, been scrapped.

**26.19** There are just under 170,000 vehicles on the NVDF that have never been registered for motor tax. Just under 30% of these were registered with Revenue prior to 2000. In addition, there are some 800,000 vehicles on the NVDF that have not been taxed since January 2001. These could potentially represent a significant amount of unpaid motor tax.

**26.20** The Accounting Officer of Transport stated that analysis of the 170,000 ‘never-taxed’ vehicles suggest that a high percentage of these are agricultural or other specialised vehicles that are not normally used in public but which are required to be registered. Passenger car type vehicles and vans account for about 70,000. Given that the data extends back to 1993 when the Revenue Commissioners became the registration authority, this is considered a reasonable number of vehicles to retain untaxed status given the likelihood of events after registration such as accidents and vintage rebuilds.

**26.21** Transport issue renewal and reminder notices as follows

- renewal notices issue to vehicle owners one month prior to motor tax becoming due for renewal
- approximately six weeks after the tax has expired a final reminder issues to each vehicle owner who fails to renew motor tax
- a notice issues to new vehicle owners approximately six weeks after the vehicle has been first registered, if the tax has not been paid by them
- in the case of a vehicle that has never been taxed, but where a change of ownership is registered, a tax notice is issued to the new owner immediately.

**26.22** In the five years to 2010, over 21 million renewal notices issued. Data provided by Transport indicates that in just over 17 million of these, the taxpayer renewed the tax within six weeks after the tax was due. Final reminders issued to just under four million vehicle owners. There was no response to 2.4 million or 60% of these within the following two months. In the case of no response to a final reminder, Transport takes no further action and only issues further renewal notices if the vehicle is taxed again.

**26.23** Regular follow up of those who do not renew their motor tax should improve compliance and also assist in updating the national database by identifying those with legitimate reasons for non-payment.

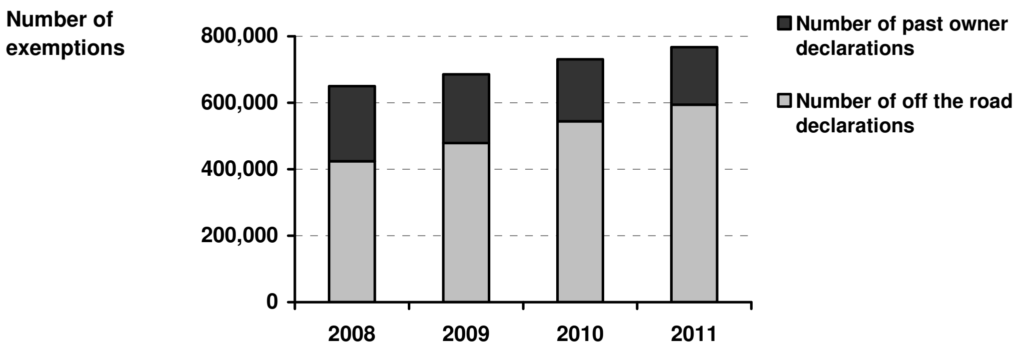
**26.24** The Accounting Officer of Environment indicated that it was her Department’s intention to consolidate motor tax legislation. In this context, options to require owners to notify the current status of vehicles are being considered.

## Motor Tax Exemptions

**26.25** Arrears of motor tax become due one month after the tax renewal date. A person can have their liability to arrears cancelled for two reasons. The first is where the vehicle was not in use in a public place and a declaration of non-use (off-the-road declaration) is completed.[8] This declaration must be witnessed by a member of an Garda Síochána. The second reason is where there is a change of ownership and the arrears relate to the previous owner. In these cases, the new owner makes a declaration to that effect. A Garda witness to that declaration is not required. No action is taken to collect the arrears from the previous owner. It is an offence to make a false declaration in relation to motor tax.

**26.26** The number of motor tax gap exemptions for the years 2008 to 2011 is detailed in Figure 26.4, and indicates an 18% increase in the total number of such declarations in 2011 over 2008.

**Figure 26.4 Motor Tax Exemptions by type 2008 to 2011**




Source: Department of Transport, Tourism and Sport

**26.27** The number of Garda-witnessed off-the-road declarations increased by 40% over the period 2008 to 2011. Exemptions relating to a change of ownership decreased by 24% since 2008, and accounted for 23% of all exemptions in 2011.

**26.28** Transport commissioned data analysis exercises to review exemption declarations witnessed by an Garda Síochána over the 15 month period ending July 2010 and the 12 month period ending October 2011.[9]

**26.29** The analyses show that over those periods, more than 1.1 million off-the-road exemption gaps were declared. The total value of the exemptions were estimated at over €226 million. The analyses noted that 21% of these gaps, with a value of just under €47 million coincided with a change of vehicle ownership. In these cases, declarations are made that the vehicle was off the road whilst in the present ownership, and in addition, immediately prior to this declaration there were arrears of motor tax that related to the past owner.

**26.30** The largest number of declarations made was for gaps of one month, totalling just under 330,000 declarations at a value of just under €17 million. In monetary terms, the largest value relates to gaps of 13 to 24 months, which is valued at €33 million over the total 27 month period.

8 This is a self-declaration by a vehicle owner that their vehicle was not in use and as a result there was no liability to motor tax.

9 Data analysis provided by a service provider on behalf of the Department of Transport, Tourism and Sport.

**26.31** There is no system in place to verify the validity of off-the-road declarations. Where there is a change of ownership, there are no procedures in place to collect any arrears from previous owners. The fact that one fifth of a sample of off-the-road declarations included a period of arrears relating to a previous owner, may be indicative of some abuse of the system. Given the significant sums involved, it is important that adequate systems are in place to monitor these declarations.

**26.32** The Accounting Officer of Environment stated that measures to improve the procedures for the collection of motor tax include the drafting of a 'gapping' Bill to change the system of making off-the-road declarations. Under the proposals, unless an off-the-road declaration is made in advance of the gap period, the owner, when next presenting for payment for tax, will be liable for arrears. It is expected that the Bill will also contain transitional arrangements to encourage owners to tax vehicles which are currently untaxed.

**26.33** The Accounting Officer of Transport stated that for the purposes of determining evasion levels associated with off-the-road declarations, allowance should be made for legitimate gaps. Analyses of M50 toll data suggest that on average 50% of gaps could be considered to be legitimate and on that basis he said that the total level of evasion related to off-the-road declarations over the 27 month period could be €113 million, equating to around €50 million over a 12 month period. He stated that motor tax in the UK is based on a system of continuous licensing where vehicles not in use must be declared off-road in advance through completion of a statutory notification. He said that prior to the introduction of this system, evasion levels in the UK were in the region of 5%.

## Enforcement

**26.34** All vehicle owners including exempt vehicles are required to display a current motor tax disc on a vehicle used in a public place. When a vehicle is found in a public place and is not displaying a current disc, a fixed charge notice may be issued by a Garda or a traffic warden.[10] Checks by an Garda Síochána on the display of a disc are carried out during routine garda activity and traffic checkpoints. Details of the total number of compliance checks carried out are not available.

**26.35** The fixed charge penalty for the non-display of a current disc is currently €60. On receipt of a fixed charge notice, a person is required to pay the charge within 28 days. If the charge is not paid during that period, the charge increases by 50% with a further 28 days to pay the higher amount. If the charge remains unpaid after this time, an Garda Síochána may initiate a prosecution. However, there are no procedures in place to ensure that the motor tax due, including any arrears, is paid.

**26.36** For this examination, an Garda Síochána provided details of over 240,000 fixed charge notices issued for failure to display a motor tax disc in the period 2008 to 2011. These fixed charge notices related to just over 185,000 vehicles. The details provided indicated that around 40% of the fixed penalty charges (97,000) had not been paid.

**26.37** An Garda Síochána records for the 185,000 vehicles for which fixed charge notices issued between 2008 and 2011 were compared with data on the NVDF. Some 40,000 (or 22%) of those 185,000 vehicles had paid no motor tax between the period to which the fixed charge notice related and April 2012. These include around 1,000 vehicles that had never paid motor tax.

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10 This examination does not cover traffic wardens other than those included in an Garda Síochána statistics, i.e. Dublin traffic wardens.

**26.38** The remaining 145,000 vehicles (78%) had renewed their tax disc at some stage following the issue of the fixed charge notice. A review of these indicated that at least 52,000 vehicle owners had declared an exemption gap that included the period for which the fixed charge notice was issued. Around 35,000 had declared an off-the-road gap while 17,000 declared a gap related to a change of ownership.

**26.39** The implication is that the owners of at least 35,000 vehicles which were observed in a public place at the time of the issue of the fixed charge notice may have also subsequently made a false declaration that the vehicle was off the road at that time.

**26.40** The Accounting Officer of an Garda Síochána pointed out that the fact that 78% of those who receive fixed charge notices do subsequently pay motor tax was a clear indication that such notices act as an effective deterrent. He also stated that he was aware that legal advice was being sought by Transport as to whether motor offences could be included in the contract between an Garda Síochána and the private service provider that provides safety camera vehicles to detect speeding offences. Given the experience with speeding offences, any such change is likely to significantly increase the level of motor tax compliance. However, it would impact on the current deployment of safety camera vehicles and their original purpose (to reduce the number of road traffic accidents involving fatalities and serious injuries).

**26.41** The Accounting Officer of Environment stated that there is currently no notification procedure between the Courts Service and her Department in relation to fines imposed for driving without tax. Accordingly, the Department has not been notified of any false off-the-road declarations that may have been identified. The Accounting Officer of an Garda Síochána said that, since 2010, proceedings had commenced in 160 cases in relation to the offence of making a false motor tax declaration.

## Conclusions and Recommendations

**26.42** The overall effectiveness of the motor tax collection system can only be assessed where the level of evasion is measured and tracked over time. Reviews of traffic on the M50 suggest that 95% of vehicles on the road are up to date with their tax. A 5% evasion rate equates to around €50 million in lost revenue per annum and compares unfavourably with the UK estimated rate of less than 1%. Practice in the UK suggests that there are means of estimating the level of evasion.

**Recommendation 26.1:** Environment and Transport should ensure that they have reliable and cost effective systems in place to estimate and monitor the level of evasion of motor tax. Given the proposed legislative changes, it is important that a sound baseline level of evasion is established prior to the introduction of proposed new procedures.

**Accounting Officers' Response:** Agreed in part. Our Departments will continue to work closely to ensure that the systems in place for the collection and enforcement of motor tax are appropriate to ensure optimum revenue yield, and will consider options in relation to the measurement of evasion. Transport intends to consult with the Driver and Vehicle Licensing Agency in the UK in relation to the measurement of evasion and the impact of the system of continuous licensing.

**26.43** Over the five year period to 2011, just over €5 billion has been collected in motor tax. Transport's register of vehicles contains some 2.6 million vehicles categorised as 'current' but which are not taxed. There are some 170,000 vehicles on the register which have never been taxed, and 800,000 which have not been taxed in over ten years.

**Recommendation 26.2:** Transport should review the NVDF and ensure it is maintained up to date. As there could be significant unpaid motor tax relating to the vehicles which have never been taxed or have not been taxed for some time, the reasons for non-payment should be identified and any tax due sought.

**Accounting Officers' Responses**

**Transport:** Agreed in part. It is essential to separate vehicles which have potential motor tax liability from those which are scrapped or otherwise put out of use. In that regard, transitional arrangements proposed for the 'gapping' Bill to encourage owners to declare the correct status of vehicles will be of benefit. Owners who do not avail of this facility will be penalised. To complement these arrangements, it is proposed to re-designate vehicles for which no response is received as 'inactive' and archive the data over time. The regulatory requirement for owners to notify Transport of vehicle scrapping and the formal arrangements with motor insurers whereby write-offs are notified electronically are already contributing to a more accurate database. The Department plans to build on this.

**Environment:** Agreed in part. More robust measures to ensure notification of current vehicle status for scrapped and exported vehicles will be addressed in the context of proposed consolidation legislation to be brought forward in 2013.

**26.44** Over the period 2006 to 2010, 2.4 million final reminders issued which were not responded to within two months of issue. No follow up action was carried out to ascertain if motor tax was subsequently paid on these vehicles.

**Recommendation 26.3:** Environment and Transport should review procedures to ensure there is adequate follow up of those who do not renew their tax.

**Accounting Officers' Responses**

**Transport:** Agreed. The motor tax renewal notice service is a paper-based system and options for follow-up are limited. The next stage of the enforcement process is dependent on detection of the vehicle in use aided by electronic data and in this respect, data on non-tax compliant vehicles is provided to an Garda Síochána for use with their automated number plate recognition system. It is also proposed to formally utilise data sharing from cameras as an anti-evasion measure and a legal basis for this has been requested in the context of proposed consolidated motor tax legislation.

**Environment:** Agreed. The Department will review procedures, in conjunction with the Department of Transport. The proposed 'gapping' legislation will address this issue to a significant degree.

**26.45** Motor exemption gaps have increased by 18% since 2008. A review of some 1.1 million declared exemption gaps calculated the related motor tax value at €226 million. There is no system in place to verify how much of this figure is legitimate. Where a change of ownership had taken place and arrears are due by the previous owner, there is no procedure to collect those arrears.

**Recommendation 26.4:** Environment and Transport should consider the scope for a more robust system to deal with situations where vehicles are off the road and to collect arrears from previous owners.

**Accounting Officers' Responses**

**Environment:** Agreed. While it is accepted that there is a significant level of abuse of the current system, a certain proportion of the declarations made will be for genuine reasons. Provisions around change of ownership are not contained in the 'gapping' Bill but it is intended to address the matter in the context of consolidation legislation.

**Transport:** Agreed. The 'gapping' Bill currently being prepared proposes to provide a system similar to that in operation in the UK. The proposed change should facilitate more assertive enforcement both 'on the ground' and through electronic means.

**26.46** If fixed charges are to prove to be an effective deterrent, they should result in motor tax due being paid and payment into the future being kept up to date. However, one in five vehicle owners issued with fixed charge notices between 2008 and 2011 still had not paid motor tax, and of those that had paid, at least one in four declared the vehicle to be off the road for the period during which they were fined. This indicates that the system for the imposition of fixed charge notices is not changing behaviour in a significant number of cases. The integrity of the off-the-road declaration system is also undermined. Furthermore, around 40% did not pay the fixed charge penalty.

**Recommendation 26.5:** Environment, Transport and an Garda Síochána should review the effectiveness of fixed charge notices as a deterrent and try to devise better procedures to ensure that tax is paid when a charge is imposed.

**Accounting Officers' Response:** Agreed in part. The proposed legislation will contain enhanced penalty provisions. The Departments will together explore the feasibility of mechanisms for notification of fixed penalty charges to Transport.

# 27 Environment Fund Levies

**27.1** The Environment Fund (the Fund), which was established in 2001, is managed and controlled by the Department of the Environment, Community and Local Government (the Department). The income of the Fund derives from the proceeds of the environmental levy on plastic bags, the environment levy on the landfilling of waste and interest on investments. Payments are made from the Fund to support a wide range of environmental and waste management projects. Total Fund expenditure in 2011 was in the region of €84 million.

**27.2** While the Department has overall responsibility for both levies, the Office of the Revenue Commissioners (Revenue) is the designated collection authority for the plastic bag levy. The local authorities fulfil that role in respect of the landfill levy. Since their introduction, a total of just over €500 million has been paid into the Fund in respect of both levies. The total levy income of the Fund is summarised in Figure 27.1.

**Figure 27.1 Environment Fund — Levy Income 2002 to 2011**

| | Plastic Bag Levy | Landfill Levy | Total |
|---|---|---|---|
| | | **€ million** | |
| **2002 to 2007** | 99 | 165 | 264 |
| **2008** | 27 | 33 | 60 |
| **2009** | 23 | 32 | 55 |
| **2010** | 17 | 43 | 60 |
| **2011** | 16 | 46 | 62 |

Source: Environment Fund audited financial statements 2002 to 2010 and draft financial statements 2011

**27.3** This chapter reviews the arrangements for the collection of the environmental levies and the procedures and practices in place to detect and deter payment non-compliance.

**27.4** Meetings were held with officials from the Department and Revenue to ascertain processes and procedures in the collection and enforcement of the levies. Discussions were also held with the Environmental Protection Agency (EPA) which has a supervisory role in relation to the environmental activities of local authorities. Information in relation to the procedures as well as information provided by the EPA was reviewed, analysed and compared as part of the audit.

## Plastic Bag Levy

**27.5** The levy on the use of plastic bags was introduced in March 2002.[1] The primary objective of the levy was to reduce litter by reducing the consumption of disposable plastic bags.

**27.6** The levy applies to bags made wholly or in part of plastic and which are provided for customer use at the point of sale or otherwise in a sales outlet. The amount of the levy is currently 22 cent per plastic bag.[2]

**27.7** Certain plastic bags are exempt from the levy including reusable plastic bags provided the consumer is charged over 70 cent and plastic bags used for fish, meat, poultry, fruit, nuts, vegetables, confectionery, dairy products and cooked food, provided that the bag does not exceed specified dimensions.

**27.8** The Department is responsible for legislative matters relating to the plastic bag levy and Revenue is responsible for its collection and enforcement. Local authorities also have statutory powers in relation to enforcement.[3]

**27.9** A service level agreement, setting out the respective roles and responsibilities, has been put in place between the Department and Revenue. While the local authorities are not party to the agreement, it refers to their responsibilities in relation to the enforcement of the plastic bag levy. The respective responsibilities of each, as described in the agreement, are summarised in Figure 27.2.

**Figure 27.2 Responsibilities under Plastic Bag Levy Service Level Agreement**

| Revenue Commissioners | Department of the Environment, Community and Local Government | Local Authorities |
|---|---|---|
| • Identification of accountable persons<br>• Processing of returns/ payments received, carrying out verification checks on the accuracy of returns<br>• Pursuing accountable persons who fail to make a return/payment, raising assessments/estimates, dealing with complaints/appeals/3rd parties<br>• Classifying which levy debts are not recoverable | • Consultation with third parties in all matters other than the collection of the levy<br>• Advertising and promoting awareness of the levy<br>• Making determinations on whether a bag type is an excepted bag within the meaning of the legislation<br>• Dealing with complaints other than those relating to Revenue's collection role | • Ensuring that the levy is charged in full to the customer by the accountable person<br>• Taking appropriate action where it has been established that the levy has not been charged to the customer<br>• Ensuring that the regulations relating to excepted bags are fully understood by the accountable person |

1 The statutory basis for the levy is the Waste Management Act 1996 (as amended), the Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001 and the Waste Management (Environmental Levy) (Plastic Bag) Order 2007.

2 Original amount of the levy was 15 cent per plastic bag. This increased to 22 cent per bag in 2007.

3 Waste Management Acts 1996 – 2011.

**27.10** The levy is collected by retailers when they supply each leviable plastic bag and the levy must be itemised on any invoice, receipt or docket issued to the customer. Retailers are also required to register with Revenue and submit returns on a quarterly or annual basis. Retailers with a liability of less than €1,000 over four consecutive quarters may make annual returns. The levy amount due is then deducted by Revenue directly from the retailer's bank account.[4] Revenue can make an estimate of the amount of levy due where a retailer fails to submit a return or where Revenue believes the amount payable is understated. Interest is payable in respect of any late payment of levy. Retailers must maintain stock records of their plastic bags and Revenue has the power to inspect the books and enter the premises of retailers. In addition, Revenue can ask suppliers of plastic bags for details of quantities supplied to retailers.

**27.11** Five registered retailers paid a total of over €9 million in 2010. These five retailers are responsible for over 50% of the total levy receipts since its introduction.

### *Registration and Compliance*

**27.12** The levy is administered on a self-assessment basis with Revenue responsible for identifying retailers who should be registered for the levy. When the levy was first introduced, Revenue identified some 29,000 retailers who it considered should be registered for the levy. Over time, the register has been refined to eliminate cases for which the levy is not applicable. There are currently just over 4,000 registered cases.[5]

**27.13** In 2008, Revenue reviewed 215 cases selected at random from cases within the sector code 'retail non specialised stores' on the basis that there was a likelihood that the retailers concerned would be providing plastic bags to customers. The review identified 40 cases (19% of the sample), which were not registered for the plastic bag levy but should have been and €90,000 in arrears was collected from the retailers. It also identified 29 cases (13%), which were registered for the levy but did not supply bags on which the levy was chargeable.

**27.14** The results of the 2008 review of cases cannot be regarded as representative of all retail sectors because of the focused sampling. Nevertheless, they suggest that there may be a significant number of cases in particular sectors that are not registered for the levy but are supplying leviable bags. Further analysis and review by Revenue is required to identify unregistered cases.

**27.15** Quarterly return compliance details for 2011 are set out in Figure 27.3.

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4 All registered retailers are required to authorise Revenue to debit the amount payable.

5 Retailers with more than one outlet are generally registered as one case.

**Figure 27.3 Plastic Bag Levy Quarterly Return Compliance in 2011**

| | Number of return forms issued by Revenue | % returns submitted on time | % returns submitted at February 2012 |
|---|---|---|---|
| **Quarter 1** | 1,384 | 61% | 95% |
| **Quarter 2** | 1,381 | 62% | 94% |
| **Quarter 3** | 1,375 | 57% | 87% |
| **Quarter 4** | 1,388 | 59% | 59% |

Source: Office of the Revenue Commissioners

**27.16** Around 60% of quarterly returns are submitted on time. By around six months after the end of the quarter, the compliance rate increases to around 90%. As those who submit quarterly returns generally represent the highest yielding registrations, monitoring of return and payment compliance of these cases is particularly important.

**27.17** Annual return compliance details for the years 2008 to 2011 are set out in Figure 27.4.

**Figure 27.4 Plastic Bag Levy Annual Return Compliance 2008 to 2011**

| | Number of return forms issued by Revenue | % returns submitted on time | % returns submitted at July 2012 |
|---|---|---|---|
| **2008** | 2,790 | 44% | 85% |
| **2009** | 2,567 | 43% | 84% |
| **2010** | 2,613 | 38% | 82% |
| **2011** | 2,479 | 46% | 73% |

Source: Office of the Revenue Commissioners

**27.18** Less than half of those who submit annual returns do so by the due date. This compliance rate increases over time but even a number of years after the due date still only reaches 85% at best. As those who are required to make annual returns are the retailers with the lowest level of liability, the risk of significant undercollection arising from this level of non-compliance is reduced.

**27.19** Around €530,000 in interest on late payment of the levy has been collected in the past five years. The amount of levy outstanding which is not the subject of an appeal by the retailer is currently around €1.5 million. Some €570,000 has been written off as uncollectible in the past five years.

**27.20** Where taxes remain unpaid, Revenue has the option to retain refunds due in respect of other taxes and offset the amount against any tax owed. Revenue has indicated that plastic bag levy due is not checked when refunds of other taxes are being processed automatically. Checks are carried out in cases where refunds are processed manually. Revenue intends to include the levy in their refund processing procedures in the future.

### *Revenue Audits*

**27.21** Revenue audits in relation to the levy include a review of returns (annual or quarterly), visual checks to establish if taxable bags are supplied, sampling of cash register rolls to establish that the levy is itemised and inspection of receipt books and stock records.

**27.22** Over the five years 2007 to 2011, Revenue carried out 70 plastic bag levy audits of retailers, which yielded a total of just over €2 million. The results of these audits and the additional yield are set out in Figure 27.5.

**Figure 27.5 Revenue Plastic Bag Levy Audits 2007 to 2011**

| Year | Number of audits | Audits with yield | % with yield | Audit yield | |
|---|---|---|---|---|---|
| | | | | Total | Average |
| 2007 | 28 | 12 | 43% | €1,560,884 | €55,746 |
| 2008 | 25 | 19 | 76% | €409,813 | €16,393 |
| 2009 | 7 | 5 | 71% | €9,588 | €1,370 |
| 2010 | 5 | 5 | 100% | €26,073 | €5,215 |
| 2011 | 5 | 5 | 100% | €74,806 | €14,961 |
| **Total** | **70** | **46** | **66%** | **€2,081,164** | **€29,731** |

Source: Office of the Revenue Commissioners

**27.23** Overall, 66% of cases audited produced a yield and the average yield was just under €30,000. All five cases audited in each of 2010 and 2011 produced a yield. Interest of €296,000 was charged in 39 of the 46 yielding cases. There is currently no legal provision for charging penalties in relation to levy audit settlements.

**27.24** Revenue has indicated that compliance of the top ten yielding registrations is monitored very closely. Since the introduction of the levy in 2002, Revenue has carried out an audit in relation to the plastic bag levy on all of these registrations, six of which have resulted in an audit yield. The total yield from these cases was just over €3 million and the largest yielding case to date, which was carried out in 2007, yielded just over €1.5 million.

**27.25** A further audit case of a major retailer is ongoing since 2007. In this case, Revenue found that plastic bags deemed exempt by the retailer exceeded the dimensions prescribed in the legislation. An assessment for the sum of just over €36 million was made by Revenue for the period 2004 to 2008. The retailer appealed the case to the High Court on a number of grounds including whether the type of bag in question was in fact leviable and whether the levy was only applicable at the point of sale. The decision of the Court was that unless specifically exempted under the legislation, the levy is applicable on all plastic bags and not just at the point of sale. The retailer is appealing the High Court Judgment in this case to the Supreme Court.

### *Local Authority Inspections*

**27.26** The enforcement role of local authorities in relation to the plastic bag levy includes inspections of retailers. Each year, local authorities provide the EPA with the number of environmental inspections carried out including those relating to the plastic bag levy (but not the results of the inspections). Figure 27.6 sets out the number of inspections in relation to the plastic bag levy over the last five years as reported by local authorities to the EPA.

**Figure 27.6 Inspections of plastic bag levy 2006 to 2011 as reported by local authorities**

| Year | Number of inspections | Number of local authorities by inspections carried out | | | | |
|---|---|---|---|---|---|---|
| | | > 300 | 50 - 300 | < 50 | None[a] | Total |
| **2006** | 2,277 | 1 | 9 | 17 | 7 | 34 |
| **2007** | 1,831 | — | 9 | 15 | 10 | 34 |
| **2008** | 1,542 | — | 9 | 20 | 5 | 34 |
| **2009** | 1,573 | 1 | 9 | 15 | 9 | 34 |
| **2010** | 800 | 1 | 3 | 17 | 13 | 34 |
| **2011[b]** | 683 | — | 2 | 20 | 12 | 34 |

Source: EPA

Notes: a Includes local authorities which did not provide details to the EPA of the number of inspections carried out.

b The EPA was still validating data relating to the 2011 local authority inspections at the time of publication.

**27.27** The number of inspections reported to the EPA declined by 70% between 2006 and 2011. Analysis of the data indicates that

- one local authority reported it carried out 1,488 or 17% of the total inspections over the period 2006 to 2011
- the total number of inspections reported as carried out in 2011 declined by 15% over 2010, with two local authorities carrying out almost half of the total inspections in that year
- 20 local authorities reported they carried out no inspections in at least one of the years 2006 to 2011.

**27.28** The EPA advised that some plastic bag inspections are understood to have been undertaken during other inspections of retailers. As they are unquantified, they are not included within the reported figures.

**27.29** Combining inspections may yield efficiencies for the local authority and reduce costs for retailers. However, the reporting guidelines should be revised to capture the number and outcomes of such inspections.

**27.30** In addition to the reports to the EPA, limited information is provided by local authorities to the Department about plastic bag inspections. In most cases this does not include the results of the inspections.

**27.31** During the audit, details of inspections carried out by a sample of five local authorities between 2007 and 2010 were requested from the Department. The Department was unable to obtain details for one of these local authorities, and could not provide the results of all inspections carried out by the other four local authorities. The results of 289 inspections out of a total of 510 reported inspections were provided. In each of those cases, the local authority had recorded that there were instances of non-compliance with the legislation but the reason for non-compliance was unclear in some cases. As a result of incomplete data, the rate of compliance could not be identified.

**27.32** In the absence of detailed information on inspections carried out by all local authorities, it is difficult to establish the extent of compliance with the requirements of the levy and the nature of any non-compliance. EPA data suggests that there is wide variation in the inspection regime between local authorities. Analysis of the results of inspections could provide valuable information to better target inspections and thereby improve their effectiveness.

**27.33** The Accounting Officer of the Department stated that in order to assess the effectiveness of the levy, the Department relies primarily on the results of the annual report of the National Litter Pollution Monitoring System, which in 2011 found that plastic bags constituted 0.24% of litter pollution nationally compared to an estimated 5% prior to the introduction of the levy. The Department also monitors per capita usage of leviable plastic bags. It estimates that, prior to the introduction of the levy, 328 bags per person were supplied by retailers per annum, compared to a level of 18 bags per person per annum in 2010.[6]

### *Sharing of Information*

**27.34** While the overall policy and operational approach for the levy is set out in the service level agreement, there is little further contact between the Department and Revenue. Communication between the Department and local authorities mainly consists of circulars that are issued in relation to enforcement and/or increases in the levy. Generally, any other interactions are informal.

**27.35** The Accounting Officer of the Department stated that the level of contact with Revenue in respect of the collection of the levy is in accordance with the terms of the service level agreement. The Accounting Officer of Revenue believes that the level of interaction with the Department is appropriate and consistent with the level necessary to maximise the collection and recovery for which Revenue is responsible.

**27.36** The results of Revenue's audits are not provided to the relevant local authority. Similarly, the results of local authority inspections are generally not provided to Revenue.

**27.37** When conducting inspections, local authorities do not have information on whether a case is registered for the plastic bag levy with Revenue. As part of this audit, a sample of thirteen cases where local authority inspections found that the retailer issued leviable bags was selected for checking to Revenue systems to verify if these retailers were registered for the levy. In practice, it was difficult to conclusively identify each case on Revenue systems because local authorities do not record the Revenue registration number.

**27.38** The Department is responsible for making a determination of whether a bag is exempt. Details of all eleven determinations made over the period 2007 to 2011 were provided by the Department. As part of this audit, two retailers and one promotions company where bags were deemed leviable were cross checked to the Revenue systems. One of the retailers and the promotions company were not registered for the levy on Revenue systems. The Accounting Officer of the Department pointed out that on receipt of the Department's opinion, the parties concerned may have decided not to use those particular bags and instead opted for non-leviable alternatives such as paper or canvas bags.

**27.39** As both Revenue and the local authorities carry out audits and inspections in relation to the plastic bag levy, exchange of information could enhance the efficiency and effectiveness of their separate compliance actions. Any arrangements for exchanging information need to ensure that information exchanged is compatible.

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6 The estimate of plastic bags per person in 2010 is based on the number of bags in respect of which a levy has been paid into the Environment Fund.

## Landfill Levy

**27.40** National and EU waste management policy is grounded on the principles that, as far as possible, waste should be prevented and where this is not feasible, it should be re-used, recycled or recovered with the amount of waste sent to landfill being minimised. The landfill levy was introduced in 2002 in respect of waste directly disposed of at landfill sites.[7] The objective of the levy was to encourage the diversion of waste from landfill and to generate revenues that can be applied to support waste minimisation and recycling initiatives. Local authorities are responsible for the collection and the Department is responsible for the administration of the levy.

**27.41** The levy, which is currently €65 per tonne, is payable by the operator of the landfill.[8] Operators of private landfills accepting leviable waste submit a monthly return and payment to the relevant local authority that in turn lodges the payment to the Environment Fund and submits a copy of the return to the Department.[9] Similarly, where a local authority operates the landfill, the local authority is required to submit a monthly return to the Department and lodge the amount of levy due to the Environment Fund. Operators of landfills are required to keep detailed records of the waste accepted. At the end of 2011, there were 16 local authority and four private landfills remitting levy to the Environment Fund.

### *Collection*

**27.42** From 2002 to 2011, just under €321 million has been collected arising from the disposal of 17 million tonnes of waste. Just under €104 million – almost one third – of the total collected relates to private landfills. The monthly returns submitted to the Department indicate that the quantity of leviable waste disposed of at landfills has decreased. Despite this, the increases in the levy rate have resulted in increased annual receipts.

**27.43** To offset costs incurred in the enforcement and collection of the levy, each local authority may deduct and retain up to 2 per cent of the amount collected in respect of private landfills, subject to a maximum of €50,000 per annum, or an amount specified in writing by the Minister for the Environment, Community and Local Government (the Minister). Local authorities retained just under €1.4 million of the total levy collected to date.

**27.44** The levy is also payable in respect of unauthorised landfills, with the local authority determining the amount due.[10] Where such a landfill is identified, the local authority may issue a notice requiring that the amount of levy determined by the local authority be paid by the person who disposed of the waste or the owner of the facility.

**27.45** Based on a 2005 report, the Department is satisfied that large scale illegal landfilling of waste has ceased and what occurs now is mainly fly tipping.[11] The Department, while not collecting statistics on unauthorised landfills, is aware of fourteen illegal sites discovered by local authorities on which the landfill levy was due between 2006 and 2011. Many of these were small in scale, with eight of the 14 having less than 100 tonnes of waste per site. In three of the 14 cases the quantity of leviable waste was estimated.

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7 There are some exemptions including waste from street sweepings and non-hazardous construction waste used for site engineering purposes.

8 The levy was initially €15 per tonne but has increased over time. The current levy of €65 per tonne has been in place since 1 July 2012.

9 Private landfills are those operated by a person other than a local authority.

10 An unauthorised landfill facility is a waste disposal site where the disposal of waste has or is taking place without a waste licence.

11 Fly tipping refers to the deliberate dumping of waste at an unauthorised place.

**27.46** Since 2006, the regulations allow a local authority to retain 80% of the landfill levy collected on an unauthorised site for enforcement purposes with the balance of 20% paid to the Fund. Levies in respect of unauthorised landfills paid to the Fund in that period totalled €153,000 with an additional €98,000 retained by local authorities. Department guidelines, issued in 2005, advised the local authorities to utilise the available sanctions, including prosecution, where illegal waste activity is identified. The Accounting Officer stated that statistics are not compiled regarding enforcement actions or the number of prosecutions.

### *Inspections and Audits*

**27.47** Waste management regulations provide that a landfill activity shall be inspected and audited by local authorities, a local government auditor, or any auditor appointed by the Minister, or a local authority in order to ensure compliance with the regulations.[12] The regulations do not specify the number or frequency of inspections on local authority landfills but do require that private landfills be audited by local authorities in respect of at least two accounting periods (months) in each calendar year or more frequently if specified by the Minister.

**27.48** Over the period 2006 to 2011, periodic audits were carried out in respect of two private landfills (these audits examined a total of 13 accounting periods). Instances of non-compliance were identified on four audits. In one case, additional levy amounts of just under €30,000 were found to be due. Small discrepancies were found in the other three cases.

**27.49** For the years 2006 to 2011, the Department has no records of any inspection or audit carried out on any local authority landfill in respect of the quantities of waste disposed of as leviable waste. The Accounting Officer noted that landfill levy transactions may be included in the annual audits carried out by the Local Government Audit Service.

**27.50** The EPA has a supervisory role in terms of the environmental protection activities of local authorities, and carries out a number of waste inspections on landfills. However, it has no statutory function in relation to the levy and as such, its inspections of landfills are solely concerned with matters of environmental regulations.

12 SI No. 86/2002 — Waste Management (Landfill Levy) Regulations, 2002.

## Conclusions and Recommendations

### *Plastic Bag Levy*

**27.51** Since the introduction of the plastic bag levy in 2002 up to the end of 2011, a total of €182 million has been collected.

**27.52** A Revenue review in 2008 of a random sample of traders categorised as 'retail non specialised stores' found that almost one fifth of the cases reviewed should have been registered for the levy but were not. However, the sample cannot be regarded as representative of the situation for all traders.

**Recommendation 27.1:** Revenue should carry out further reviews to identify the overall level of unregistered cases.

**Revenue Accounting Officer's Response:** Agreed. A revision of the sector codes has been completed and improvements in the register which will make a further sampling exercise more reliable are nearing completion. The review of the register to remove inactive or ceased cases will be completed by early 2013. The examination of the sector codes to establish that all appropriate retailers are registered has commenced.

**27.53** Less than two thirds of registered cases submit returns to Revenue on time. This increases to around 90% six months after the return due date for quarterly returns. Over two thirds of the cases audited by Revenue over the last five years resulted in additional levy payments and the average additional yield for the 70 cases audited was €30,000. This highlights the importance of on-going monitoring and audit work by Revenue.

**27.54** Currently, when Revenue are processing automatic refunds due to a taxpayer in respect of other taxes, the taxpayer's record is not checked to establish if amounts of plastic bag levy are owed. Revenue intends to amend their refund procedures to include such checks.

**Recommendation 27.2:** Revenue should incorporate checks of amounts of unpaid plastic bag levy into their automatic refund processing procedures as soon as possible.

**Revenue Accounting Officer's Response:** Agreed. Due to competing priorities it has not been possible to date to include checks of unpaid levy in automatic refund and offset processing.

**27.55** Data compiled by the EPA indicates that between 2006 and 2011 there was a considerable decline in the number of inspections by local authorities and there are significant variations in the number of inspections between the various local authorities. Neither the Department nor the EPA receives details of the outcome of inspections by local authorities in the majority of cases.

**Recommendation 27.3:** The Department should collate and analyse results of inspections in order to assess the adequacy of the inspection regime and the overall level of compliance indicated by it.

**Department Accounting Officer's Response:** Not agreed. The Department considers that the overall levels of inspections carried out by local authorities is sufficient. As local authorities are the major beneficiaries of the levy, it is in their own best interests to ensure that the levies are collected and enforced effectively. In addition, the Department believes that plastic bag litter statistics indicate that the current level of inspections is effective in delivering the required environmental outcomes.

**27.56** The results of compliance work by Revenue and the local authorities are not shared.

**Recommendation 27.4:** The effectiveness of compliance work by both would be improved by the exchange of information. This would also facilitate a focused strategy nationally to maximise compliance with the levy.

**Accounting Officers' Responses:**

**Department:** Agreed in part. A proposal in relation to the exchange of information between Revenue and local authorities would have to have regard to the relevant legislation and practice, such as the Data Protection Act. There is already a level of engagement between these enforcement bodies and there may be scope for this to be enhanced.

**Revenue:** Agreed in part. There is a need to consider data protection issues. Exchange of information may have the potential to enhance efficiency and effectiveness of separate compliance actions and Revenue is committed within the legal framework that exists to share appropriate data. However, Revenue acts as a collection agent for the Department and there is no legislative provision for the sharing of information with local authorities.

### *Landfill Levy*

**27.57** The landfill levy was introduced in 2002 and from then to the end of 2011, just under €321 million has been collected. Collection costs retained by local authorities in relation to private and unauthorised landfills totalled €1.4 million. The amount paid to the Environment Fund was therefore just over €319 million.

**27.58** The levy regulations require that private landfills be audited in relation to the levy for at least two accounting periods of each year. To date only two private landfills have been audited. There have been no audits of local authority landfills.

**Recommendation 27.5:** The Department should ensure that the statutory audit requirements in relation to landfills are met.

**Department Accounting Officer's Response:** Agreed. The Department has identified a number of instances where such audits are outstanding and has instructed the relevant local authorities to complete and return the results of those audits as a matter of urgency. A recent circular to local authorities again outlines their responsibilities in relation to the levy. Building on this, a number of audits of privately owned landfills will be conducted by local authorities on an annual basis. In addition, a number of audits of local authority operated landfills will be conducted by the Department with the support and assistance of the EPA if necessary.