



Comptroller and Auditor General

**Report on the
Accounts of the Public Services 2012**

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Report of the Comptroller and Auditor General

Report on the Accounts of the Public Services 2012

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.

I have certified each appropriation account for the year ended 31 December 2012 and am submitting those accounts, together with my audit certificates, to Dáil Éireann.

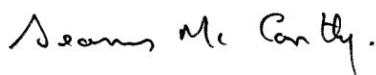
I hereby present my report on matters arising out of my audits of the accounts of the public services for 2012 to Dáil Éireann in accordance with Section 3 (11) of the Comptroller and Auditor General (Amendment) Act 1993. I am required under other statutes to report on certain matters along with my report on the appropriation accounts.

The report is set out in four parts.

- Part 1 deals with matters relating to the Central Fund of the Exchequer and government debt.
- Part 2 outlines certain matters related to voted expenditure in 2012.
- Part 3 deals with matters arising out of the audit of the Revenue account and the examination of Revenue systems.
- Part 4 comprises my statutory report on the audits of the accounts of the National Treasury Management Agency and a report on the Clinical Indemnity Scheme.

This report was prepared on the basis of audited information, where available, and other information, documentation and explanations obtained from the relevant Government departments and agencies. Drafts of relevant segments of the report were sent to the departments and agencies 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 agencies in respect of their administration of public funds. References to third parties should be read only in that context.



Seamus McCarthy
Comptroller and Auditor General

27 September 2013

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Central Government

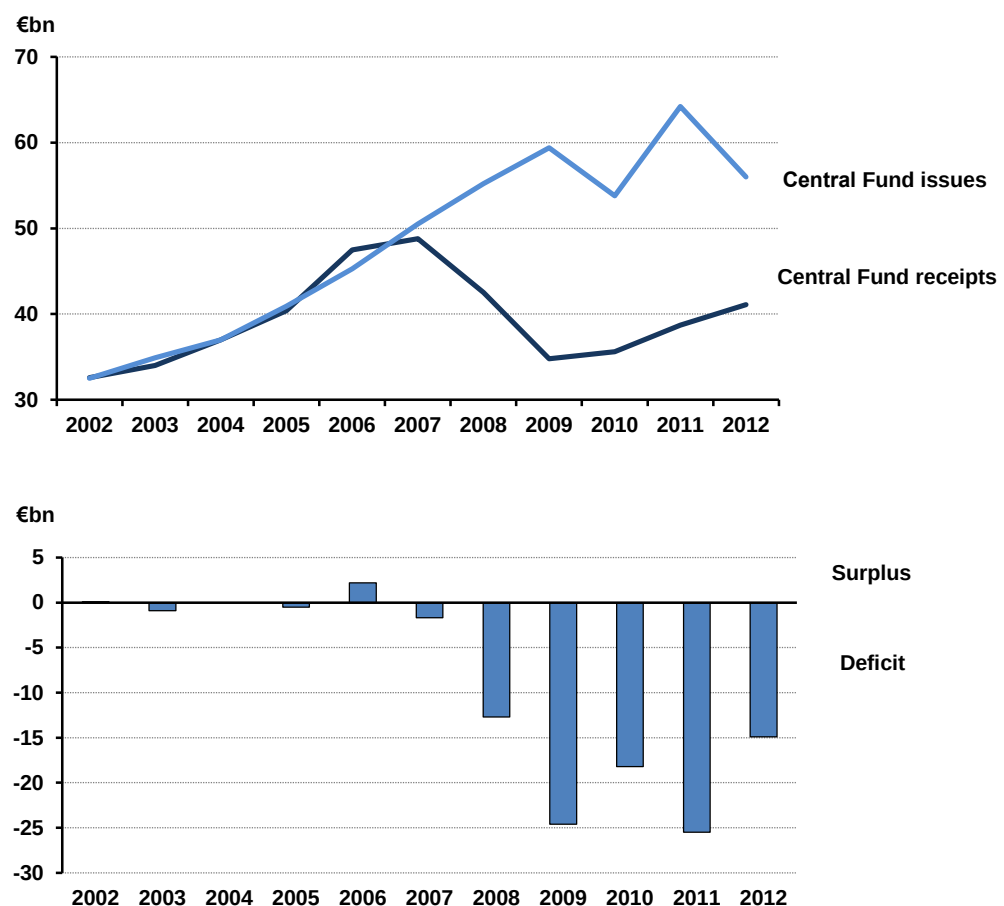
1 Exchequer Financial Outturn for 2012

- 1.1** All revenues of the State are paid into the Central Fund of the Exchequer unless otherwise determined by law.¹ Central Fund receipts include tax revenues and the proceeds of borrowing undertaken on behalf of the State by the National Treasury Management Agency (NTMA). Issues from the Central Fund are used to fund expenditure on State services.
- 1.2** The annual Finance Accounts present the receipts into and issues from the Central Fund together with details relating to NTMA borrowing and information about certain liabilities and assets of the State. This report summarises the transactions on the Central Fund and highlights some key trends. 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 2002 to 2012 and the surplus or deficit for each of those years is set out in Figure 1.1. In 2012, the deficit was just under €15 billion.

Figure 1.1 Central Fund receipts and issues and surplus/deficit, 2002 to 2012



¹ Examples of State revenue which is not paid into the Central Fund include Pay Related Social Insurance 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, 2008 to 2012^a

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Receipts					
Tax revenue	40,777	33,043	31,753	34,027	36,646
Other current revenues	847	838	2,687	2,520	2,765
Loans/advances repaid by					
European Agricultural Guarantee Fund	740	741	790	673	720
Social Insurance Fund ^b	—	—	—	254	355
National Asset Management Agency	—	—	250	49	—
Other	9	9	3	10	2
National Pensions Reserve Fund withdrawal	—	—	—	1,018	—
Sale of mobile phone licences	—	—	—	—	450
Other capital receipts	161	140	138	116	150
Total receipts	42,534	34,771	35,621	38,667	41,088
Issues					
Issues for voted expenditure	49,313	47,163	46,434	45,711	44,950
Service of national debt	1,611	2,641	3,619	4,736	5,823
Contribution to EU budget	1,587	1,486	1,352	1,350	1,393
Oireachtas Commission	119	123	103	130	105
Share capital acquired in banks	—	4,000	725	2,300	1,300
Bank recapitalisation payments	—	—	—	5,268	—
Promissory notes repayment	—	—	—	3,085	25
National Pensions Reserve Fund contribution	1,690	3,000	—	—	—
European Stability Mechanism	—	—	—	—	510
Credit Union Fund	—	—	—	—	250
Loans/advances issued to					
European Agricultural Guarantee Fund	741	790	673	720	730
Social Insurance Fund ^b	—	—	110	199	300
Insurance Compensation Fund	—	—	—	280	455
National Asset Management Agency	—	—	299	—	—
EU stability support for Greece	—	—	346	—	—
Other payments	187	209	105	406	139
Total issues	55,248	59,412	53,766	64,185	55,980
Deficit for the year	12,714	24,641	18,145	25,518	14,892

Source: Finance Accounts 2008 to 2012

Notes: a Transactions processed through the Exchequer Account and the Capital Services Redemption Account are consolidated. The latter account is a facility maintained by the National Treasury Management Agency for the purpose of servicing national debt and transactions of a normal banking nature.

b Funds are advanced to the Social Insurance Fund as a working facility and subsequently repaid. All funds advanced had been repaid at the end of 2012.

Receipts

- 1.4** Receipts into the Central Fund in 2012 totalled €41.1 billion (see Figure 1.2). This represented an increase of €2.4 billion (6%) relative to 2011 receipts. 89% of receipts was the proceeds of taxation, which rose by €2.6 billion compared with 2011.¹
- 1.5** Non-tax current revenues in 2012 amounted to €2.8 billion. The bulk of this related to banking stabilisation activity and the activities of the Central Bank, and comprised
- over €1 billion from credit institutions in respect of fees under the Eligible Liabilities Guarantee (ELG) scheme
 - €958 million in Central Bank surplus income arising in 2011 and paid into the Central Fund in 2012
 - €300 million in interest received on contingent capital notes held in banks.

To date in 2013, €1.15 billion in Central Bank surplus income was paid into the Central Fund. This was a historically high level of surplus income which may not be maintained in the future. Revenue from the ELG scheme is also likely to decline due to the closing of the scheme to new liabilities from the end of March 2013.

- 1.6** €450 million was paid into the Central Fund by ComReg in respect of upfront fees following the award of mobile phone licences at the end of 2012. ComReg received €482 million. A further €24 million will be paid into the Central Fund during 2013 and the balance used to make refunds that are due.² In addition, usage fees totalling €373 million (adjusted for inflation) are payable in instalments by the successful companies over the life of the licences (2013 to 2030).

Issues

- 1.7** Issues from the Central Fund in 2012 amounted to €56 billion, a decrease of €8.2 billion, or 13%, on the 2011 level.
- 1.8** Issues from the Fund for voted services were down by almost 2% when compared with 2011. The cumulative decline in voted expenditure issues since 2008 is just under 9%.
- 1.9** Payments related to servicing of borrowing undertaken by the NTMA increased year-on-year by €1.1 billion or 23%.
- 1.10** The main cause of the fall in issues was a drop in payments in respect of bank stabilisation, which were €9.4 billion lower than in 2011.
- In 2011, €7.6 billion had been spent in respect of acquiring share capital in the banks and other recapitalisation measures. The only comparable transaction in 2012 occurred when the State purchased Irish Life for €1.3 billion.³
 - In 2011, the State paid almost €3.1 billion in promissory note repayments. The issues from the Central Fund were lower in 2012, at just €25 million, because the State paid €3.06 billion due to Irish Bank Resolution Corporation (IBRC) through the issue of Government bonds.⁴
- 1.11** €455 million was advanced to the Insurance Compensation Fund in 2012 arising from the administration of Quinn Insurance Limited, bringing the total advanced at the end of 2012 to €735 million. It is expected that the loans will ultimately be repaid mainly from levy receipts on insurance sales.

1 See Chapter 23, Revenue Collection for further details of tax proceeds in 2012.

2 Fees may be adjusted for a number of factors including, for example, late commencement.

3 In February 2013, the State agreed to sell Irish Life to Great-West Life Co for €1.3 billion. The sale was completed in July 2013.

4 For further detail on this transaction, see Chapter 2 Government Debt.

- 1.12** The European Stability Mechanism has total approved paid-in capital of €80 billion of which Ireland's share is €1.274 billion, due to be paid in five equal tranches. The payment in 2012 represents the first 40% of Ireland's contribution to the share capital.

Exchequer Assets and Liabilities

- 1.13** The Finance Accounts do not include a balance sheet summarising the State's assets and liabilities at year end. The summary position in relation to key assets and liabilities is set out below.

State Cash and Financial Asset Balances

- 1.14** The movements in the balance on the Exchequer account at the Central Bank and other State financial assets are shown in Figure 1.3.

Figure 1.3 Movements in Exchequer cash and financial asset balances, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Balance at 1 January	4,486	22,059	21,816	16,164	17,692
Movements in year					
Net Exchequer borrowing in year	30,287	24,397	12,493	27,046	21,050 ^a
(Deficit) of issues over receipts	(12,714)	(24,641)	(18,145)	(25,518)	(14,892)
Balance at 31 December	22,059	21,816	16,164	17,692	23,850

Source: Finance Accounts 2008 to 2012.

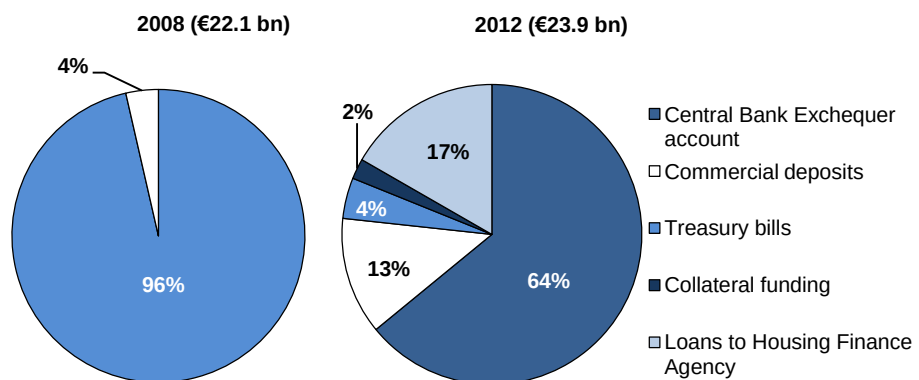
Note: a Excludes Government bond issue of €3.5 billion to meet the cost of the promissory note payment of €3.06 billion to IBRC due in March 2012. This transaction is explained further in Chapter 2, Government Debt.

- 1.15** There has been significant change in the composition of the State's cash and financial assets between 2008 and 2012 as shown in Figure 1.4. Prior to 2008, surplus Exchequer cash was generally held in the Central Bank Exchequer Account.
- 1.16** Since 2007, the NTMA has placed some surplus Exchequer cash on deposit with commercial financial institutions. At the end of 2012, the State held deposits amounting to over €3 billion in commercial banks. In comparison, the end 2011 level of deposits in commercial banks was just €30 million.¹
- 1.17** In 2010, the NTMA commenced lending to the Housing Finance Agency (HFA). Prior to that, the NTMA had acted as agent, and borrowed on behalf of the HFA whose borrowings were guaranteed by the Minister for Finance. Short term loans by the Central Fund to the HFA amounted to almost €4 billion at the end of 2012. In practice, these loans could not be readily realised by the Central Fund.

¹ Commercial deposits are deposits placed by the NTMA with financial institutions for periods ranging from one to 365 days. In order to manage counterparty credit risk, the NTMA may receive collateral (such as government bonds) for cash placed on deposit.

Figure 1.4 State cash and financial asset balances, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Balance at 31 December					
Central Bank Exchequer account	21,269	21,026	11,399	13,099	15,280
Capital Services Redemption Account ^a	—	—	600	—	—
Bank deposits (including collateralised deposits)	790	790	580	30	3,020
Non-Irish treasury bills	—	—	—	—	1,045
Loans to Housing Finance Agency	—	—	3,585	3,848	3,982
Collateral funding	—	—	—	715	523
Total cash and financial assets	22,059	21,816	16,164	17,692	23,850



Source: Finance Accounts 2008 to 2012

Note: a Balance in the account at year end was less than €500,000 each year, except 2010.

1.18 In 2012, the NTMA lent on a short-term basis to other states, through the purchase of sovereign treasury bills. At the end of 2012, the value of non-Irish treasury bills held by the State was just over €1 billion and their residual maturities were between 45 and 150 days.¹

1.19 Since 2011, the NTMA has placed collateral with derivative counterparties. This requirement arises from credit support arrangements the NTMA has with the counterparties to derivative contracts under which the party who is 'out of the money' is required to deposit collateral with its counterparty. The excess of payments over receipts is funded by the Exchequer. At the end of 2012, a net €523 million was funded by and is due to be repaid to the Exchequer.²

1.20 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 operated subject to guidelines issued by the Minister for Finance, including the maximum amount that may be held in the account at year end. The year end limit set by the Minister is normally €1 million.³

1 Treasury bills are a form of short-term lending. The NTMA purchases treasury bills issued by other states as an alternative to placing funds on overnight deposit, because the rate of return is higher.

2 Further details regarding these transactions are outlined in Chapter 2 on Government Debt.

3 For end 2010, the Minister set the limit on the balance at €601 million.

Loans and Advances

- 1.21** Loans and advances provided from the Central Fund totalling €1.84 billion were outstanding at the end of 2012, an increase of €463 million when compared with 2011. The loans outstanding at the end of 2012 include €730 million in respect of advances to fund costs associated with the operation of EAGF schemes, €346 million in relation to Ireland's contribution to EU stability support for Greece and €735 million advanced to the Insurance Compensation Fund.

Government Debt

- 1.22** The General Government Debt (GGDebt) measures indebtedness taking account of all liabilities of the State to third parties.¹ At 31 December 2012, the GGDebt is estimated to be €192.5 billion, an increase of almost 14% when compared with 2011 GGDebt of €169 billion.²
- 1.23** The main component of the GGDebt was cumulative borrowing undertaken by the NTMA on behalf of the State. At end December 2012, this amounted to €161.5 billion (at nominal or redeemable par values). This compared to €136.8 billion at the end of 2011 — an increase in debt of €24.7 billion.
- 1.24** The GGDebt also included the balance of the State's promissory note liability at end 2012, amounting to €25.3 billion. In February 2013, following the liquidation of IBRC, promissory notes provided to IBRC were cancelled and replaced by floating rate bonds, with maturities ranging from 25 to 40 years, issued by the NTMA to the Central Bank. This left the balance outstanding on promissory notes at €227 million in respect of EBS.
- 1.25** Other liabilities of the State included in the GGDebt amounted to almost €6 billion. These include Post Office Savings Bank deposits as well as external debt of the HFA, local authorities and other (non-commercial) State bodies.

Financial Commitments under PPP Contracts

- 1.26** 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.
- 1.27** The total value of the future commitments to be met in respect of contracts in place at the end of 2012 is estimated at just under €4.2 billion. 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.³
- 1.28** 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.

1 Specifically, GGDebt is defined as the consolidated 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 derivatives; and loans.

2 See Chapter 2 Government Debt.

3 See Chapter 3 on Financial Commitments under Public Private Partnerships.

Public Service Pension Costs and Liabilities

- 1.29** Accrued pension entitlements of public servants are a significant liability of the State. At end December 2009, an estimated €116 billion had accrued in respect of occupational pensions payable to public servants.¹ Later assessments of the liability have not been made. The 2012 Finance Accounts continue to report the end 2009 liability.
- 1.30** In my 2011 report, I recommended that actuarial reviews and projections of public service pension outflows should be carried out on a regular basis, to ensure that decision makers are aware of the long term cost impact of pensions and of changes in pension terms, and the timing of pension outflows.
- 1.31** The Accounting Officer of the Department of Public Expenditure and Reform accepted the recommendation and undertook to commission an actuarial assessment that takes account of the significant changes since 2009. Work has commenced on this assessment and the Accounting Officer expects that the main part of the exercise will be completed by the end of 2013.

Pensions Insolvency Payment Scheme Liabilities

- 1.32** The Pensions Insolvency Payment Scheme provides for the State to provide payments to retired members of defined benefit pension schemes in circumstances where the employer becomes insolvent and the pension scheme is wound up in deficit (referred to as the 'double insolvency' condition).²
- 1.33** Under the Pensions Insolvency Payment Scheme, following a successful application by the trustees of the pension scheme, the trustees pay the Exchequer a sum that will cover the cost of paying the pensions. The NTMA is responsible for calculating the sum to be paid by the trustees.³ The State carries the actuarial risk i.e. risk that the pension payments may be made for longer than projected and will benefit if the payments are less than those projected.
- 1.34** During 2012, two Waterford Crystal pension schemes, relating to over 600 pensioners, were accepted into the Pensions Insolvency Payment Scheme. In October 2012, the State assumed a liability estimated at €40.7 million, representing the present value of the projected future pension payments.

State Claims Agency

- 1.35** The State Claims Agency (SCA) manages personal injury and property damage claims against the State and certain State authorities. Currently, 54 State authorities, with over 200,000 State employees, are within the SCA's remit.
- 1.36** At the end of 2012, the SCA reported that the estimated potential liability in respect of all active claims was €1.13 billion. €970 million of this is in respect of clinical personal injury claims while around €160 million related to other forms of claims.⁴

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

2 Section 22 of the Social Welfare and Pensions Act 2009.

3 The sum paid by a scheme's trustees is the present value of the future stream of payments from the scheme to the scheme's pensioners. The rate used to discount the future payments is based on the long-term cost of borrowing to the State at the time. The mortality assumptions are based on the applicable professional guidance issued by the Society of Actuaries in Ireland.

4 See Chapter 29 Clinical Indemnity Scheme.

Pension Reserves

- 1.37** The National Pension Reserve Fund (the Fund) was valued at €14.7 billion on 31 December 2012 (2011: €13.4 billion).
- The discretionary investment of the Fund stood at €6.1 billion. These investments are valued at market prices.
 - The remaining assets of the Fund are investments made under direction of the Minister for Finance. €20.8 billion of the Fund's assets had been devoted to bank capitalisation by the end of 2012.¹ The market value of the investments in the banks was €8.6 billion at 31 December 2012.

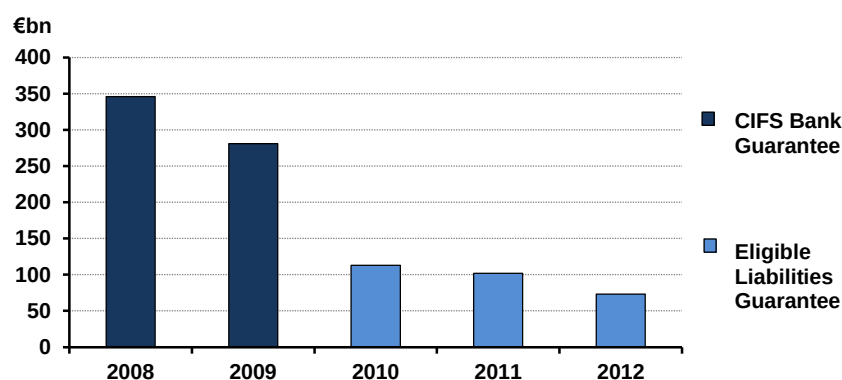
State Guarantees

- 1.38** At the end of December 2012, the Government has guaranteed, under specific legislation, the due payment of obligations in respect of certain liabilities. The principal or capital value of those liabilities outstanding was €119 billion, €4.5 billion of which relates to total borrowing by the HFA.

Eligible Liabilities Guarantee

- 1.39** The State has guaranteed the liabilities of certain Irish credit institutions under the Eligible Liabilities Guarantee (ELG) scheme. The value of the bank liabilities guaranteed at the end of December 2012 was of the order of €73 billion, almost €29 billion less than at the end of 2011.
- 1.40** The ELG scheme commenced in late 2009. It had been preceded by the Credit Institutions Financial Support (CIFS) Scheme. Figure 1.5 indicates the estimated total value of the liabilities covered by the guarantee schemes at the end of each year from 2008 to 2012.
- 1.41** Following from the liquidation of IBRC in February 2013, the State has to date been required to make payments totalling almost €1 billion in respect of liabilities that were covered under the ELG scheme. The Department of Finance expects that there may be further payments of about €100 million arising from the liquidation.
- 1.42** The ELG scheme was ended for new liabilities from 28 March 2013. The State will continue to guarantee liabilities existing at that date until their maturities.

Figure 1.5 Guaranteed credit liabilities at year-end, 2008 to 2012



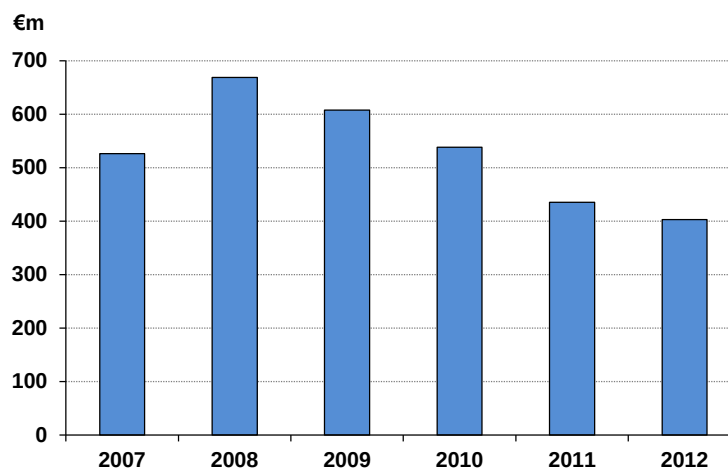
¹ This comprises
 €16.9 billion paid in exchange for shares;
 €3.8 billion contribution to recapitalisation of AIB;
 €1.1 billion dividends paid in the form of shares;
 less
 €1 billion net proceeds from the sale of shares in Bank of Ireland.

Source: Department of Finance

Deposit Guarantee Scheme

- 1.43** The State's exposure under the ELG scheme excludes the liabilities guaranteed under the Deposit Guarantee Scheme (DGS), whereby deposits up to a maximum of €100,000 per depositor per institution are guaranteed. The DGS is funded by the credit institutions which are required to deposit funds of 0.2% of the total value of all current customer deposits (whether guaranteed under DGS or not) into deposit protection accounts administered by the Central Bank.¹ At the end of December 2012, guaranteed deposits had a combined value of €64 billion and the deposit protection accounts stood at €403 million. Balances in the deposit protection accounts (at year end) from 2007 to 2012 are shown in Figure 1.6.

Figure 1.6 Deposit protection accounts balances at year-end, 2007 to 2012



Source: Financial Statements, Central Bank of Ireland, 2007 to 2012

- 1.44** In the event of liquidation of a credit institution, claims by depositors would be met in the first instance by the Central Bank, using the funds in the deposit protection accounts. Any shortfall would be met from the Central Fund of the Exchequer, which would be recouped in due course from the banking sector. Following the liquidation of IBRC, the DGS was invoked for the first time and as at 16 August 2013, a total of €12.7 million in compensation had been paid to 817 IBRC depositors by the Central Bank from the deposit protection accounts.

Ministerial Guarantees under Exceptional Liquidity Assistance

- 1.45** Advances to credit institutions were made by the Central Bank under the exceptional liquidity assistance (ELA) scheme. The total ELA advanced at the end of 2012 was just over €40 billion. The State had guaranteed €16 billion of the advances on the basis of Ministerial guarantees held by IBRC, and used as collateral. In addition, ELA of €23.6 billion was backed by promissory notes issued by the Minister. €0.8 billion was backed by other securities not covered by Ministerial guarantee.

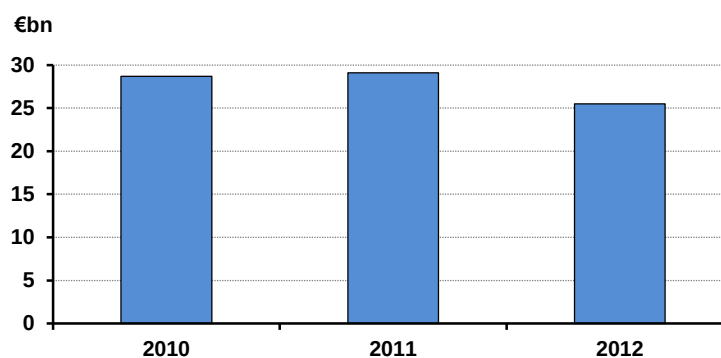
¹ Since November 2012, credit unions are required to maintain funds in deposit protection accounts.

- 1.46** Following the liquidation of IBRC in February 2013, the Central Bank ceased the provision of ELA and the State's contingent liability of €16 billion at end 2012 in respect of ELA-related guarantees has now been eliminated. However, a contingent liability remains for any shortfall suffered by NAMA when the IBRC assets over which NAMA has a floating charge are sold.¹

National Asset Management Agency

- 1.47** The Minister for Finance has guaranteed 95% of the debt issued by NAMA to pay for loans acquired by it from credit institutions. The outstanding amount of debt guaranteed at the end of 2012 was €25.4 billion (2011: €29.1 billion). Figure 1.7 shows the level of State guaranteed debt held by NAMA at the end of each year from 2010 to 2012.

Figure 1.7 Movement in NAMA guaranteed debt, 2010 to 2012



Source: National Asset Management Agency Annual Reports

Finance Accounts

- 1.48** In my annual report for 2011, I recommended that 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.
- 1.49** The Accounting Officer of the Department of Finance agreed with the recommendation. He stated that, in its review, the Department of Finance would consult with the Department of Public Expenditure and Reform, which has the lead role in relation to policy for accounting by government departments. The Accounting Officer stated that consideration would 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 would also be considered.

Fiscal Transparency Assessment

- 1.50** In March 2013, a team from the International Monetary Fund (IMF) visited Ireland, at the request of the Secretaries General of the Departments of Finance and Public Expenditure and Reform, to evaluate Ireland's fiscal management and reporting against the standards in the IMF's newly revised Fiscal Transparency Code.

¹ NAMA acquired certain IBRC assets for €12.9 billion. This is discussed further in Chapter 2 Government Debt.

- 1.51** The report of the IMF Review Team was published on 16 July 2013.¹ The report contains detailed recommendations in relation to a number of areas including the nature, content and timing of fiscal reporting and an action plan for implementing the recommendations over the period 2013 to 2017. The report's recommendations are set out in Annex A.
- 1.52** The Government has referred the report and action plan to a Fiscal Transparency Assessment Steering Group under the supervision of the Departments of Finance and Public Expenditure and Reform for implementation as appropriate. My Office is represented on the steering group.

Conclusions

- 1.53** The deficit in State receipts relative to issues fell substantially in 2012 from its peak level in 2011. Most of the fall is attributable to reduced expenditure for banking stabilisation measures. However, a 2012 promissory note payment of just over €3 billion was settled without recourse to Exchequer cash through the issue of bonds by the NTMA.
- 1.54** The General Government Debt increased by 14% in 2012 to €192 billion. In addition, at the end of 2012, the State had commitments of €4.2 billion in respect of public private partnership contracts and an estimated €1.1 billion in respect of claims managed by the State Claims Agency. It has a further unquantified liability in respect of occupational pensions for public sector employees.
- 1.55** There was an increase during 2012 of just over €6 billion in Exchequer cash and financial asset balances and an increase of €1.3 billion in the value of the National Pension Reserve Fund.
- 1.56** Other State exposures have fallen. Liabilities guaranteed under the Eligible Liabilities Guarantee scheme stood at €73 billion at end-2012, €29 billion lower than end-2011. In 2013, a contingent liability of €16 billion was eliminated following the liquidation of IBRC. A contingent liability remains for any shortfall suffered by NAMA when assets of IBRC, over which it has a floating charge, are sold.

¹ Fiscal Transparency Assessment - Ireland, International Monetary Fund, July 2013.

Annex A Extract from Fiscal Transparency Assessment, International Monetary Fund, July 2013 – Recommendations

Glossary

Term	Definition
C&AG	Comptroller and Auditor General
CBI	Central Bank of Ireland
COFOG	Classification of Functions of Government (United Nations)
CSO	Central Statistics Office
DECLG	Department of Environment, Community and Local Government
DoF	Department of Finance
DPER	Department of Public Expenditure and Reform
ESA 95	Harmonised EU-wide national accounts standard reporting system (Eurostat)
ESA 2010	New system of national and regional accounts to replace ESA 95 and to be implemented from September 2014 (Eurostat)
EU Six Pack	Six regulations aimed at strengthening the procedures to reduce public deficits and address macroeconomic imbalances
EU Two Pack	Specific rules in relation to Eurozone countries' budget review and monitoring, and surveillance of distressed Eurozone countries
FRL	Fiscal Responsibility Law enacting the Treaty on Stability
GDP	Gross Domestic Product
GFSM2001	Government Finance Statistics Manual 2001 (International Monetary Fund)
IFAC	Irish Fiscal Advisory Council
IPSAS	International Public Sector Accounting Standards
MTEF	Medium-term Expenditure Framework
NAMA	National Asset Management Agency
NPRF	National Pensions Reserve Fund
NTMA	National Treasury Management Agency
PPP	Public Private Partnership
SPU	Stability Program Update

Annex A Extract from Fiscal Transparency Assessment, International Monetary Fund, July 2013 – Recommendations

1. Given the already high degree of fiscal disclosure in Ireland, there is considerable scope to enhance further fiscal transparency just by bringing existing fiscal information together, including
 - the Department of Finance's monthly cash-based report on Exchequer revenues, expenditure, and financing which covers 91 percent of general government revenue
 - the CSO's consolidated general government operating statement and financial balance sheet which it submits to Eurostat on a quarterly and annual basis
 - information on fixed and financial assets reported on the balance sheets of central government departments and agencies, local governments, and public corporations
 - estimates of public service pension liabilities, PPP commitments, guarantees and derivatives, contingent liabilities, and tax expenditures from a range of sources
 - forecasts of long-term trends in health and pensions expenditure submitted to the EU for inclusion in their Fiscal Sustainability Report and
 - NTMA, NPRF and NAMA's analysis of the performance of and risk associated with their holdings of financial assets and liabilities.
2. Reforms in ten key areas could therefore bring Ireland's fiscal reporting practices into line with international standards and best practices at comparatively low cost and within a reasonable timeframe. These are to
 - expand the institutional coverage of budgets, statistics, and accounts
 - recognize a wider range of assets and liabilities in balance sheets
 - incorporate the corresponding accrued flows into fiscal reports
 - modernize the budget classification and chart of accounts
 - accelerate the timetable for the submission of the annual budget and accounts
 - provide a more detailed reconciliation of changes to fiscal forecasts
 - regularly publish long-term fiscal projections
 - produce a comprehensive statement of fiscal risks
 - publish a medium-term asset and liability management strategy and
 - harmonize financial reporting standards and practices across the public sector.
3. The actions required to implement these reforms over the next five years are summarized below. By the end of 2017, the ultimate aims of this integrated set of reforms would be to
 - bring the financial activities of all publicly controlled entities into summary fiscal reports
 - present their operations and balance sheets in a consolidated, integrated, and comprehensive set of financial statements for the public sector and its sub-sectors

- put Ireland in a position to fully comply with ESA95 and GFSM2001 for fiscal statistics, meet the additional reporting requirements the EU Six Pack and Two Pack and ESA 2010, and adopt IPSAS requirements (or their European variant) for government accounting
- enable the government to track its performance against its national and EU-wide general government fiscal rules on a monthly basis
- ensure that fiscal forecasts, budgets, statistics, and accounts are presented on a consistent and comparable basis and
- enhance public recognition of and government accountability for medium and long-term fiscal developments and risks.

1 Expand the Institutional Coverage of Fiscal Reports

Issue: 126 central government entities whose net expenditure accounts for €6.8 billion (4.3 percent of GDP) are currently excluded from the central government budget and accounts. A further 297 entities whose net expenditures accounted for at least €16.8 billion (11.7 percent of GDP) are outside the scope of the general government fiscal statistics.

Recommendation 1: *The government should expand the institutional coverage of budgets, fiscal statistics, and financial statements by*

- a **Expanding the coverage of the annual budget documentation to present the gross revenues and expenditures of the consolidated central government.** This will ensure that the annual budget documentation provides the legislature and the public with a comprehensive overview of all tax-funded activities of central government regardless of whether the entity is classified as a vote, extrabudgetary fund, or non-market semi-state body.
- b **Combining the Finance and Appropriation Accounts into a consolidated Central Government Financial Statement.** This reform, which may require legislative changes, would provide the Dail, C&AG and the public with a comprehensive and accessible summary of the central government's annual financial performance relative to the approved budget.
- c **Providing an overview of the gross revenues and expenditures of central, local, and general government in budget documentation and in-year fiscal statistics.** This will allow for central and local governments to forecast and monitor their performance against the general government expenditure benchmark and other fiscal rules included in Ireland's new FRL and "Six Pack" of new EU regulations and directives.
- d **Preparing fiscal statistics for the consolidated public sector and its subsectors.** This will provide fiscal policymakers, legislators, markets, and the public with a regular and comprehensive overview of the financial position and performance of all publicly controlled entities in the economy.

2 Recognize a Wider Range of Assets and Liabilities

Issue: Ireland's consolidated government balance sheet data currently excludes the €116.8 billion (73.5 percent of GDP) in fixed assets of central and local governments, the €116 billion (73.0 percent of GDP) in liabilities associated with public service pensions, €4.0 billion (2.5 percent of GDP) in liabilities under PPPs, and the €324.7 billion (204.3 percent of GDP) in assets and liabilities held by public corporations.

Recommendation 2: Recognize a wider range of assets and liabilities in balance sheets by

- a Revaluing and recognizing accrued pension liabilities of public servants.** The 2009 estimate of the present value of accrued pension benefits of serving or retired public servants of €116 billion needs to be regularly updated and reflected in the central and local government balance sheets.
- b Recognizing government assets and liabilities associated with PPPs.** The inclusion of these assets and obligations in central and local government balance sheets will provide a more comprehensive overview of their financial position.
- c Revaluing and recognizing nonfinancial assets of central government departments.** Central government departments already include information on their fixed asset holdings in their annual Appropriation Accounts, albeit some at historic cost, some at replacement cost. Bringing all these valuations up-to-date in line with international standards (subject to a *de minimis* for small or heritage assets) would enable central government to include a full balance sheet in the aforementioned Central Government Financial Statements.
- d Preparing a financial and full balance sheet for the public sector and its subsectors.** Existing data on central government, local government, and public corporation financial assets and liabilities could already be incorporated into a consolidated financial balance sheet for the public sector. Once more up-to-date valuations of fixed assets, pension liabilities, and PPP assets and obligations are available, these could be incorporated into a full balance sheet showing the overall net worth of the public sector as well as general government.

3 Incorporate Associated Accrued Revenues and Expenses

Issue: Recognition of the above assets and liabilities in balance sheets allows for the incorporation of the related, fiscally significant, flows in summary fiscal reports. At present these unrecognized expenses could amount to 1 percent of GDP per year.

Recommendation 3: Incorporate the corresponding economic flows in fiscal documentation by

- a Reflecting changes in accrued public sector pension liabilities in budget documentation, statistics, and accounts.** Once an estimate of the present value of public sector pension liabilities is included in the central and local government balance sheets, changes in that valuation, which amounted to approximately €1 billion can be incorporated as a non-cash flow in central government revenues and expenditures.

- b Incorporating information on the annual flow of government investments and payments under PPPs into fiscal projections, budgets, and accounts.**¹ The inclusion of this information in annual, medium-term, and long-term fiscal projections will help to demonstrate the long-term affordability of these commitments.
- c Utilizing department-specific depreciation figures in summary statistics and accounts.** Fiscal statistics and fiscal forecasts currently use an economic measure of depreciation, based on the perpetual inventory model, which is €1.8 billion higher than the sum of depreciation figures reflected in the accounts of central and local government departments. Updating the valuation of fixed assets in central government department and local government accounts would allow the latter, more accurate, measure to be used in all three fiscal documents and
- d Recognizing valuation changes in public sector assets, liabilities, and contingent liabilities in fiscal documentation.** Once a comprehensive balance sheet for the public sector is prepared, changes in the value of the assets, liabilities, and contingent liabilities can be recognized in the relevant sub-sector accounts and as a supplementary disclosure in budgets. This will ensure consistent and integrated set of financial statements for all sub-sectors and
- e Providing a more comprehensive estimate of revenue foregone from all tax expenditures.** Annual estimates of the cost of tax expenditures should be extended beyond revenue foregone on income and corporation taxes to fully cover the estimated 6 percent of GDP in total revenue foregone from all direct and indirect tax allowances, reliefs, deductions, and rebates in a manner which does not add to the compliance burden on taxpayers.

4 Modernize the Budget and Accounting Classification

Issue: The charts of accounts for central government departments, extrabudgetary funds and other non-market agencies, local governments, and public corporations are not able to automatically generate summary fiscal data in line with international reporting standards. This poses a significant obstacle to the preparation of more comprehensive, detailed, and comparable fiscal reports. It also inhibits real-time monitoring of Ireland's fiscal performance against its national and EU-wide fiscal rules which are defined in general government terms.

Recommendation 4: Bring the classification of fiscal documentation into line with international standards by

- a Reorganizing the monthly Exchequer Statement to present gross revenues and expenditures and distinguish non-financial and financial transactions.** This would supplement the current Exchequer Statement and bring its classification closer to the ESA 95 and GFSM 2001 presentation.
- b Develop an exhaustive program classification which can be mapped to both individual output/impact indicators and COFOG sectors.** This would enhance departmental accountability to parliament for the use of public resources and automate the presentation of international comparable statistics on the functional allocation of government expenditure and

¹ This would mean producing a measure of public spending that recorded privately financed investment in PPPs as public investment at the time the investment occurred and also recording the investment and a corresponding liability on the government's balance sheet. Investment in PPPs and investment in traditional publicly financed investments would thus have similar effects on the government's accounts.

- c **Develop a harmonized chart of accounts for all general government and, eventually, public sector entities.** This would facilitate the automated collection and consolidation of detailed fiscal data for the central government, general government, and public sector. Such a standardized chart of accounts should produce summary fiscal data in line with international standards while also allowing entities the flexibility to generate fiscal data for internal management reporting. The planned shared services project, which has a financial management component, presents an opportunity to rollout such a harmonized chart of accounts across central and local governments.

5 Bring Forward the Timetable for Budgeting, Accounting, and Audit

Issue: The government's audited accounts are currently published too late to inform the preparation of the annual budget. The annual budget estimates are submitted too late for parliament to debate and approve them before the start of the year to which they refer.

Recommendation 5: Accelerate the production, presentation, and approval of the annual budget and accounts in line with current plans by

- a **Requiring the government to submit the annual budget to parliament in October.** This would bring Ireland's budget timetable into line with the Common Budgetary Timeline set out in EU Two Pack Regulation concerning the monitoring of draft budgetary plans which requires member states to publish their draft central and local government budgets by October 15.
- b **Requiring parliament to approve the annual budget in December.** This would give parliament at least two months to scrutinize the draft budget while ensuring that all public entities have an approved basis on which to execute their financial operations from January 1. It would also meet the EU Two Pack requirement that central and local government budgets be adopted by December 31.
- c **Requiring the government to submit its annual accounts to the C&AG by March or an agreed earlier date.** This would allow outturn data from the previous year's accounts to inform the preparation of the Stability Programme Update which needs to be submitted to the EU by end-April and provides the framework for the preparation of next year's budget and
- d **Requiring the C&AG to submit the audited accounts to parliament by June.** This would ensure that the annual budget for the next year is prepared on the basis of audited outturn figures for the previous year.

6 Prepare Long-term Fiscal Projections

Issue: Reducing Ireland's general government gross debt from 121 percent of GDP to the targeted 60 percent of GDP will require a long period of tight fiscal policy. In addition, Ireland faces growing demographic pressures, with the harmonized European estimate suggesting that age-related expenditure will increase by 7.4 percent of GDP by 2050. However, Ireland's fiscal projections only extend to 2015—not far enough to demonstrate either (i) how and when Ireland expects to meet its debt target or (ii) the impact of demographic and other long-term trends on the main fiscal aggregates.

Recommendation 6: Regularly publish long-term fiscal projections as part of the annual budget documentation

- a Publish the government's own version of a debt-sustainability analysis, demonstrating the interaction of the new fiscal rules, extending out 10-20 years.** This will demonstrate what the new rules mean for government expenditures and revenue trends, as well as how alternative macroeconomic scenarios influence both fiscal aggregates and the interaction of the rules.
- b Augment the internal long-term fiscal projection model and publish its projections at least every two-to-three years.** This model will demonstrate the impact of ageing and health related expenditure pressures, and by including detailed entitlement data, will allow the impact of alternative expenditure policy changes on the long-term fiscal gap to be assessed.

7 Reconcile Fiscal Forecast Changes

Issue: Ireland's medium-term fiscal forecasts contain large revisions from one budget to the next. On a no-policy-change basis, between the SPU and 2013 Budget, tax revenues were revised down €800 million, and net expenditures were revised up by €2.2 billion. This required significant policy changes to remain within the program targets. While the 2013 Expenditure Report provides a detailed breakdown of changes to departmental expenditure ceilings since the last budget, it is difficult to understand the net impact of (i) changes in macroeconomic environment, (ii) changes to revenue and expenditure policies, and (iii) other technical or accounting changes on the fiscal forecast.

Recommendation 7: Provide a more comprehensive reconciliation of changes to key fiscal aggregates between successive fiscal forecasts.

This can be done by comparing successive vintages of revenue and expenditure forecasts, and breaking down the variations in those forecasts between macroeconomic, policy, and technical changes. This will provide greater transparency about the factors that are driving changes to the forecast and how government policy is responding to them. It will also help to reinforce the credibility of the multi-year expenditure ceilings laid out in the MTEF by demonstrating that any new expenditure pressures or policies are being accommodated within those ceilings.

8 and 9 Enhance Fiscal Risk Analysis

Issue: The government publishes information on a wide range of fiscal risks, but the value of the information is diminished by being scattered among many documents published by many agencies. Moreover, much of the information is reported not by the ministries responsible for fiscal management—the Department of Finance and the Department of Public Expenditure and Reform—but by “outsiders” such as the Comptroller and Auditor-General, the Irish Fiscal Advisory Council, and the Central Bank.

The improvements in fiscal reporting discussed above would bring together much information relevant to an assessment of risk in two reports. Fiscal statistics for the public sector would allow a bird's-eye view of risks related to public corporations. Publication of financial statements and notes for consolidated central government would, among other things, generate integrated information on the government's assets and liabilities and notes on the risks around them.

However, those improvements will take time and will not be enough to bring together all the relevant information on fiscal risks into one place. Two new reports could help fill the gap: a comprehensive statement of fiscal risks and a report on the management of the government's portfolio of assets and liabilities.

Recommendation 8: The Department of Finance should publish as part of budget documentation a comprehensive annual statement of fiscal risks that include sections on

- a Macroeconomic analysis of risk** (drawing on existing analysis published in the Medium-Term Fiscal Statement, the Stability Programme Update, and IFAC's Fiscal Assessment Report).
- b Specific revenue risks not reflected in macroeconomic analysis** (Medium-Term Fiscal Statement).
- c Contingent liabilities, including guarantees, insurance, callable capital, indemnities, litigation, etc** (Finance Accounts, C&AG report, Appropriation Accounts).
- d Risks related to the financial sector in addition to those related to explicit guarantees** (CBI Macro-Financial Review).
- e Risks related to values of assets and liabilities and associated cash flows, including debt, derivatives, financial assets, pensions, provisions, and PPPs** (annual reports of NTMA, NPRF, State Claims, C&AG report).

Recommendation 9: The Department of Finance or NTMA should publish an annual report on the government's strategy for the management of its portfolio of assets and liabilities, including debt, the NPRF fund, and shares in financial and nonfinancial corporations.

10 Harmonize Financial Reporting Standards and Practices

Issue: There is no permanent official or unit in the Irish administration responsible for setting and enforcing financial reporting standards across the public sector.¹ As a result, there is no uniform set of accounting rule and procedures applying to government departments, extrabudgetary funds, semi-state bodies, local governments, and public corporations. This makes consolidating government-wide financial information and promoting system-wide improvements in financial reporting practices very costly and time-consuming.

¹ However, the Government Accounting Section in the Department of Public Expenditure and Reform is responsible for prescribing accounting procedures for preparing the Voted accounts subject to the overarching provisions of the Exchequer and Audit Departments Act, 1866.

Recommendation 10: Establish a permanent government financial reporting unit in the DoF or DPER headed by a Chief Financial Officer (CFO) or Director of Government Accounting (DGA).

This may also require legislative changes to give the required authority to the CFO/DGA. The CFO/DGA should be appropriately qualified with considerable accounting, financial reporting and other relevant experience. He should be supported by a small group of finance professionals and be responsible for

- a Setting financial reporting standards for all public sector entities, based on international and European accounting and statistical standards**
- b Enforcement of those standards in the preparation of in-year and year-end financial reports by public sector bodies**
- c Preparation and transmission of the proposed consolidated Central Government Financial Statements to the C&AG for audit**
- d Cooperation with the CSO, DECLG, CBI, and other public entities on the preparation of fiscal statistics for the general government and public sector and**
- e establishing and maintaining professional standards for the government accounting profession.**

The Fiscal Transparency Action Plan appended to the report breaks each of these recommendations down into the sequence of specific actions that could to be taken over the next five years to implement these recommendations and identifies the agencies responsible for each.

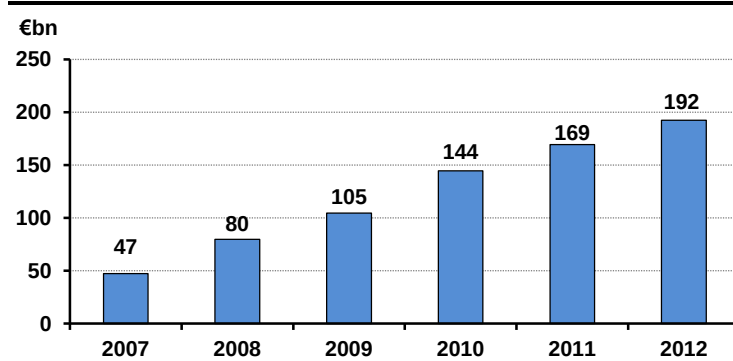
2 Government Debt

- 2.1** Revenues from taxation and other charges represent the primary source of State funding. The State also engages in a range of borrowing activities to supplement this funding. This report outlines the trend and composition of the debt funding and the cost of debt service. It also outlines 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. The GGDebt is defined by EU regulations as the total gross debt at nominal value outstanding at the end of the year of the consolidated general government sector — that is, the total gross debt 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 A1 in Annex A.
- 2.4** The GGDebt stood at approximately €192 billion at the end of 2012 — an increase of almost 14% since 2011. The significant upward trend in GGDebt since 2007 is set out in Figure 2.1.

Figure 2.1 Trend in General Government Debt, 2007 to 2012^a



Source: Annex A, Figure A1

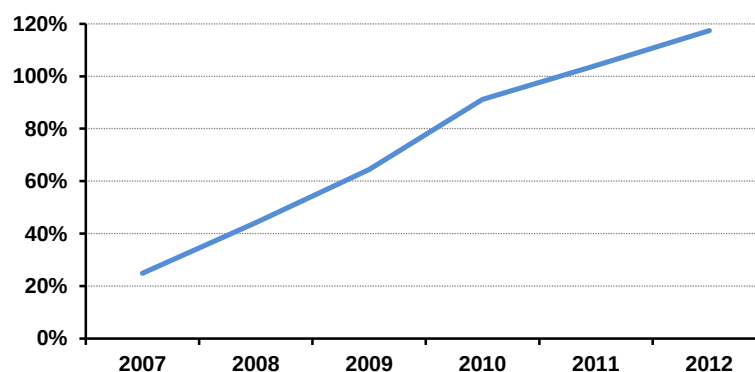
Note: a The GGDebt calculation is a statistical process. Consequently, amounts are subject to revision.

¹ Specifically, GGDebt is defined as the consolidated 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 derivatives; and loans.

GGDebt as a proportion of GDP

- 2.5** 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 117% of GDP in 2012 (see Figure 2.2).

Figure 2.2 GGDebt as a proportion of GDP, 2007 to 2012



Source: Annex A, Figure A2

- 2.6** The overall government debt to GDP of the Euro area (EA17) was 91% at end 2012. The GGDebt for EU27 area was 85%.¹ At the end of 2012, the lowest ratios of government debt to GDP were recorded in Estonia (10%), Bulgaria (19%) and Luxembourg (21%). Just six member states recorded an improvement in their government debt relative to GDP in 2012.²

Gross National Debt

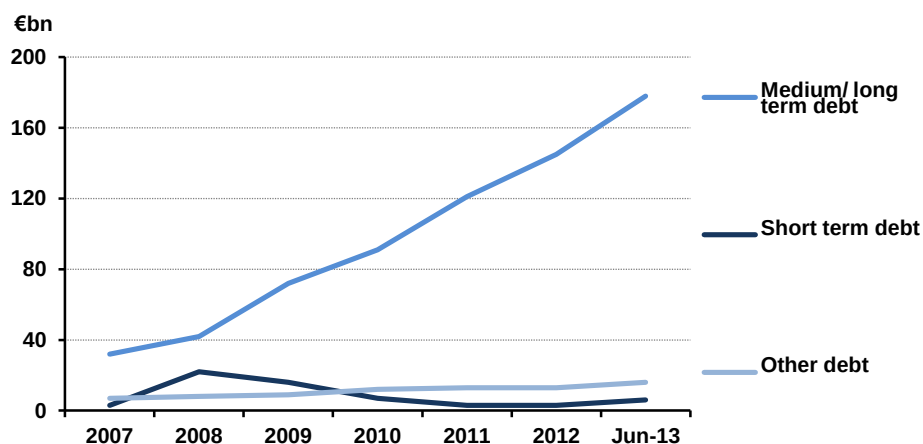
- 2.7** The largest component of the GGDebt is the gross national debt, which is debt arising from borrowings of the Exchequer, undertaken by the National Treasury Management Agency (the Agency). This stood at €161.5 billion at the end of 2012. From end 2012 to end June 2013, this increased by a further 24% to €199.7 billion.³
- 2.8** Figure 2.3 illustrates the trends in the major components of gross national debt from 2007 to end June 2013.

¹ The EU27 represents all member States in the EU including those that have not adopted the Euro currency. There are now 28 countries in the EU since Croatia joined in July 2013. See Annex A, Figure A3.

² Denmark, Greece, Latvia, Poland, Hungary and Sweden.

³ End June 2013 figures have not been audited.

Figure 2.3 Gross National Debt at redeemable par values, 2007 to 2012 (year-end) and at end June 2013

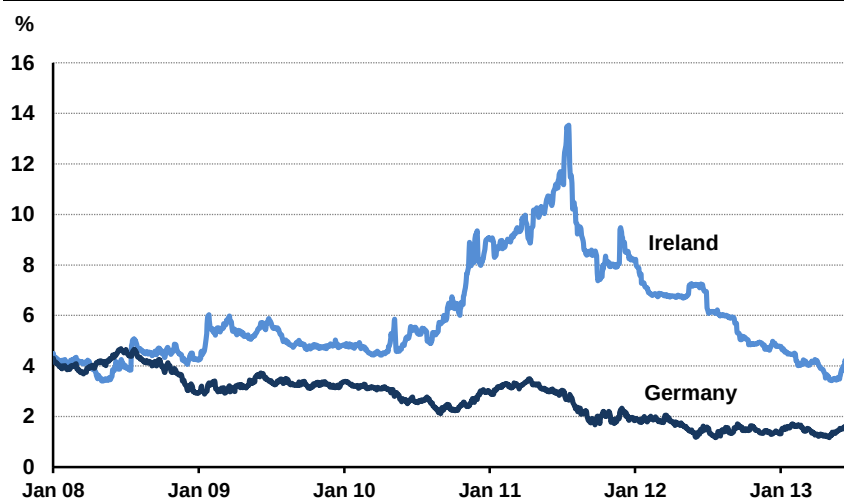


Source: Annex A, Figure A4

Debt Market

- 2.9** The yield on Irish government bonds is a key determinant of when Ireland can borrow in the market.¹ The yield on Irish debt compared to those of Germany, began to diverge substantially from mid-2010 (see Figure 2.4). As a result, from September 2010 to July 2012, the Agency did not actively seek new funding in the bond markets.
- 2.10** In July 2012, the Agency returned to the short-term debt market with an auction of three-month treasury bills. The Agency held a total of eleven such auctions by end July 2013, issuing €500 million by competitive auction on each occasion. The annualised yield at the first auction in 2012 was 1.8% and had reduced to 0.2% by the July 2013 auction.

Figure 2.4 Irish and German ten-year bond yields, 2008 to June 2013



Source: National Treasury Management Agency (Bloomberg and NTMA calculations)

Note: Where a ten year Irish bond yield is not available, a synthetic yield is derived from yields on other Irish government bonds for that period.

¹ The yield is the return investors will receive for holding the bonds.

- 2.11** During 2012, the Agency also re-entered the bond market. Details of developments are outlined below.

Medium and Long Term Debt

- 2.12** Medium and long-term debt at end June 2013 accounted for 89% of the gross national debt. It comprised mainly borrowings in the form of government bonds¹ (€115.5 billion) and loans under the EU-IMF Programme of Financial Support for Ireland which was agreed in late 2010 (€61.6 billion).²

Fixed Rate Bonds

- 2.13** Since market re-entry the following bond sales have taken place
- €2.894 billion (nominal value) of a new 5.5% treasury bond maturing in 2017 sold at a yield of 5.9% on 26 July 2012
 - €1.299 billion (nominal value) of an existing 5% treasury bond maturing in 2020 sold at a yield of 6.1% on 26 July 2012
 - €2.5 billion (nominal value) of a 5.5% treasury bond maturing in 2017 sold at a yield of 3.316% on 8 January 2013
 - €5 billion of a new 10-year bond maturing in 2023 sold at a yield of 4.15% on 13 March 2013.
- 2.14** In December 2012 and March 2013, the Agency cancelled a total of €1 billion of the 5% bond due to mature on 18 April 2013. In July 2013, it cancelled €750 million of the 4% bond due to mature on 15 January 2014.
- 2.15** During 2012, the Agency also offered investors the opportunity to exchange existing holdings of shorter—dated bonds into bonds with longer maturities. As a result, the maturity of €3.53 billion of bonds (due to mature in 2014) was extended by one year to 2015 and a further €1.04 billion of existing holdings of bonds (due to mature in 2013 and 2014) were exchanged for bonds with longer maturities (2017 and 2020).

1 At end June 2013, government bonds comprised of fixed rate bonds, floating rate bonds and amortising bonds.

2 The Government agreed, on 28 November 2010, to a three-year financial support programme from the International Monetary Fund (IMF), the European Commission and the European Central Bank (ECB).

3 A tap issue is a bond issue announced one hour in advance on Bloomberg indicating the nature, price and size of the amortising bonds. The offer is usually available for only two hours.

Amortising Bonds

- 2.16** On 23 August 2012, the Agency issued a new product — amortising bonds via a 'tap' issue.³ Amortising bonds make equal annual payments (comprising principal and interest) over their lifetime, and are designed to meet the needs of the pension industry. The average yield achieved was 5.91% and the final maturity terms were between 15 and 35 years. Of the government bonds in issue at end 2012, just over €1 billion related to amortising bonds. This rose to just over €1.2 billion by end June 2013.

Impact of promissory note activity on national debt

- 2.17** The level of government bonds in issue increased at end March 2012 when bonds were issued to meet a promissory note payment of €3.06 billion due to Irish Bank Resolution Corporation Limited (IBRC). As the market price of the bonds at the time was just over €88 per €100 nominal, the Agency 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 the €3.06 billion, was just over 6.8%.

- 2.18** The level of government bonds increased again in February 2013, as a result of the liquidation of IBRC.¹ The promissory notes held by the Central Bank of Ireland as collateral for lending to IBRC were replaced with government bonds on 8 February 2013. For this purpose, eight new floating rate bonds with a total value of €25.034 billion were issued by the Agency to the Central Bank of Ireland with maturities ranging from 25 to 40 years. The first of these bonds is due to mature in 2038 and the remaining bonds are due to mature every two years thereafter between 2041 and 2053. The bonds will pay interest every six months (June and December) based on the 6-month Euribor interest rate plus a fixed interest margin which averages 2.63% across the eight issues (between 2.50% and 2.68%).

EU-IMF Programme of Financial Support

- 2.19** Ireland's EU-IMF programme provides for total funding of €85 billion, made up of €17.5 billion from the State's own resources, and €67.5 billion from EU facilities, the IMF and bilateral loans. The nominal debt liability outstanding at end June 2013 was almost €61.6 billion as set out in Figure 2.5.² This represents 91% of the external funding available.

Figure 2.5 EU-IMF Programme of Financial Support for Ireland, December 2012 and end June 2013^a

Lender	December 2012		End June 2013	
	€ million	Average term (years) ^b	€ million	Average term (years) ^b
IMF	19,030	7.5	21,106	7.5
EFSF ^c	12,214	11.7	14,614	20.8
EFSM	21,700	12.4	21,700	12.4
Bilateral loans ^d	2,954	7.5	4,142	7.5
Total	55,898	10.3	61,562	12.4

Source: National Treasury Management Agency

Notes: a The balances are stated net of currency hedging transactions.

b Weighted average term from date of drawdown.

c The EFSF figures are shown net of a prepaid margin of €530 million. (The total aggregate liability including the prepaid margin at end June 2013 was €62.09 billion).

d The bilateral loans are with the United Kingdom, Denmark and Sweden.

1 On 7 February 2013, joint special liquidators were appointed to IBRC.

2 While the nominal liability at end June 2013 was €61.6 billion, the Exchequer draw down was €61.4 billion after adjustment for below par issuance, deduction of the pre-paid margin and the effect of foreign exchange transactions.

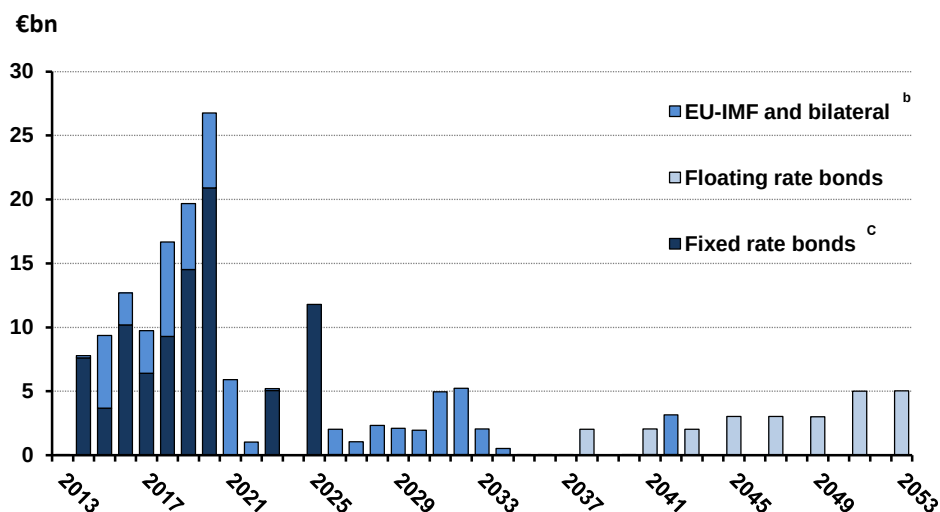
3 Fixed rate debt also includes EFSF loans disbursed as part of the EFSF's pooled funding mechanism. The cost of these EFSF pooled loans is related to the EFSF's cost of funds in managing the pool and can change from time to time.

- 2.20** In 2011, an agreement was reached to reduce the interest margins and extend maturities for loans granted by the European Financial Stability Facility (EFSF) and European Financial Stabilisation Mechanism (EFSM). Subsequently, the interest margins on the bilateral loans were also reduced. In April 2013, EU and euro area Finance Ministers agreed in principle to extend further the weighted average life of borrowings under both the EFSF and the EFSM. The revised maturity dates of the EFSF loans were agreed in June 2013 and are reflected in Figure 2.5. While the revised maturity dates of individual EFSM loans will only be determined as they approach their original maturity dates, it is not expected that Ireland will have to refinance any of its EFSM loans before 2027.
- 2.21** The all-in fixed euro equivalent cost estimated by the Agency (which takes account of related hedging) on the programme loans as at end June 2013, was 3.2%. €51.9 billion of the total €61.6 billion was at fixed rates and the balance at floating rates.³

Maturity Profile

- 2.22** Medium and long term debt has various maturity dates. At end June 2013, the residual maturity of fixed rate government bonds in issue ranged from under one year to 12 years while the maturity of amortising bonds ranged from 14 to 34 years and the maturity of floating rate bonds ranged from 25 to 40 years. The longest maturity for borrowing under the EU-IMF programme is currently just over 29 years.
- 2.23** Figure 2.6 shows the residual maturity profile of government bonds (fixed rate, amortising and floating rate) and funding under the EU-IMF programme (totalling €177 billion) at end June 2013.

Figure 2.6 Residual maturity profile of government bonds and EU-IMF programme funding held at end June 2013^a

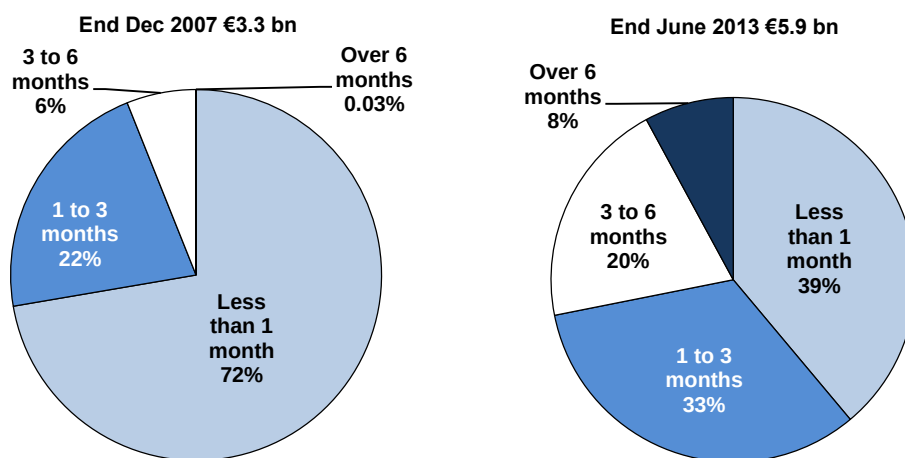


Source: Annex A, Figure A5

- Notes:
- a The EU-IMF Programme balances are shown net of currency hedging transactions where relevant.
 - b EU-IMF loans reflect maturity extensions agreed in June 2013.
 - c Fixed rate bonds include amortising bonds.

Short Term Debt

- 2.24** Short-term debt is debt with an original maturity of less than one year. At end June 2013, short-term debt comprised mainly borrowings in the form of exchequer notes, treasury bills and the Euro commercial paper programme. At end 2011, NAMA held 79% of the total short-term debt in issue in the form of exchequer notes (€2.3 billion). However at end 2012, NAMA did not hold any exchequer notes.
- 2.25** Figure 2.7 compares the maturity profile of short-term debt at end 2007 and end June 2013.

Figure 2.7 Maturity profile of short term debt, December 2007 and end June 2013

Source: Annex A, Figure A6

Promissory Notes

- 2.26** 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 IBRC and the Educational Building Society (EBS).¹ The net effect of this measure was to create State debt outside the Agency-managed gross national debt. At the end of 2012, the outstanding nominal value of the promissory notes was €25.3 billion.
- 2.27** The State did not have an immediate outlay of cash when it issued the promissory notes. Under the terms of the notes, instalments equal to 10% of the amounts outstanding at 31 December 2010 were to be made annually on set dates.² Interest accrues on the amounts outstanding. The first payments were made from the Central Fund in 2011.
- 2.28** The instalments in 2012 were met by two transactions
- The Agency issued bonds maturing in 2025 with a nominal value of €3.46 billion to meet the payment of €3.06 billion due to IBRC.
 - €25 million was paid out of the Central Fund in respect of the promissory notes issued to the EBS.

IBRC Liquidation

- 2.29** On 7 February 2013, the Irish Bank Resolution Corporation Act 2013 was passed and joint special liquidators were appointed to IBRC. When the liquidators were appointed the Central Bank of Ireland became the beneficial owner of collateral used by IBRC for lending from the Central Bank of Ireland which included the promissory notes.
- 2.30** The floating rate bonds issued by the Agency as a replacement for the promissory notes were valued at €25.034 billion, which was equivalent to the nominal value of the promissory notes.

¹ 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.

² Payments were due on 31 March to IBRC and 17 June to EBS (or on the next business day when these dates are not business days).

- 2.31** The Central Bank of Ireland is now the beneficial owner of the bonds issued to meet the 2012 IBRC promissory note instalment and also the bonds issued in February 2013 to replace the IBRC promissory notes. These are held by the Central Bank of Ireland in a special portfolio and can be sold when financial stability conditions permit.
- 2.32** The nominal value of the promissory notes outstanding at 30 June 2013 was €214 million. These relate to EBS. The movement in the nominal value of promissory notes between 2010 and June 2013 is outlined in Figure 2.8.

Figure 2.8 Nominal value of banking-related promissory notes as at 17 June 2013

	IBRC €m	EBS €m	Total €m
Value of promissory notes issued	30,600	250	30,850
Payments in 2011 ^a	(3,060)	(25)	(3,085)
Nominal value at end 2011	28,094	239	28,333
Payments in 2012 ^a	(3,060)	(25)	(3,085)
Nominal value at end 2012	25,034	227	25,261
Payments in 2013 ^a	—	(25)	(25)
Cancellations in 2013 ^b	(25,034)	—	—
Nominal value at June 2013	—	214	214

Source: Department of Finance

- Notes: a There was an interest holiday on the IBRC promissory notes between 1 January 2011 and 31 December 2012. Where relevant, the payments made include an element of principal and interest. The nominal value of promissory notes reduced by the principal element of the payment each year.
- b The cancellation relates to the issue of floating rate bonds to replace the IBRC promissory notes.

Debt Service Costs

- 2.33** The debt service cost disclosed in the Agency's accounts for 2012 is almost €6.5 billion when measured on a cash basis. However, when account is taken of a transfer of €646 million from current funds to a statutory sinking fund, the servicing outlay was €5.8 billion.¹
- 2.34** 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 2012 was €6.3 billion.² The equivalent cost for 2011 was €5.3 billion — a 19% increase year-on-year.
- 2.35** The gross national debt increased by 284% between 2007 and 2012. The cost of servicing the debt, when measured on an accruals basis, rose by a similar rate in the same period from €1.6 billion to €6.3 billion.

¹ The sinking fund is used to repay debt.

² The accruals basis recognises the costs incurred rather than those paid and does not take account of sinking fund movements.

Average Cost of Borrowing

- 2.36** At end June 2013, three components accounted for over 96% of the gross national debt.
- Government bonds accounted for 58% of the gross national debt. Fixed rate bonds and amortising bonds accounted for almost 45% of the debt at an average interest rate of 4.79%.¹ The floating rate bonds accounted for 13% at an interest rate of 2.95% at the time of the first interest payments in June 2013.²
 - Borrowing under the EU-IMF programme accounted for just under one third of the gross national debt. The estimated all-in fixed euro equivalent cost at end June 2013, after taking account of hedging costs, was 3.2%.
 - State savings schemes accounted for just over 7% of the borrowings. The two biggest schemes (savings bonds and savings certificates - accounting for almost 75% of those borrowings) had maximum interest rates of between 1.32% and 2.11% for new investments down from 3.23% and 3.53% in 2011.
- 2.37** The Agency estimates that the weighted average cost of servicing the gross national debt was 3.8% at end June 2013. At that date, around 80% of debt was at fixed rates, including debt where hedging had been undertaken. The balance of the debt was at floating interest rates.
- 2.38** The interest rate on the remaining EBS promissory notes is a fixed rate of 5.46%.

Cash and Other Financial Assets

- 2.39** Ireland's national debt is defined by the Agency as the gross national debt incurred by the Exchequer, less cash balances and other financial assets.
- 2.40** Cash and other financial assets totalled €23.8 billion at end 2012 and at end June 2013, their combined value was €30.6 billion (see Figure 2.9). This reflects an increase of over 28% since end 2012. The Agency has said that it is the stated intention to have twelve to fifteen-months of advance funding in place when the EU-IMF Programme reaches its conclusion at the end of 2013.

¹ This is the nominal interest rate which differs from the yield.

² This equates to an interest rate of six month euribor plus an average margin of 263 basis points.

Figure 2.9 Cash and other financial assets, 2007 to 2012 and end June 2013^a

	2007	2008	2009	2010	2011	2012	Jun-13
	€m	€m	€m	€m	€m	€m	€m
Exchequer account	3,997	21,269	21,026	11,399	13,099	15,280	14,077
Capital Services Redemption Account	—	—	—	600	—	—	59
Housing Finance Agency commercial paper	—	—	—	3,585	3,848	3,982	3,869
Bank deposits (including collateralised deposits)	490	790	790	580	30	3,020	10,064
Non-Irish treasury bills	—	—	—	—	—	1,045	1,991
Collateral deposited with counterparties	—	—	—	—	715	523	585
Total	4,487	22,059	21,816	16,164	17,692	23,850	30,645

Source: National Treasury Management Agency

Note: a End June 2013 figures have not been audited.

- 2.41** While €19.3 billion of the €23.8 billion in cash and other financial assets held at end 2012 was available to the State immediately or at short notice, €3.98 billion of Housing Finance Agency guaranteed notes were not readily realisable. €523 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.
- 2.42** At end June 2013, almost 46% of cash and other financial assets were held as cash on deposit in the Central Bank. Cash balances held in the Exchequer account at the Central Bank are rewarded at the Euro Overnight Index Average rate (EONIA). The average EONIA rate in June 2013 was 0.09%.
- 2.43** At end June 2013, the Agency had invested a portion of available cash balances in short term bank deposits, (including collateralised deposits) and non-Irish Treasury Bills. These investments earn a higher rate of return than EONIA but may also carry a higher risk.

Bank Deposits

- 2.44** At end 2012, the Agency held bank deposits (including collateralised deposits) of over €3 billion in Irish financial institutions. By end June 2013, the level of deposits had increased to over €10 billion.
- 2.45** The Agency has said that, in order to manage counterparty credit risk, it may receive collateral such as government bonds for cash placed on deposit. The Agency increased its collateralised deposits to almost €6.2 billion by end June 2013. At end June 2013, the overall weighted average maturity remaining on these deposits was 45 days.

Non-Irish Treasury Bills

- 2.46** At end 2012 the Agency held over €1 billion in non-Irish treasury bills with remaining maturities of between 45 and 150 days.

Collateral Deposited with Derivative Counterparties

- 2.47** In order to mitigate the risk of counterparty default in derivative transactions and to optimise market access, the Agency enters into credit support arrangements with its market counterparties. The party to a portfolio of derivative contracts who is 'out of the money', is required to deposit collateral with its counterparty. As a result, €523 million was deposited as collateral with derivative counterparties at the end of 2012.¹
- 2.48** 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 contracts and upon maturity. The provider of collateral is entitled to deposit interest on cash balances posted. The Agency established a bank account in the Central Bank in 2010 to facilitate these transactions. Since then, when required, the account is funded by the Exchequer.
- 2.49** In addition to undertaking hedging transactions relating to the national debt, the Agency is the counterparty for the derivative positions of the National Asset Management Agency (NAMA). In March 2012, the Agency 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. The amount posted by NAMA at end 2012 was €1.15 billion. By end June 2013 this had reduced to € 916 million.

Conclusions

- 2.50** The GGDebt has been increasing rapidly year-on-year since 2007. It increased by almost 14% in 2012 to €192 billion. The ratio of GGDebt to GDP has also risen rapidly from 25% of GDP at end-2007 to 91% in 2010 and to 117% in 2012.
- 2.51** The main component of the GGDebt is cumulative borrowing undertaken by the Agency on behalf of the State. At end 2012, this borrowing totalled €161.5 billion compared with €136.8 billion at end 2011. The increase in gross national debt of €24.7 billion (18%) was applied as follows
- €14.9 billion to fund the exchequer deficit
 - €3.5 billion to meet the payment due on IBRC promissory notes
 - €6.2 billion increase in cash and other financial assets
 - €0.1 billion for other factors including some differences between the proceeds of borrowing and the nominal liability of those borrowings.
- 2.52** At end June 2013, the gross national debt had risen to almost €200 billion. Two thirds of the increase was due to the cancellation of the promissory notes provided to IBRC and their replacement with floating rate bonds issued by the Agency (€25 billion). The balance was mainly due to further EU-IMF Programme drawdowns and the issue of fixed rate and amortising bonds as well as short term debt.
- 2.53** The nominal value of promissory notes at end June 2013 was €0.2 billion in respect of EBS.
- 2.54** The Agency estimates that the weighted average cost of servicing the gross national debt was 3.8% at end June 2013 (4.1% in 2012).² At end June 2013, around 80% of the debt was at fixed rates, including debt where hedging had been undertaken. The rest of the debt was at floating interest rates.

¹ This is the net of collateral posted of €1.954 billion and collateral received from NAMA of €1.15 billion and other counterparties of €281 million.

² **Correction-** In the originally published report, the comparative year was incorrectly stated to be 2011.

- 2.55** At end 2012, the Agency held cash and other financial assets of €23.8 billion. By end June 2013 this had risen by over 28% to €30.6 billion and included
- cash in the Central Bank Exchequer account of €14.1 billion
 - deposits (including collateralised deposits) of €10.1 billion with commercial banks
 - non-Irish treasury bills of almost €2 billion.
- 2.56** The significant increase in cash and other assets is driven by the State's intention to have sufficient advance funding in place by end 2013 to cover twelve to fifteen months of Exchequer financing needs when the EU-IMF Programme comes to an end. The return on cash and related assets is lower than the average cost of borrowing. As a result there is a cost associated with maintaining high levels of cash balances.
- 2.57** No specific monetary limit on the level of advance Exchequer funding is set by the Minister for Finance.

Annex A

Figure A1 Composition of General Government Debt at year-end, 2007 to 2012

	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Central Government – Exchequer						
Gross national debt	42,047	72,457	96,968	109,609	136,774	161,482
Less liabilities to other central government bodies, local authorities and VECs	(2,943)	(3,275)	(2,413)	(2,472)	(2,634)	(2,336)
Adjustment for nominal value of debt ^a	23	489	55	72	4	6
European Financial Stability Fund Prepaid Margin	—	—	—	—	530	530
Liability for coinage in circulation	653	697	674	673	694	670
Accrual adjustment ^b	780	653	346	368	464	560
Other adjustments ^c	4	3	14	(8)	154	1,440
Promissory notes	—	—	—	30,850	28,333	25,261
Exchequer contribution	40,564	71,024	95,644	139,092	164,319	187,613
Other Central Government						
Post Office Bank Fund Deposits	1,303	1,770	1,892	2,330	2,512	2,770
Non-commercial State Bodies ^d	586	875	795	543	569	492
Westlink Buy-Out	-	560	510	460	410	360
Other Central Government contribution	1,889	3,205	3,197	3,333	3,491	3,622
Housing Finance Agency						
Gross debt	4,338	4,992	4,941	4,512	4,414	4,501
Less liabilities to central government bodies and local authorities	(523)	(487)	(212)	(3,832)	(4,030)	(4,166)
Housing Finance Agency contribution	3,815	4,505	4,729	680	384	335
Local Government						
Gross debt	4,744	5,403	5,660	5,617	5,448	5,358
Less liabilities to Housing Finance Agency and other central government bodies	(3,862)	(4,534)	(4,686)	(4,558)	(4,416)	(4,469)
Local Government contribution	882	869	974	1,059	1,032	889
Total^e	47,150	79,603	104,544	144,164	169,226	192,459

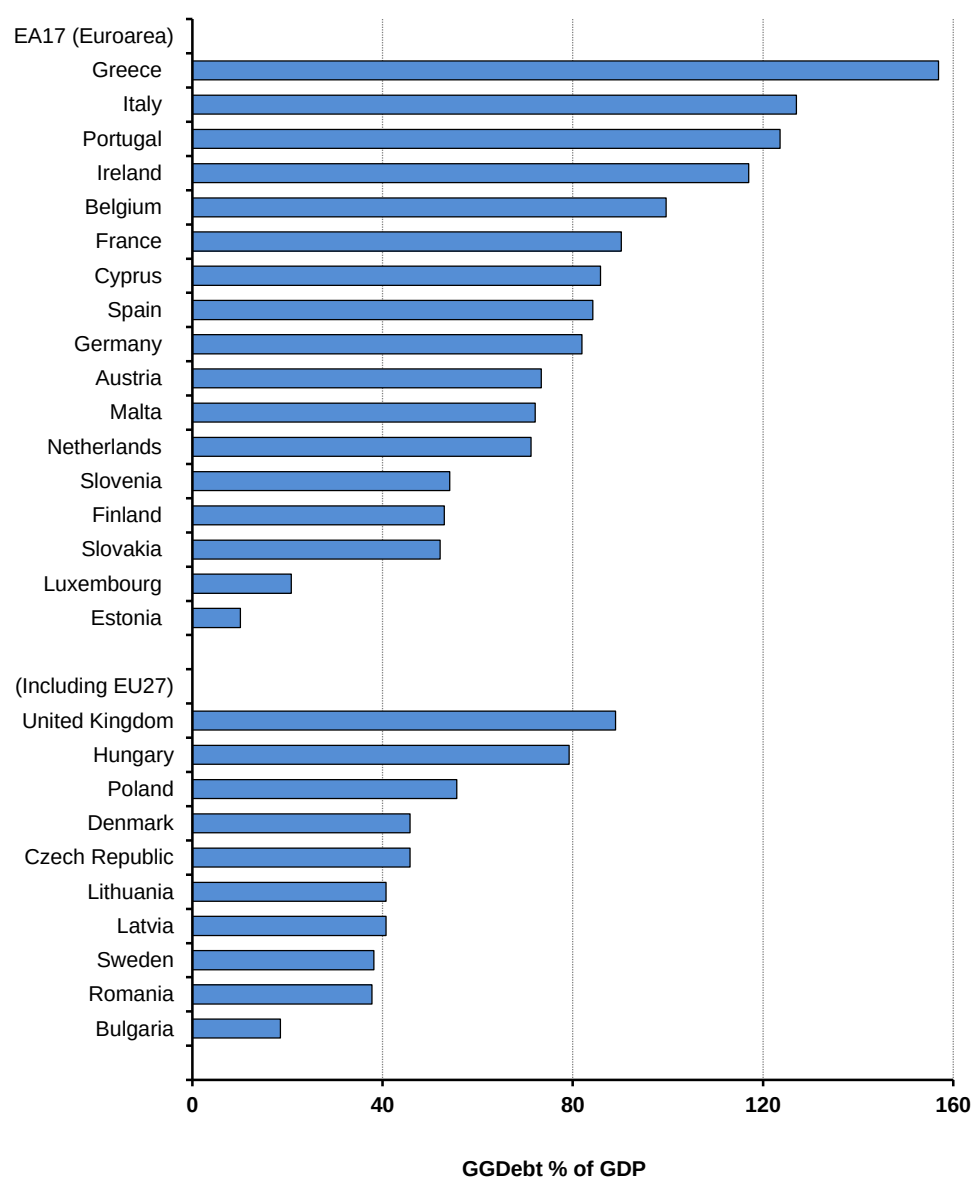
Source: Central Statistics Office

- 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, collateral and OPW contracts.
 - d Including voluntary hospitals and HSE.
 - e This excludes other exchequer liabilities including commitments in respect of public private partnership contracts in place at year end and accrued pension entitlements.

Figure A2 GGDebt as a proportion of GDP, 2007 to 2012

Ratio	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
GGDebt	47,150	79,603	104,544	144,164	169,226	192,459
GDP	189,655	180,249	162,284	158,097	162,600	163,938
GGDebt: GDP	25%	44%	64%	91%	104%	117%

Source: Central Statistics Office

Figure A3 Eurozone GGDebt as a proportion of GDP, 2012^a

Source: European Commission Eurostat news release euro indicators - 22 July 2013

Note: a Details are not available for Croatia.

Figure A4 Cumulative borrowing at redeemable par values, at year ended 2007 to 2012 and end June 2013^a

	2007	2008	2009	2010	2011	2012	End June 2013
	€m	€m	€m	€m	€m	€m	€m
Medium/ long term debt^b							
Government bonds	30,947	41,863	70,858	90,102	85,310	87,853	115,465
EU-IMF programme funding ^c	—	—	—	—	34,629	55,898	61,562
Other	615	483	670	673	673	772	772
Short term debt ^d	3,286	21,783	16,261	6,972	2,920	2,690	5,905
Borrowings from other State funds ^e	2,258	2,605	1,783	1,524	1,696	786	1,094
State savings schemes ^f	4,941	5,723	7,396	10,338	11,546	13,483	14,859
Gross national debt	42,047	72,457	96,968	109,609	136,774	161,482	199,657

Source: National Treasury Management Agency

- Notes:
- a End June 2013 figures have not been audited.
 - b Original maturities of more than one year.
 - c The balances are stated net of currency hedging transactions.
 - d Original maturities of one year or less.
 - e The main element of this borrowing relates to the Post Office Savings Bank Fund.
 - f Maturities up to ten years.

Figure A5 Residual maturity profile of government bonds, at year ended 2007 to 2012 and end June 2013^a

Duration	2007	2008	2009	2010	2011	2012	End June 2013
	€m	€m	€m	€m	€m	€m	€m
Under 5 years	5,939	15,931	25,687	28,298	33,670	30,548	27,929
5 to 10 years	11,928	11,857	29,296	53,520	43,356	44,733	49,784
Over 10 years	13,080	14,075	15,875	8,284	8,284	12,572	37,752
Total	30,947	41,863	70,858	90,102	85,310	87,853	115,465

Source: National Treasury Management Agency

- Note:
- a End June 2013 figures have not been audited.

Figure A6 Maturity profile of short-term debt, end December 2007 to 2012 and end June 2013^a

Duration	2007	2008	2009	2010	2011	2012	End June 2013
	€m	€m	€m	€m	€m	€m	€m
Less than one month	2,376	3,880	4,561	2,186	2,796	1,147	2,297
One to three months	711	5,518	8,628	3,286	106	1,417	1,947
Three to six months	198	5,803	2,913	1,392	18	93	1,194
Over six months	1	6,582	159	108	—	33	467
Total	3,286	21,783	16,261	6,972	2,920	2,690	5,905

Source: National Treasury Management Agency

Note: a End June 2013 figures have not been audited.

3 Financial Commitments under Public Private Partnerships

- 3.1** A public private partnership (PPP) is a contractual arrangement between public and private 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.
- 3.2** This report has been compiled to provide information about the financial commitments entered into by central Government departments and agencies in respect of PPP contracts.
- 3.3** A request for information was issued to each department/agency with commitments under PPP contracts. Information sought included expenditure to date, estimated commitments under PPP projects, and information on significant developments in 2012. The Department of Public Expenditure and Reform and the National Development Finance Agency (NDFA) were also consulted.

Summary of Expenditure and Commitments

- 3.4** Annex A lists the major PPP projects, as at end December 2012, in respect of which central Government departments and agencies had entered into contracts as the sponsoring agency, or otherwise had financial commitments to the projects.¹ A summary of expenditure and outstanding commitments at the end of 2012 is set out in Figure 3.1.

Figure 3.1 Expenditure and commitments under PPP contacts at end 2012, by sponsor

Department/Agency	Number of projects	Expenditure to date		Outstanding commitment
		Pre 2012	In 2012	
		€m	€m	€m
Education and Skills	6	255	49	1,446
Courts Service	1	58	22	542
Office of Public Works	1	95	52	610
National Roads Authority	10	1,287	142	1,556
Environment, Community and Local Government ^a	20	653	26	3
Total	38	2,348	291	4,157

Source: See Annex A

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

Notes: a 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 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.

- 3.5** Expenditure in 2012 under PPP contracts amounted to €291 million. Total expenditure to the end of 2012 was just over €2.6 billion and estimated total outstanding commitments were nearly €4.2 billion. The total Exchequer expenditure in respect of PPPs that had been contracted by the end of 2012 is therefore projected to be €6.8 billion.

New PPP Projects

Third Schools Bundle Project

- 3.6** In November 2012, the contract for the 'Schools Bundle 3' project was awarded to BAM PPP PGGM Infrastructure Cooperatie. The consortium is a joint venture between BAM PPP, part of a multinational construction services group based in the Netherlands and PGGM, a Dutch pension fund administrator.
- 3.7** The project involves construction of eight schools on seven sites. Second level schools are being constructed in Donegal, Leitrim, Limerick, Waterford, Westmeath and Wexford. In addition, a primary school and a secondary school are being constructed on a single campus in Doughiska, Co. Galway. When construction is complete, the schools will provide accommodation for approximately 5,700 students. The due date for operational service of the first school is November 2013, with all schools planned to be operational by April 2014.
- 3.8** The project was notified to the market in August 2010 with invitation of expressions of interest. Expressions of interest were received from four candidates, three of whom were shortlisted. All three shortlisted candidates subsequently submitted tenders.
- 3.9** The view of the NDFA is that the tender and evaluation process on the project was robust. The time from tender submission to the award of the contract was 16 months. The NDFA stated that the preferred bidder stage was prolonged due to planning issues, funding challenges and difficult market conditions. It stated that the value for money testing confirmed that the project represented value for money at contract award stage. It considers that the results of the value for money testing of the final deal should not be published as to do so could compromise its negotiating strategy and be detrimental to achieving optimal outcomes for other bundles currently being procured.

PPP Projects in Development

- 3.10** The current status of projects that had yet to reach contract stage by the end of 2012 is set out in Figure 3.2.

Figure 3.2 Current status (at end June 2013) of PPP projects in development

Education projects	Project stage^a	Current status
Schools Bundle 4: Six schools on five sites in Clare, Cork, Kildare, Louth and Tipperary	Market stage	Pre-qualification stage. Expressions of interest received from consortia and evaluation in progress.
Schools Bundle 5: Five schools and one further education college on four sites in Wexford, Wicklow, Meath and Carlow	Market stage	Pre-qualification stage. Expressions of interest received from consortia and evaluation in progress.
Dublin Institute of Technology, Grangegorman campus	Pre-market stage	Planned to go to market in the last quarter of 2013.
Transport projects		
N11 Arklow -Rathnew and New lands Cross	Contract	Contract agreed in April 2013.
N17/N18 Gort-Tuam	Preferred bidder	Preferred bidder announced October 2011. The National Roads Authority aims to sign this contract by the end of 2013.
N25 New Ross bypass	Market stage	Pre-qualification stage.
M11 Gorey-Enniscorthy	Market stage	Pre-qualification stage.
N6 Galway City bypass	Pre-market stage	Project on hold, pending the resolution of planning issues.
Health projects		
Primary Care Programme	Pre-market stage	Planned to go to market in the last quarter of 2013.
Justice projects		
Courts Programme	Pre-market stage	Planned to go to market in the last quarter of 2013.
Garda Programme	Pre-market stage	Planned to go to market in either the last quarter of 2013 or the first quarter of 2014.

Source: NDFA, Department of Education and Skills, National Roads Authority, HSE, Department of Justice and Equality.

Note: a The main stages for PPP projects in development are pre-market (viability of PPP approach has not been confirmed), market (contract is out to tender) and preferred bidder (one tender has been selected and negotiation on the contract is underway).

Management of Operational Projects - Developments in 2012

The Criminal Courts Complex

- 3.11** In managing a PPP contract, the public sector partner must ensure that agreed services are provided by the private partner to the required standard. The Criminal Courts PPP contract specifies penalties that may apply in the event of the unavailability of all or part of the complex or failure to meet other specified service levels.
- 3.12** In January 2012, the Courts Service imposed a deduction of €204,000 (including VAT) on the monthly payment to the private sector partner, which represented about 1% of the contract payments for that year. The deduction related to the unavailability of the Criminal Courts of Justice complex for one day in October 2011, due to a flooding incident in an underground plant room. The Courts Service did not accept the private sector partner's contention that the unavailability provisions of the contract did not apply because an emergency event had occurred.
- 3.13** As provided for under the contract, the Courts Service also instructed the private partner in 2011 to carry out a benchmarking exercise in respect of certain services (primarily cleaning and security) being provided under the PPP contract. Following the benchmarking exercise, the Courts Service negotiated an 8% reduction in the costs of these services at the Criminal Courts complex. This has led to annual savings of €163,000 (including VAT) on the contract payment with effect from 2012.

National Convention Centre

- 3.14** Treasury Holdings is the ultimate owner of Spencer Dock Convention Centre Dublin Ltd (SDCCD), which is the special purpose vehicle set up to undertake the National Convention Centre PPP project. The contracting authority for the project is the Office of Public Works (OPW).
- 3.15** Treasury Holdings went into liquidation during 2012. The Treasury Holdings shareholding in SDCCD is currently held by the liquidators. The liquidators have informed OPW that they have been made aware of some interest in the shares but there are no firm plans at present for any change in ownership. Any proposed sale or transfer of the shares would have to be notified to OPW.
- 3.16** OPW has stated that the liquidation of Treasury Holdings has not impacted on the ability of SDCCD to trade and there have been no changes to the terms of the contract, as of June 2013.

Education Sector Projects

- 3.17** Chapter 12 of this report examines the control of expenditure on operational PPP projects in the education sector. In particular, it considers the adequacy of controls in place in respect of price indexation, service performance and benchmarking.

PPP Programme Management

National Development Finance Agency

- 3.18** The NDFA has the statutory role of financial advisor on all PPP projects in development. It also has responsibility for the procurement and delivery of PPPs, except for projects in the transport sector and local authority projects.
- 3.19** The Department of Finance is currently preparing legislation which will provide for a number of changes to the organisational structure of the National Treasury Management Agency.¹ Under the new model, the functions of the NDFA will continue as before with a revised governance structure in place.

Post Project Review of PPP Projects

- 3.20** Under the *Public Spending Code* issued by the Department of Public Expenditure and Reform, it is the responsibility of the project sponsor to ensure that post project reviews are carried out for all capital projects valued in excess of €20 million.² This requirement applies regardless of whether the project was procured through PPP or by traditional procurement.
- 3.21** The aim of post project reviews is to draw lessons for the future. The *Public Spending Code* states that the reviews should be undertaken once sufficient time has elapsed to allow the project to be properly evaluated, based on reliable evidence in relation to the flow of costs and benefits. Post project reviews should consider both the appraisal and management procedures employed and the project outcome.
- 3.22** The aim of reviewing the appraisal and management procedures is to determine whether experience shows that any stage of the project could have been done better and any lessons learnt applied to later projects.
- 3.23** The aim of reviewing the project outcome includes determining whether
- the basis on which a project was undertaken proved correct
 - the expected benefits and outcomes materialised
 - the planned outcomes were the appropriate responses to actual public needs.
- 3.24** The Department's guidance on post project reviews is set out in the context of traditional procurement procedures. There are no separate guidelines for carrying out post project reviews in respect of PPP projects.
- 3.25** Individual departments/agencies and the Department of Public Expenditure and Reform were asked for details of any post implementation evaluations or reviews that have been carried out in respect of PPP projects. Responses received indicated that a number of reviews are currently in progress.
- The Central Expenditure Evaluation Unit of the Department of Public Expenditure and Reform is conducting a policy assessment on the compliance with the VFM procurement model for PPPs in relation to water projects in the local authority sector.
 - The Department of Education and Skills is conducting a review of the Pilot Schools PPP project, which became operational in 2003. This review is expected to be completed by end 2013.

¹ See Chapter 28
Accounts of the National
Treasury Management
Agency.

² The Public Spending
Code is the set of rules
and procedures that apply
to ensure that expenditure
appraisal and value for
money standards are
upheld across the Irish
public service.

- The National Roads Authority indicated that reviews of a number of roads schemes are in progress and will be available later this year.

Review of the Criminal Courts Complex

- 3.26** A post project review of the Criminal Courts PPP project, conducted on behalf of the Courts Service, was completed in October 2012.
- 3.27** The Courts Service has undertaken the post project review promptly. The review has been able to identify useful lessons, in terms of process, for future projects.
- 3.28** The review recommended that the Courts Service should measure the efficiency savings created by the project after 12 months of normal operation e.g. effect on court waiting times, cost savings etc. As previously reported, while the business case for the Criminal Courts project identified benefits in qualitative terms, more could have been done prior to launching the project to quantify the expected business benefits.¹ This will present difficulties for any post project review of the extent to which expected benefits have been realised.

Post Project Review of the Criminal Courts Complex

In April 2007, the Courts Service entered into a PPP contract with a private sector consortium to build a new Criminal Courts of Justice complex on a State-owned site at Parkgate Street and to operate the complex for a period of 25 years. In addition to the development of new court buildings, the scope of the contract included maintenance of the buildings, waste management, traffic management and some elements of security and IT support services. The complex was ready for use by the Courts Service in late 2009 and became fully operational by January 2010.

A post project review was completed in October 2012. The stated overall aim of the review was to determine whether any stage of the Criminal Courts project could have been done better and any lessons applied to future projects. The review approach concentrated on assessing the processes used rather than the outcome of the project in terms of its impact on court business.

At an overall level, the review concluded that the project objectives had all been realised within a timeframe appropriate for a PPP project of its complexity. It concluded that the project processes had been satisfactory.

It also suggested that further analysis should be carried out to assess the operational impacts resulting from the delivery of the project.

In terms of learning lessons, the review included recommendations for the PPP process. Some of the recommendations were specific to the project but others have more general applicability including

- future projects should report against a benefits realisation plan and strategy
- an 'issues log' should be produced and maintained to record details of key decisions in a single document.

¹ See Report of the Comptroller and Auditor General on the Accounts of the Public Services 2008, Chapter 17.

Programme Monitoring and Reporting

- 3.29** I previously recommended that the State's financial commitments in respect of legally binding PPP contracts should be reported in the annual Finance Accounts.¹
- 3.30** The Department of Finance accepted the recommendation. The form and content of information in respect of PPP commitments is being considered in the context of a broader revision of the Finance Accounts and central government financial reporting.

Conclusions and Recommendation

- 3.31** Cumulative Exchequer spending on PPP projects had reached over €2.6 billion by the end of 2012. The estimated outstanding commitments in respect of PPP contracts in place were nearly €4.2 billion.
- 3.32** It is important that contracts for PPP projects are managed effectively over their lifetime to ensure that value negotiated during contract development is actually delivered. Benchmarking provisions in PPP contracts provide an opportunity to secure savings in respect of contract services, where the market price for those services falls below the contracted rate. The Courts Service secured annual savings of over €160,000 on contracted services at the Criminal Courts complex through a benchmarking exercise conducted in 2011.

Recommendation 3.1: In view of the potential savings across all PPP projects, the Department of Public Expenditure and Reform should remind project sponsors of the importance of engaging in periodic benchmarking for contracted services where this is provided for in contracts.

Accounting Officer's Response: Agreed. My Department will communicate to the relevant departments the importance and benefits of conducting periodic benchmarking. However, it remains the responsibility of the individual departments and agencies to ensure benchmarking is conducted.

¹ See Report of the Comptroller and Auditor General on the Accounts of the Public Services 2011, Chapter 6.

Annex A Expenditure and outstanding commitments, at end 2012, on large PPP contracts, by sponsor and project

The following table lists the individual projects reported by the respective departments and agencies. Only projects with an estimated capital development value of €20 million or more are included. All amounts include VAT (unless otherwise stated).

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.

Financial Nature of PPP arrangements

The structure put in place to compensate the private sector partner for delivering the assets and/or services can vary between projects. 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.

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 A1 Expenditure and Commitments under PPP Contracts at end 2012

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012	2012	Future commitments ^a	Projected total expenditure
					€m	€m	€m	€m
Department of Education and Skills								
Pilot PPP Schools Bundle	DBFM	November 2001	2002	2027	107.3	10.8	188.4	306.5
Maritime College	DBFM	February 2003	2004	2029	71.5	8.6	116.2	196.3
Cork School of Music	DBFM	September 2005	2007	2032	44.2	8.1	176.9	229.2
First bundle PPP schools	DBFM	March 2009	2010	2035	18.3	9.0	237.5	264.8
Second bundle PPP schools	DBFM	June 2010	2011	2036	13.9	12.3	325.8	352.0
Third bundle PPP schools	DBFM	November 2012	2013/2014	2039	-	-	401.2	401.2
Sub total					255.2	48.8	1,446.0	1,750.0
Courts Service								
The Criminal Courts of Justice	DBFOM	October 2007	2009	2035	58.4	22.4	542.2	623.0
Department of Transport, Tourism and Sport/Office of Public Works								
National Conference Centre ^b	DBFOM	April 2007	2010	2035	95.2	51.7	609.7	756.6

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012	2012	Future commitments ^a	Projected total expenditure
					€m	€m	€m	€m
Department of Environment, Community and Local Government ^c								
Waste water treatment plants								
Dublin Bay ^d	DBOM	March 2001	2003	2024	227.9	3.5	n/a	231.4
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	19.3	—	—	19.3
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	2010	2030	25.5	—	0.6	26.1
Portlaoise	DBOM	December 2006	2009	2031	20.1	—	—	20.1
Meath Villages ^d	DBOM	October 2007	2010	2032	23.1	1.9	n/a	25.0
Mullingar	DBOM	April 2008	2010	2030	16.5	—	—	16.5
Castlebar	DBOM	September 2008	2011	2031	11.4	—	—	11.4
Bray/Shanganagh	DBOM	September 2008	2011	2031	56.4	—	—	56.4
Wicklow	DBOM	September 2007	2009	2031	14.4	—	—	14.4
Portrane/Donabate/Rush/Lusk	DBOM	February 2010	2012	2032	27.2	—	0.9	28.1
Tullamore	DBOM	April 2010	2012	2032	15.1	—	0.6	15.7
Letterkenny	DBOM	February 2011	2013	2033	13.7	7.8	0.8	22.3
Water treatment services								
Clareville	DBOM	December 2006	2007	2027	21.0	—	—	21.0
Barrow Abstraction-Srowland	DBOM	April 2011	2013	2033	6.7	13.2	0.3	20.2
Sub total					652.6	26.4	3.2	682.2

Sponsoring authority/project name	Scope of project	Key project dates			Expenditure			
		Contract signed	Service commencement	Contract end	Pre 2012	2012	Future commitments ^a	Projected total expenditure
					€m	€m	€m	€m
National Roads Authority^e								
Kilcock/Kinnegad	Concession	March 2003	2005	2033	172	0.3	7.0	179.3
Dundalk Western Bypass	Concession	February 2004	2004	2034	2.8	0.2	3.7	6.7
Rathcormac/Fermoy	Concession	June 2004	2006	2034	109.4	5.7	34.9	150.0
Waterford City Bypass	Concession	April 2006	2010	2036	118.6	9.5	72.7	200.8
Limerick Tunnel ^f	Concession	August 2006	2010	2041	199.8	11.3	53.0	264.1
Clonee/Kells ^f	Concession	April 2007	2010	2052	335.4	29.2	353.0	717.6
Galway/Ballinasloe	Concession	April 2007	2010	2037	183.1	55.6	137.1	375.8
Portlaoise/Cullahill	Concession	June 2007	2010	2037	52.6	6.6	26.0	85.2
M50 Upgrade ^g	DBFOM	September 2007	2007	2042	65.8	23.6	868.6	958.0
Motorway Service Areas	Concession	October 2009	2010	2034	47.1	—	—	47.1
Sub total					1,286.6	142.0	1,556.0	2,984.6

Source: Listed departments/sponsoring agency provided information

- Notes:
- a The future commitments figure incorporates an assumed inflation rate of 4% for the pilot schools bundle, 2.5% for the Cork School of Music and 2% for all other contracts.
 - b Expenditure pre-2012 and in 2012 includes the unitary charge plus VAT and rates. Future commitments include the unitary charge only.
 - c Expenditure/commitments exclude those of local authorities.
 - d 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.
 - e National Roads Authority concession contracts include revenue share provisions that apply for the concession period. The revenue share is dependent on traffic volumes in the case of road concessions and sales levels in the case of the motorway service areas contract. Authority expenditure figures are VAT exclusive.
 - f Clonee/Kells and Limerick Tunnel provide for the Authority 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.
 - g The M50 is tolled between Junctions 6 and 7. The revenue arising from the M50 tolling accrues to the Authority.

Voted Expenditure

4 Vote Accounting

- 4.1** Dáil Éireann provides money for the services of government departments and offices by
- approving estimates of receipts and expenditure for those services in the course of each year
 - giving statutory effect to the estimates in an annual Appropriation Act.
- 4.2** 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.
- 4.3** 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.

Results of 2012 Audits of Appropriation Accounts

- 4.4** Audits of the 2012 appropriation accounts for all votes have been completed. Each account, together with the related audit report, is being presented to Dáil Éireann with this report.
- 4.5** A summary of the amounts appropriated in 2012 for voted public services is included in Annex A. The outturn for the year is also shown, together with the surplus of appropriations over expenditure.
- 4.6** The final amount appropriated for public services in 2012 was €49.8 billion. This comprised supply grants of €45.6 billion, capital funding carried over from 2011 totalling €114 million and appropriations-in-aid of €4.1 billion.

Vote Outturn

- 4.7** Aggregate expenditure and appropriations-in-aid of all votes for the years 2008 to 2012 are summarised in Figure 4.1. The total amount spent by departments and offices in 2012 was €49 billion. After deduction of realised appropriations-in-aid totalling €4.1 billion, the net expenditure in the year was €44.9 billion.

Figure 4.1 Vote outturn, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Gross voted expenditure	53,761	53,119	52,738	49,669	49,009
Less appropriations-in-aid	(4,464)	(5,916)	(6,172)	(4,096)	(4,092)
Net voted expenditure	49,297	47,203	46,566	45,573	44,917

Source: Reports on the Accounts of the Public Services, 2008 to 2012; Annex A

- 4.8** Departments and offices are not permitted to spend more than the amount approved for each vote. When the expenditure in the year is less than the amount provided, the surplus is liable to be surrendered to the Exchequer.
- 4.9** All departments and offices managed within their voted allocations in 2012. Surpluses were recorded by all votes. Consequently, no excess vote occurred in 2012.
- 4.10** The 2012 surpluses amounted to €748 million (see Figure 4.2). Of that amount, a total of €107 million was approved for carry over to 2013. The balance of €641 million was due for surrender. The sums liable for surrender or carried over to 2012 for each vote are shown in Annex A (Figure A2).

Figure 4.2 Surplus for surrender, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Surplus for the year	878	794	866	815	748
Amount carried over to the following year	(128)	(126)	(14)	(114)	(107)
Surplus for surrender	750	668	852	701	641

Source: Reports on the Accounts of the Public Services, 2008 to 2012; Annex A

- 4.11** The balances due to be surrendered out of votes for public services for 2011 amounted to €701 million. Those balances have been duly surrendered.

Exchequer Extra Receipts

- 4.12** 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 court fine receipts, and Property Registration Authority fee receipts. Windfall receipts are also usually brought to account in this way, including proceeds of significant sales of property, receipts on foot of surplus income or profits of State companies, interest, dividends or capital repayments, compensation payments and voluntary surrender of salary.
- 4.13** Where Exchequer extra receipts arose in 2012, 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 Annex A (Figure A3).
- 4.14** The total Exchequer extra receipts recorded by government departments and offices in 2012 was €96 million.

Grants-in-Aid

- 4.15** 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.
- 4.16** 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.
- 4.17** In 2012, total issues under grant-in-aid subheads amounted to €2.3 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. In all cases 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.

Contingency Fund

- 4.18** The Contingency Fund is a non-statutory fund used to administer a grant-in-aid first voted in 1923. The Fund is available to defray urgent or unforeseen expenditure which is not covered by the ordinary votes and for which it may be impracticable to seek the immediate approval of Dáil Éireann e.g. during recess. By agreement with the Committee of Public Accounts, the use of the Contingency Fund is precluded when the Dáil is sitting, or for new services of a controversial nature.
- 4.19** The Fund is managed by the Department of Public Expenditure and Reform. Use of the money held in the Fund requires the authorisation of the Accounting Officer of the Department, with the prior agreement of the Minister for Public Expenditure and Reform. The Fund operates as a deposit account held in the Paymaster General's Office.
- 4.20** The convention is that all payments from the Fund are subsequently repaid to it either
- by way of a new or additional vote if the advance is for a completely new service
 - by way of a supplementary estimate if the service is related to an existing vote
 - from the Central Fund – which requires specific legislation.
- 4.21** The size of the Fund is reviewed every five years. Following a review in 2009, it was decided that the Fund should remain at €1.2 million. The next review is due in 2014.
- 4.22** Because the Contingency Fund is non-statutory, there is no formal provision for presentation of an account to Dáil Éireann. To address this, the practice has been to include the account of the Contingency Fund as an annex to the appropriation accounts volume for the relevant year.

Recommendation 4.1: Given the low value of the sum held in the Contingency Fund, it is recommended that, with effect from 2013, the account of the Fund is presented as a note to the appropriation account of Vote 11 Public Expenditure and Reform.

Accounting Officer's Response: Agreed.

Significant Issues arising from Audit

- 4.23** In the following sections, attention is drawn to a number of issues arising from the audit of the appropriation accounts. Other matters arising from the audits, requiring more extensive presentation of facts, are dealt with separately in individual reports.

Duplicate Salary Payment by Central Statistics Office

- 4.24** The temporary transfer or secondment of staff between civil and public service organisations may occur for a variety of reasons, for example to address exceptional or temporary demands on departments or for the better management of resource surpluses. In addition, such arrangements can have the advantage of widening learning across the public service and for the individuals involved. The arrangements for such transfers or secondments are normally set out in communications between the relevant departments.
- 4.25** An official of the Central Statistics Office (CSO) was seconded to another Department in 2004 initially for a period of one year. As part of the arrangement, the official remained on the payroll of the CSO and the salary was not due to be recouped from the Department.
- 4.26** In January 2006, the official formally transferred to the Department. The CSO sent the relevant personnel and salary information to the Department and the two organisations agreed a date from when the individual would be paid by the Department. The Department concerned commenced payment on the due date.
- 4.27** Despite the clear agreement, the CSO continued to pay the official's salary until 2012, due to a number of internal administrative errors.
- Inadequate instructions were issued to the Payroll Unit in CSO to stop the salary payment.
 - Civil servants may receive increments to salary in line with the payscale for the grade, subject to approval by managers who must assess matters such as performance and sick leave. In the case of the seconded official, increments were paid automatically by the CSO payroll system without approval by the Personnel Unit.
 - CSO records indicate that the official wrote in November 2007 informing the CSO that it was continuing to pay the salary despite the official now being employed by the Department. Despite the notification from the official, the CSO did not address the matter.
 - In November 2011, as part of an exercise carried out by the Department of Public Expenditure and Reform, departments were requested to provide payroll information. During this exercise, the official was identified as appearing on two payrolls. CSO mistakenly concluded that continued payment was in order.
- 4.28** In October 2012, the official wrote again to the CSO informing them of the error and submitted a cheque for €120,000. The official indicated that any outstanding balance of the salary overpayments would be repaid.

- 4.29** At that stage, the CSO Personnel Unit acknowledged receipt of the letter, terminated the salary payment and calculated that the total gross overpayment to the official was around €297,000. After taking account of tax, social insurance and other public contributions, the net amount overpaid to the official was €206,000. To date, over €201,000 of the net overpayment to the official has been repaid and the CSO is seeking recovery of the remaining €4,800. The CSO has also engaged with the Revenue and other public bodies in respect of the other payroll deductions.

Views of the Accounting Officer

- 4.30** The Accounting Officer of the CSO has acknowledged that the fact that the duplicate salary payment continued for several years indicates that its procedures were inadequate. He has taken the following steps to address the matter
- all external assignments from the CSO have been examined to confirm that pay arrangements are in order
 - stronger protocols have been implemented between the Personnel Unit and the Payroll Unit, including the tracking and confirmation of payroll instructions
 - regular cross-checks of staff listings are made between the Personnel Unit and the Payroll Unit
 - seconded staff are now paid directly by the organisation to which they are assigned and not by the CSO.

He stated that he believes these steps will prevent a double payment of this magnitude recurring and, should any discrepancies arise, they will be detected at an early stage.

Conclusion

- 4.31** While the main issue addressed here is a duplicate salary payment which arose from a number of internal administrative errors, a feature of the case was that the CSO incurred payroll costs for a staff resource utilised by another organisation. There can be valid reasons where a staff member continues to be paid by his or her department while working externally. In such circumstances, departments should regularly review such arrangements and assess the benefits to both the organisation and individual.

Electronic Voting Equipment

- 4.32** In the period 2001 to 2004, electronic voting machines and associated equipment with an expected useful life of 20 years was purchased at a cost of €41.98 million.¹
- 4.33** The voting equipment was used on a pilot basis during 2002, in the General Election and second Nice Treaty Referendum. The equipment was not used in the 2004 local and European elections or subsequently, following reservations expressed by the Commission on Electronic Voting.
- 4.34** In April 2009, the Minister for the Environment, Community and Local Government announced a Government decision not to proceed with the implementation of electronic voting in Ireland. An Interdepartmental Task Force was established to oversee the disposal of the equipment and termination of storage arrangements.

¹ The 2003 Report of the Comptroller and Auditor General reported on these costs.

- 4.35** An EU-wide open tender competition, for the sale and/or provision of recovery services for electronic voting and counting equipment, closed in March 2012. Seven tenders were received, none of which proposed the re-use of the equipment as an electronic voting system. The successful tenderer, appointed in June 2012, paid €69,403 to the Department for the equipment.
- 4.36** In the period 2001 to May 2013, a total of €54.99 million was spent on the purchase, storage and associated costs of the electronic voting equipment. Expenditure included
- €41.98 million for the purchase of the voting machines and ancillary equipment such as trolleys and cases
 - €1.38 million in further hardware costs for equipment such as modules for the voting machines
 - €2.91 million to retrofit some of the voting machines¹
 - €2.58 million for an awareness campaign
 - €2.50 million in other costs such as software, testing and training costs
 - €3.64 million in storage costs, met by the Central Fund, for the period 2004 to 2012.
- 4.37** Prior to 2007, the equipment was stored in 25 locations. In 2007, equipment was moved from twelve of these locations to a central facility at Gormanston Army Camp. The current status of the other thirteen locations is that
- three locations were State-owned or rent free properties with no lease termination costs
 - five locations are now used to store manual voting equipment such as ballot boxes
 - four leases were terminated without additional cost
 - negotiation for the termination of one lease is ongoing.
- 4.38** The lease which has not yet been terminated is a 25 year lease for €16,800 per annum. To date, payment of €158,256 has been made from the Central Fund under this lease. This property has been vacated and no rent is currently being paid. A break clause in the contract will allow for termination of the lease. The Returning Officer is currently in the process of concluding negotiations with the landlord.

Funding for FÁS Training and Integration Supports

- 4.39** The Department of Education and Skills (the Department) has had responsibility for administration of the National Training Fund. This is a statutory fund that was established in 2000 to support the training of workers and those seeking work. The receipts into the Fund come primarily from a levy on employers related to the pay of certain categories of workers. In 2012, FÁS received funding of €297 million from the Fund to support its training programmes.
- 4.40** The Department also provides annual grant funding from Vote 26 Education and Skills for FÁS's administrative expenses, and for its training and integration support activities. In 2012, a total of €23.057 million was provided under subhead G.2 for FÁS training and integration support grants.

¹ The need for physical modification of around 1,000 voting machines, including screen replacement, was identified by a pilot study during the 2002 General Election.

- 4.41** The Fund does not form part of voted expenditure, but a statement of projected Fund receipts and expenditure is included as an appendix to the published estimate for Vote 26. Under the Comprehensive Review of Expenditure (December 2011), the overall expenditure ceiling set for the Department for 2012 comprised both the voted spending allocation and the Fund expenditure allocation.
- 4.42** The Department monitors its budget on a monthly basis. During 2012, the Department identified significant risks that expenditure on some of the Vote subheads would exceed the estimates, and sought to identify areas where offsetting savings might be achieved in order to avoid a potential excess of Voted expenditure. One of the savings measures identified was to suspend expenditure under subhead G.2 and instead to issue the required funding to FÁS from the Fund. This proposed measure was advised to the Department of Public Expenditure and Reform in the context of the monthly returns of expenditure process and agreed orally with that Department. The Department estimated that it issued a total of €9.088 million from the Fund in respect of planned expenditure from the Vote.
- 4.43** Subsequently, the budget pressures on the Vote eased. By the end of 2012, a surplus on the Vote was anticipated. The Department transferred €9.088 million from the Vote to the Fund, to reimburse it for the additional expenditure that had been incurred. This was charged to subhead G.2. The remainder of the charge on the subhead (€11.512 million) was paid directly to FÁS.
- 4.44** The joint funding of FÁS training by the Vote and the Fund, and the setting of a combined expenditure limit for the two accounts in effect makes them a single account for budget management purposes. Because the Vote and the Fund are accounted for separately, significant intra-account transactions should be clearly disclosed in both accounts. The Accounting Officer has undertaken to do so in future.
- 4.45** Better transparency of the costs of public services could also be achieved if payments in respect of specific services issued from a single account. Where necessary, Exchequer support for the activities of a non-Exchequer funded service could be achieved by voting a grant payment to the relevant fund, rather than issuing parallel payments.

Prepayment of Subscription to the United Nations

- 4.46** Public Financial Procedures require that payments charged to appropriation accounts ought to be made only where a liability has matured for payment. This principle is designed to ensure that those accounts properly present payments that have come in course of payment in the year of account.
- 4.47** As a member of the United Nations (UN), Ireland is obliged to pay an annual subscription. Member state subscriptions are applied as part of the regular budget of the UN for staff and buildings at its headquarters and its secretariats around the world.
- 4.48** Ireland's annual UN subscription is paid from Vote 28 Foreign Affairs and Trade. It is charged to subhead D.3 Contributions to International Organisations. Other contributions to the UN, such as contributions for UN peacekeeping operations, are also charged to the subhead. The estimate provision for the subhead in 2012 was €41.4 million. The outturn for the year was €39.9 million.
- 4.49** The UN subscription for 2012 amounted to €9.1 million and was paid in January 2012.

- 4.50** Ireland's payment in 2012 for the funding of peacekeeping missions was €15.1 million. Funding for peacekeeping missions is on an unusual three-year cycle, with three contribution tranches covering six months, 18 months and 12 months of the three-year period. Ireland's payment in 2012 was lower than estimated, because a six-month payment was required rather than the budgeted 12-month payment.
- 4.51** The Department of Foreign Affairs and Trade was invoiced on 27 December 2012 by the UN for the payment of \$10.65 million, for Ireland's 2013 subscription. The invoice specified payment terms of 30 days. Full payment of €8.13 million was made on 31 December 2012 although Public Financial Procedures state that departments should take optimum advantage of credit terms when making payments.
- 4.52** The amount for surrender from the Vote to the Exchequer at the end of 2012 would have been higher by an amount of €8.13 million, had the 2013 subscription payment not been made.
- 4.53** The Accounting Officer of the Department explained that
- The UN budget subscriptions are obligatory.
 - The invoice received was considered to represent a matured liability of the State.
 - Payments are denominated in US dollars and the then current exchange rate was considered relatively favourable with some possible risk of increased volatility.
 - There was sufficient funding in the subhead because of the lower than estimated expenditure on peacekeeping contributions.
 - It is very difficult to accurately provide for mandatory UN contributions as these can fluctuate very widely year-on-year due to UN requirements and changes in the exchange rate and in Ireland's contribution rate. Accordingly, accurate forecasts of the demand are often not available when the annual Departmental estimate is being drawn up.
 - Ireland is a strong supporter of the UN and attaches high political importance to paying its contributions to the organisation in full and on time. Account was also taken of the UN Secretary General's expressed concerns about the continuing fragility of the UN's financial situation and to the appeal in the invoice to member states to make payments urgently.

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 A1 provides a summary of the outturn on expenditure and receipts relative to the amounts appropriated for public services in 2012.

Figure A2 shows how surplus appropriations in 2012 were applied — either through deferral of expenditure to 2013, or by surrender to the Exchequer.

Figure A3 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 2011	Amounts of capital moneys not spent in 2011 and carried over for expenditure on capital services in 2012. The carry over of these sums was approved by Dáil Éireann in the Appropriation Act 2011.
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 2011 capital moneys (if any) and appropriations-in-aid.
Surplus for the year	The excess of total appropriations by Dáil Éireann over the gross expenditure together with the surplus on appropriations-in-aid. The surplus for the year is liable for surrender back to the Exchequer.
Deferred surrender	Amount of capital moneys not spent in 2012 which were carried over for expenditure in 2013. The carry over of these sums was approved by Dáil Éireann in the Appropriation Act 2012.
Surplus to be surrendered	Amount of money appropriated in 2012 but not spent in the year or deferred to 2013, 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. In certain cases, where the receipts are recurrent, an estimate of the amount expected to be recovered is included in the estimate for the vote.

Figure A1 Summary of Appropriations for Public Services in 2012, by Vote

Vote	Service	Amount appropriated				Outturn			Surplus/deficit		
		Supply grants	Deferred from 2011	Appropriations-in-aid	Total	Gross expenditure	Appropriations-in-aid	Net expenditure	Gross surplus	Excess/ (deficit) in receipts	Net surplus for the year ^a
		€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000
1	President's Establishment	3,002	—	92	3,094	3,065	104	2,961	29	12	41
2	Department of the Taoiseach	23,627	—	912	24,539	22,362	881	21,481	2,177	(31)	2,146
3	Office of the Attorney General	14,997	—	788	15,785	14,271	820	13,451	1,514	32	1,546
4	Central Statistics Office	43,502	—	1,900	45,402	41,223	3,633	37,590	4,179	1,733	5,912
5	Office of the Director of Public Prosecutions	39,553	—	975	40,528	39,890	1,043	38,847	638	68	706
6	Office of the Chief State Solicitor	32,952	—	1,860	34,812	30,679	1,876	28,803	4,133	16	4,149
7	Office of the Minister for Finance	32,082	—	1,254	33,336	26,195	1,564	24,631	7,141	310	7,451
8	Office of the Comptroller and Auditor General	6,591	—	5,875	12,466	10,920	5,897	5,023	1,546	22	1,568
9	Office of the Revenue Commissioners	311,978	—	70,167	382,145	381,474	73,347	308,127	671	3,180	3,851
10	Office of the Appeal Commissioners	477	—	32	509	478	33	445	31	1	32
11	Office of the Minister for Public Expenditure and Reform	41,731	—	5,274	47,005	42,603	5,461	37,142	4,402	187	4,589
12	Superannuation and Retired Allowances	443,275	—	82,100	525,375	520,454	87,944	432,510	4,921	5,844	10,765
13	Office of Public Works	358,693	8,000	26,231	392,924	392,670	26,384	366,286	254	152	406
14	State Laboratory	8,396	—	605	9,001	8,305	797	7,508	696	192	888
15	Secret Service	1,000	—	—	1,000	515	—	515	485	—	485
16	Valuation Office	8,548	—	2,174	10,722	8,885	1,254	7,631	1,837	(920)	917
17	Public Appointments Service	6,626	—	254	6,880	6,699	370	6,329	181	116	297
18	Commission for Public Service Appointments	784	—	30	814	502	28	474	312	(2)	310
19	Office of the Ombudsman	6,715	—	380	7,095	6,256	360	5,896	839	(20)	819
20	Garda Síochána	1,334,042	—	133,641	1,467,683	1,465,889	133,386	1,332,503	1,794	(255)	1,539

		€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000	€'000
21	Prisons	317,815	—	18,348	336,163	334,573	17,768	316,805	1,590	(580)	1,010
22	Courts Service	59,775	—	48,315	108,090	107,697	48,541	59,156	393	226	619
23	Property Registration Authority	32,661	—	1,169	33,830	32,280	1,313	30,967	1,550	144	1,694
24	Justice and Equality	331,220	460	46,639	378,319	357,113	51,974	305,139	21,206	5,335	26,541
25	Environment, Community and Local Government	1,273,624	34,000	62,490	1,370,114	1,252,426	70,658	1,181,768	117,688	8,168	125,856
26	Education and Skills	8,062,710	—	608,933	8,671,643	8,603,567	580,513	8,023,054	68,076	(28,420)	39,656
27	International Co-operation	512,877	—	1,153	514,030	508,721	1,419	507,302	5,309	266	5,575
28	Foreign Affairs and Trade	181,783	370	44,048	226,201	208,141	47,734	160,407	18,060	3,686	21,746
29	Communications, Energy and Natural Resources	193,734	15,800	243,676	453,210	405,562	237,320	168,242	47,648	(6,356)	41,292
30	Agriculture, Food and the Marine	942,302	26,900	369,632	1,338,834	1,318,013	378,256	939,757	20,821	8,624	29,445
31	Transport, Tourism and Sport	1,595,378	8,700	449,808	2,053,886	2,050,481	450,541	1,599,940	3,405	734	4,139
32	Jobs, Enterprise and Innovation	828,283	18,125	53,772	900,180	850,886	50,342	800,544	49,294	(3,430)	45,864
33	Arts, Heritage and the Gaeltacht	263,772	—	4,679	268,451	265,783	5,938	259,845	2,668	1,259	3,927
34	National Gallery	8,335	—	253	8,588	8,446	307	8,139	142	54	196
35	Army Pensions	237,914	—	6,000	243,914	243,849	5,940	237,909	65	(60)	5
36	Defence	647,020	500	40,925	688,445	657,141	46,140	611,001	31,304	5,215	36,519
37	Social Protection	14,082,935	—	235,464	14,318,399	14,126,589	244,824	13,881,765	191,810	9,360	201,170
38	Health	324,380	1,500	3,916	329,796	244,498	5,088	239,410	85,298	1,172	86,470
39	Health Service Executive	12,520,933	—	1,513,522	14,034,455	13,987,444	1,489,345	12,498,099	47,011	(24,177)	22,834
40	Children and Youth Affairs	414,757	—	12,223	426,980	422,366	12,387	409,979	4,614	164	4,778
Total		45,550,779	114,355	4,099,509	49,764,643	49,008,911	4,091,530	44,917,381	755,732	(7,979)	747,753

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 A2 Application of Surplus 2012 Appropriations, by Vote

Vote	Service	Surplus for the year	Deferred surrender	Surplus for surrender
		€'000	€'000	€'000
1	President's Establishment	41	—	41
2	Department of the Taoiseach	2,146	—	2,146
3	Office of the Attorney General	1,546	—	1,546
4	Central Statistics Office	5,912	—	5,912
5	Office of the Director of Public Prosecutions	706	—	706
6	Office of the Chief State Solicitor	4,149	—	4,149
7	Office of the Minister for Finance	7,451	—	7,451
8	Office of the Comptroller and Auditor General	1,568	—	1,568
9	Office of the Revenue Commissioners	3,851	—	3,851
10	Office of the Appeal Commissioners	32	—	32
11	Office of the Minister for Public Expenditure and Reform	4,589	—	4,589
12	Superannuation and Retired Allowances	10,765	—	10,765
13	Office of Public Works	406	—	406
14	State Laboratory	888	—	888
15	Secret Service	485	—	485
16	Valuation Office	917	—	917
17	Public Appointments Service	297	—	297
18	Commission for Public Service Appointments	310	—	310
19	Office of the Ombudsman	819	—	819
20	Garda Síochána	1,539	—	1,539

Figure A3 Exchequer Extra Receipts 2012, 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 Director of Public Prosecutions	—	234
6	Office of the Chief State Solicitor	—	14
7	Office of the Minister for Finance	—	91
8	Office of the Comptroller and Auditor General	—	—
9	Office of the Revenue Commissioners	—	2,912
10	Office of the Appeal Commissioners	—	—
11	Office of the Minister for Public Expenditure and Reform	—	29
12	Superannuation and Retired Allowances	—	—
13	Office of Public Works	—	140
14	State Laboratory	—	—
15	Secret Service	—	—
16	Valuation Office	—	—
17	Public Appointments Service	—	—
18	Commission for Public Service Appointments	—	—
19	Office of the Ombudsman	—	3
20	Garda Síochána	7,200	6,188

		€'000	€'000	€'000
21	Prisons	1,010	—	1,010
22	Courts Service	619	—	619
23	Property Registration Authority	1,694	—	1,694
24	Justice and Equality	26,541	287	26,254
25	Environment, Community and Local Government	125,856	43,000	82,856
26	Education and Skills	39,656	19,000	20,656
27	International Co-operation	5,575	—	5,575
28	Foreign Affairs and Trade	21,746	400	21,346
29	Communications, Energy and Natural Resources	41,292	10,400	30,892
30	Agriculture, Food and the Marine	29,445	6,000	23,445
31	Transport, Tourism and Sport	4,139	—	4,139
32	Jobs, Enterprise and Innovation	45,864	25,000	20,864
33	Arts, Heritage and the Gaeltacht	3,927	1,200	2,727
34	National Gallery	196	—	196
35	Army Pensions	5	—	5
36	Defence	36,519	900	35,619
37	Social Protection	201,170	1,050	200,120
38	Health	86,470	—	86,470
39	Health Service Executive	22,834	—	22,834
40	Children and Youth Affairs	4,778	—	4,778
Total		747,753	107,237	640,516

		€'000	€'000
21	Prisons	—	—
22	Courts Service	17,400	11,803
23	Property Registration Authority	31,480	27,240
24	Justice and Equality	—	275
25	Environment, Community and Local Government	—	174
26	Education and Skills	—	1,824
27	International Co-operation	—	—
28	Foreign Affairs and Trade	—	2,134
29	Communications, Energy and Natural Resources	—	3,372
30	Agriculture, Food and the Marine	—	3,904
31	Transport, Tourism and Sport	—	2,042
32	Jobs, Enterprise and Innovation	21,658	32,876
33	Arts, Heritage and the Gaeltacht	—	21
34	National Gallery	—	—
35	Army Pensions	—	—
36	Defence	—	—
37	Social Protection	—	89
38	Health	—	13
39	Health Service Executive	—	—
40	Children and Youth Affairs	—	334
Total		77,738	95,712

5 Vote Budget Management

- 5.1** Dáil Éireann provides for money to be issued from the Central Fund of the Exchequer to pay for the normal services of Government departments¹ by
- approving estimates of the amounts required for each service
 - formally authorising the amount that may be drawn from the Exchequer, in the annual Appropriation Act.
- 5.2** Following the end of each year, the head of each department (referred to in this context as the Accounting Officer) is required to prepare an account, known as the appropriation account, for each voted service for which he/she has responsibility. By law, the appropriation account must present details of the outturn for the year against the amount provided by the Dáil. The accounts present the cash amounts of payments and receipts in the year.
- 5.3** The Department of Public Expenditure and Reform's *Public Financial Procedures* sets out strict rules that apply to the management of voted expenditure. In particular
- overall expenditure in the year may not exceed the amount authorised in the Appropriation Act
 - any part of the amount authorised that remains unspent at the end of the year is liable for surrender back to the Exchequer
 - departments cannot use the Exchequer funds paid into a vote for any purpose other than those specified in the estimate.

Focus of this Examination

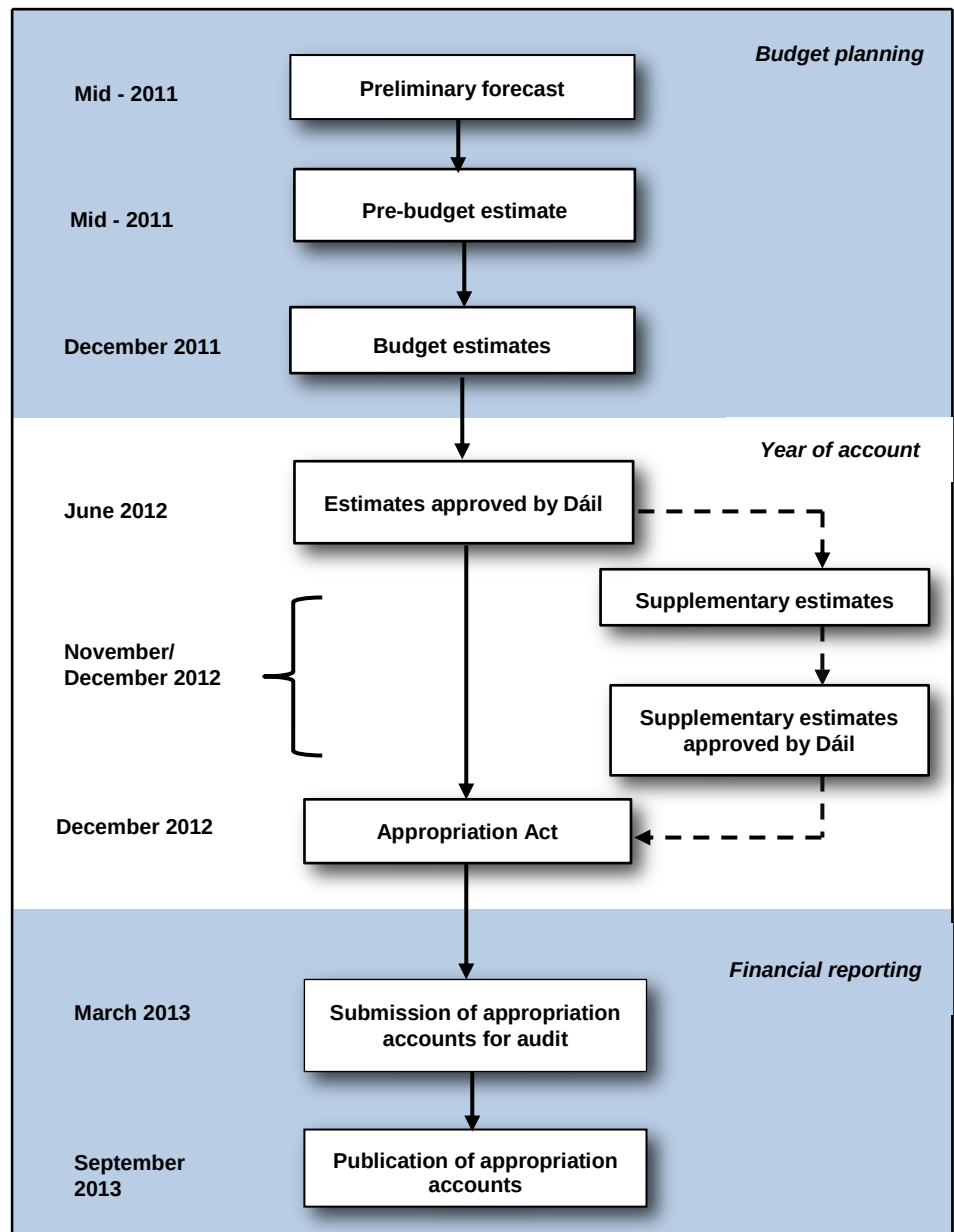
- 5.4** The estimates of expenditure presented to the Dáil for approval early in the year should reasonably accurately represent the amount that it is expected will be spent on each departmental service. They also effectively serve as cash limits.
- 5.5** This examination reviews the vote outturn results for 2012 to assess how well votes were managed relative to the estimate amounts approved. It also assesses whether appropriation accounts present adequate explanations of the extent to which outturns differ from the amounts allocated by the Dáil.

¹ In this report, the term 'department' includes central Government offices, such as the Revenue Commissioners and the Office of Public Works.

Annual Voted Expenditure Cycle

5.6 Figure 5.1 sets out the sequence and timing of the 2012 estimates process. Further details on the estimates and appropriation account process are set out in *Public Financial Procedures*.

Figure 5.1 2012 Estimates cycle



Budget Approval

- 5.7** The estimates of expenditure are presented under a series of 'votes', with one or more covering the functions of each department. The first part of the estimate for each vote (which is referred to as the ambit) provides a summary description of the services to be financed. The ambit is repeated in the Appropriation Act and so represents the purposes for which funds have been released by the Dáil.
- 5.8** Estimates are presented to the Dáil with varying levels of detail as to how the money sought will be used. For larger votes, expenditure plans are generally set out for individual programmes that comprehend the scope of the vote. In turn, each programme may be broken down into a number of expenditure 'subheads', relating to areas such as pay, specific grant schemes, capital investment programmes, etc. Subsequently, the same programme/subhead structure must be used when the appropriation account for each vote is being prepared.

Budget Monitoring and Adjustment

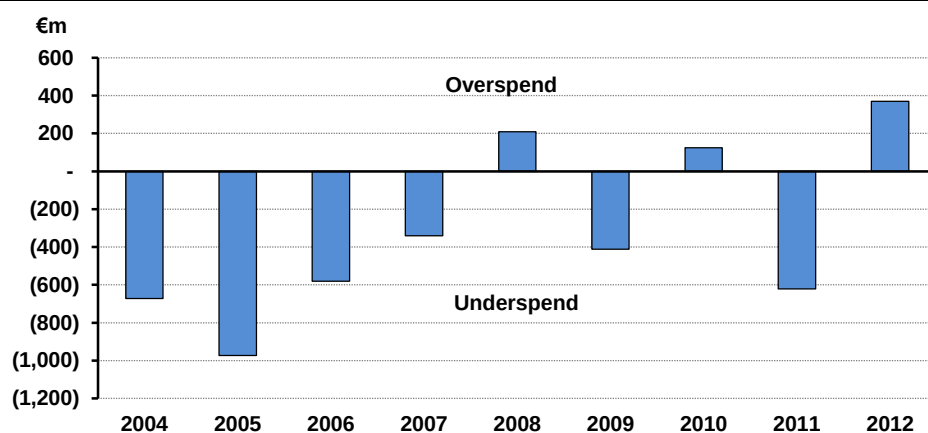
- 5.9** Departments are required to monitor and manage expenditure within the programmes and subhead allocations approved by the Dáil. The Department of Public Expenditure and Reform requires a profile of expenditure by month to be submitted with the estimate. Monthly returns of actual expenditure, including explanations of variations from profile, are also submitted to the Department, which analyses patterns of significant variances from original estimates. The monthly returns should also present a realistic view of the outlook for the remainder of the year, including all likely excesses and savings emerging. If spending begins to run over profile, or threatens to do so, departments are required to take action to bring it back into line with the approved estimate.
- 5.10** When the Dáil approves a vote estimate, it does so at the aggregate level. Departments are allowed some scope to move allocations between programmes and subheads, but only if the Department of Public Expenditure and Reform agrees. This reallocation process is referred to as 'virement'.
- 5.11** If large adjustments to the budgets for programmes or subheads are required as the year progresses, formal approval must be sought from the Dáil. This is done through the 'supplementary estimate' process. This process may also be used, if required, to increase the cash limit for the vote for the year. Details of supplementary estimates requested are discussed at the relevant Dáil committees before approval is sought from the Dáil itself.

Overall Budget Variance, 2004 to 2012

- 5.12** The original estimate amount approved represents the forecast of the amount required to meet the cost of the services to be provided from each vote. The budget variance is therefore the difference between the original estimate of net expenditure and the actual outturn in a year.¹ Figure 5.2 sets out the budget variance for all votes combined, for the years 2004 to 2012.
- 5.13** Between 2004 and 2007, net voted expenditure was less than originally estimated each year. More recently, there has not been a consistent pattern of variances, reflecting the greater challenges in budgeting for public services in the aftermath of the banking crisis. In 2008, 2010 and 2012, net expenditure was greater than originally forecast.

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

Figure 5.2 Net expenditure variance with original budget for all votes, 2004 to 2012

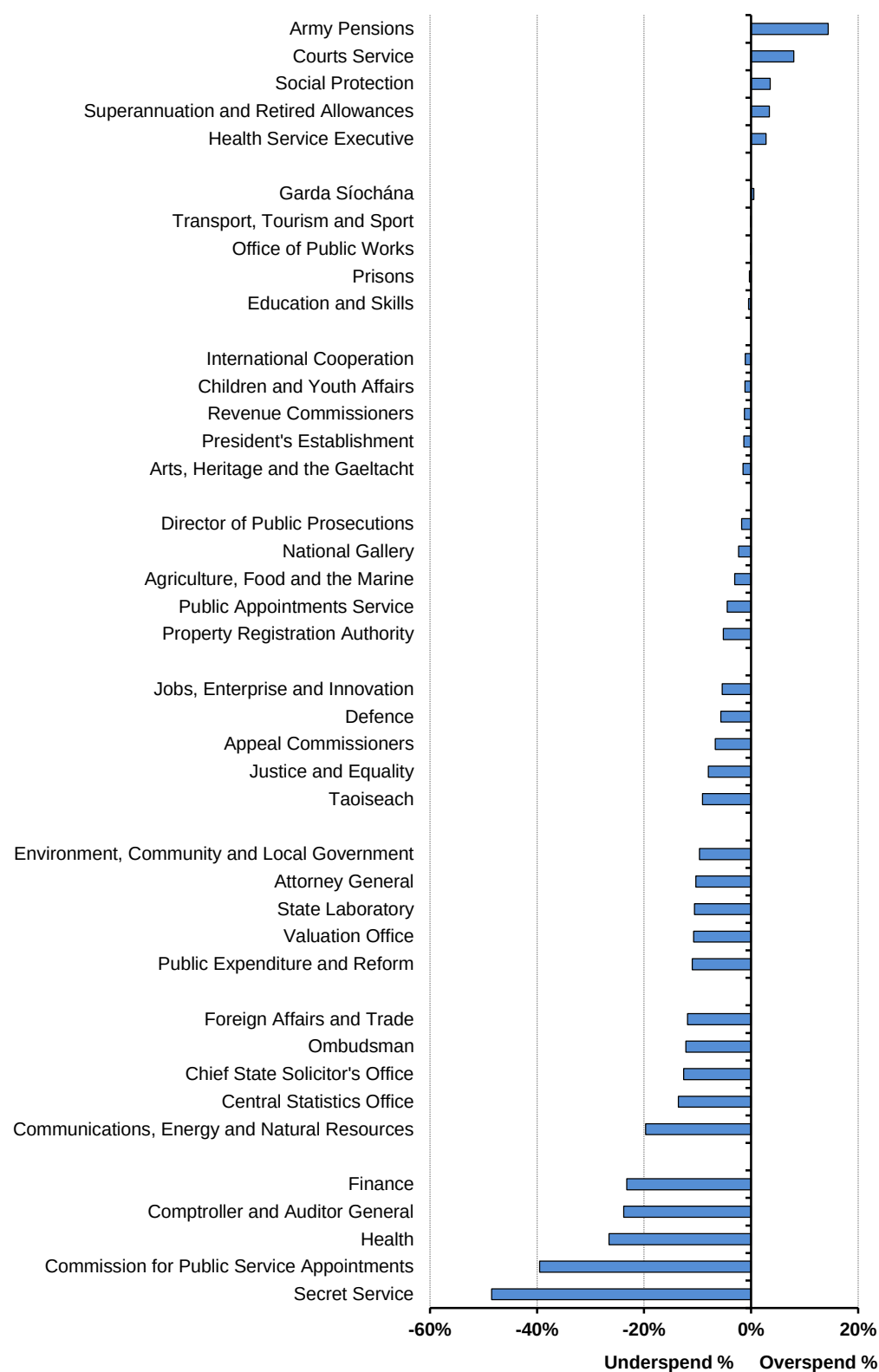


Source: Analysis by the Office of the Comptroller and Auditor General

2012 Budget Variance by Vote

5.14 Figure 5.3 sets out, for each vote, the proportionate variance between actual expenditure and the original estimate in 2012.

- There were six votes where the net expenditure outturn was greater than the original estimate. Army Pensions had the largest percentage overspend compared with the original budget.
- The remaining 34 votes incurred net expenditure less than originally anticipated in the revised estimates.

Figure 5.3 Net expenditure variance by vote, as a proportion of the original budget, 2012

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

2012 Major Budget Variances by Subhead

- 5.15** There were 24 expenditure subheads across eleven votes in 2012 where the variance between the original estimate of expenditure and the outturn was more than €10 million and represented 10% or more of the original estimate. Receipts were also significantly different from the estimate in a few cases. The major subhead variances are outlined in Annex A, together with the explanations for those variances provided by the relevant Accounting Officers.¹
- 5.16** The main causes of major variations were
- under or over estimation of the level of demand for schemes and programmes
 - price increases in the case of the Department of Social Protection's Household Benefits Package scheme
 - slower than expected progress on capital projects, for example, in the Water Services Investment Programme in the Department of the Environment, Community and Local Government
 - clearance of a backlog of Family Income Supplement claims in the Department of Social Protection
 - uncertainty regarding the level and timing of receipts in the case of European Social Fund receipts and European Globalisation Adjustment Fund receipts in the Department of Education and Skills.
- 5.17** In the case of the Garda Síochána vote, provision was not made in the estimate for expenditure on the GoSafe speed camera contract, on the basis that the cost is funded by receipts from fines. A technical supplementary estimate providing for the expenditure and the receipts is approved each year.²
- 5.18** The Accounting Officers of a number of Departments outlined that, in some cases, the additional spending on subheads is offset by savings in other subheads or votes. For example.
- The Accounting Officer for the Army Pensions vote stated that the overspend of €30 million in retirement benefits is offset by a related underspend on pay in the Defence vote.
 - The Accounting Officer of the Department of Social Protection pointed out that underspends on the Tús and National Internship work placement schemes arose because of lower demand from the target group (jobseekers allowance claimants) and as a result there were related overspends against the original estimate on the jobseekers allowance scheme.

¹ Variances on the Health Service Executive vote are considered separately in Chapter 21.

² See Chapter 8 which provides further information in relation to the operation of this contract.

Supplementary Estimates 2008 to 2012

5.19 Figure 5.4 lists the 20 votes which have had recourse to supplementary estimates between 2008 and 2012. In 2012, there were supplementary estimates for nine votes.

Figure 5.4 Votes with supplementary estimates, 2008 to 2012

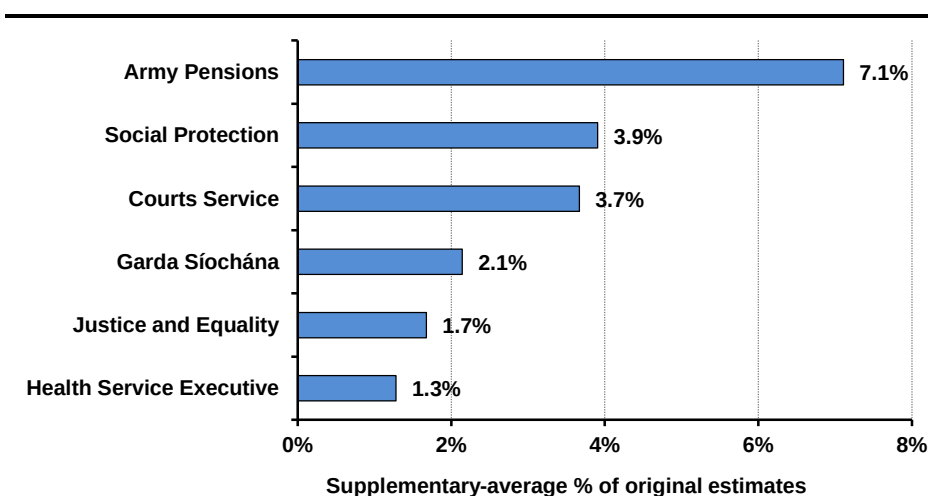
	2008	2009	2010	2011	2012
Army Pensions	●	●	●	●	●
Health Service Executive	●	●	●	●	●
Garda Síochána	○	●	●	●	●
Courts Service	○	○	○	●	●
Justice and Equality	○	○	○	○	
Social Protection	●		●		●
Jobs, Enterprise and Innovation		○	○	○	○
Environment, Community and Local Government			○	○	○
Transport, Tourism and Sport	○		○		●
Arts, Heritage and the Gaeltacht	○	○	●		
Superannuation and Retired Allowances		●			●
Education and Skills	●		○		
Foreign Affairs and Trade	○		●		
Agriculture, Food and the Marine	●	○			
Children and Youth Affairs	○	○			
Public Expenditure and Reform				○	
Director of Public Prosecutions		●			
Secret Service		●			
Communications, Energy and Natural Resources		○			
Prisons	●				

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

Note: ● indicates that there was an increase in the net expenditure estimate i.e. a substantive supplementary estimate.
○ indicates that the increase in net expenditure was a token €1,000 i.e. a technical supplementary estimate.

- 5.20** Some votes received supplementary estimates which had the effect of increasing their net provision by a token amount of €1,000. This is required, for instance, where
- substantial increases in expenditure are proposed under some subheads, but they are offset by substantial savings on other subheads
 - a substantial increase in overall expenditure is proposed, but this is offset by increases in receipts on the vote (appropriations-in-aid).
- 5.21** Six votes have had frequent recourse to supplementary estimates in order to increase their expenditure provision. Figure 5.5 sets out the average increases provided for in those votes.

Figure 5.5 Supplementary estimates for expenditure subheads — average proportion of original estimates, 2008 to 2012



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

Note: Each vote received a supplementary estimate for each of the five years, except Justice and Equality (four years) and Social Protection (three years).

Accounting for Budget Variances

- 5.22** The accounting policies for appropriation accounts set by the Department of Public Expenditure and Reform require the inclusion in the notes to the accounts of an explanation of any significant variance between the outturn and the total amount provided in the appropriation act.¹ *Public Financial Procedures* require that explanations of variations should be concise, meaningful, and should supplement rather than reiterate the information contained in the appropriation account. The Department of Public Expenditure and Reform has issued reminders to departments of this requirement each year. The quality of the explanations provided varies. In some cases, the explanations provided include minimal levels of detail. Some merely reiterate the fact of a variation, rather than present a cogent explanation of why the estimate was wrong.
- 5.23** Supplementary estimate adjustments are incorporated before the variance is calculated. As a result, there is no requirement to provide explanations in the appropriation account of the reasons for any supplementary estimates that have been approved during the year.

¹ An explanation is required where the outturn of a subhead varies, compared to the amount provided, by €100,000 or more, and represents 5% or more of the amount provided (25% in the case of administrative budget subheads).

- 5.24** In 2012, there were 31 expenditure subheads across nine votes that would have required an explanation of the variation against the original estimate, but because of a supplementary estimate, no explanation was required in the relevant appropriation account.¹ In 12 further cases, explanations of the variation of expenditure outturn compared with the amount appropriated are given but ten of these do not include reasons for the supplementary estimate adjustments.
- 5.25** The absence of explanations where budget variances have been dealt with through supplementary estimates, and the quality of a significant number of explanations means that the usefulness of some of the disclosures in the appropriation accounts with respect to variances is diminished.

Conclusions and Recommendation

- 5.26** Estimates approved by Dáil Éireann early in the year are stated to represent “an estimate of the amount required” to provide for the cost of departmental services in the year. This is the basis on which the Dáil is asked to allocate budgets to the departments.
- 5.27** Most votes are managed each year within the original voted expenditure limits. On an individual vote basis, there were six votes in 2012 where net expenditure exceeded the amount originally voted.
- 5.28** A number of votes have had repeated recourse to supplementary estimates over the past five years. Significant variations from original estimate and the repeated requirement for supplementary estimates for the same subheads may be indicative of a need to improve departmental budget forecasting.
- 5.29** Explanations are required to be provided in appropriation accounts where the variances exceed parameters set by the Department of Public Expenditure and Reform. In some cases, the explanations do not clearly explain the precise factors that caused the outturn to differ from the original amount provided. In addition, where a supplementary estimate changed the original estimate for the subhead, an explanation may not be required. As a result, the appropriation account may not give a complete picture of how a departmental budget was managed in a year.

Recommendation 5.1: Appropriation accounts should explain the variance between the original estimate approved by Dáil Éireann and the outturn in terms of the elements of the forecast which differed from that originally approved. The fact that a variation was addressed by way of supplementary estimate should form part of the explanation. The Department of Public Expenditure and Reform should revise the relevant accounting policy to require more appropriate disclosure of variances.

Accounting Officer’s Response: Agreed. The Department of Public Expenditure and Reform will review the relevant accounting policy.

¹ In one case, an explanation of the variance between outturn and final estimate was provided, but did not explain the reason for the supplementary estimate.

Annex A Variances from Original Estimates of €10 million and 10%, or more

Subhead	Explanation
Vote 12 Superannuation and Retired Allowances	
<i>Additional allowances and gratuities in respect of established officers and payments in respect of transferred service</i>	
Original estimate	€116 million
Outturn	€141 million
Variance 	€25 million / 22%
There was a higher than anticipated level of retirements in early 2012 as the 'grace period' (where retirement benefits were based on salary rates at 31 December 2009 - i.e prior to the pay cuts introduced from 1 January 2010 under the Financial Emergency Measures in the Public Interest (No 2) Act, 2009), originally due to terminate at the end of 2011, was extended to end February 2012.	
Vote 20 Garda Síochána	
<i>Communications and other equipment</i>	
Original estimate	€18 million
Outturn	€28 million
Variance 	€10 million / 56%
The overrun arises from costs associated with the GoSafe contract for the operation of safety cameras.	
<i>Safety cameras — certain receipts from fixed charges</i>	
Original estimate	€0.1 million
Outturn	€16 million
Variance 	€16 million / 160 times
It was agreed that the operational cost of the GoSafe contract would be met from the speeding fines issued as a result of the system. As such, a nominal estimate of €0.1 million is included each year in appropriations-in-aid in relation to these receipts and a technical supplementary adjustment is obtained to utilise the receipts to help defray the cost of the GoSafe contract.	
Vote 25 Environment, Community and Local Government	
<i>Water Services Investment Programme</i>	
Original estimate	€331 million
Outturn	€268 million
Variance 	€63 million / 19%
Local authorities did not achieve the expected level of progress on the Water Services Investment Programme in 2012.	
<i>LEADER – rural economy sub-programme 2007–2013</i>	
Original estimate	€97 million
Outturn	€53 million
Variance 	€44 million / 45%
Savings arose due to slower than anticipated project spending by the Local Action Groups which deliver the programme.	
Vote 26 Education and Skills	
<i>Payments to local authorities in respect of superannuation</i>	
Original estimate	€220 million
Outturn	€262 million
Variance 	€42 million / 19%
The excess on the VEC and Institutes of Technology Superannuation subhead arose due to the increased number of new retirees in 2012 as well as the associated cost of their pension and gratuities (580 estimated versus actual retirements of 955).	
<i>Residential Institutions Redress</i>	
Original estimate	€70 million
Outturn	€38 million
Variance 	€32 million / 46%
The saving in 2012 arose mainly due to a lower than expected number of applications being finalised by the Redress Board.	
<i>Miscellaneous second level and further education receipts</i>	
Original estimate	€1 million
Outturn	€11 million
Variance 	€10 million / 10 times
Circa €8m of the surplus arose due to refunds from the European Globalisation Adjustment Fund on foot of the finalisation of claims submitted to Europe. The remainder of the surplus arose from refunds relating to the recoupment of social insurance benefits, refunds of overpayments and other ad hoc refunds that are miscellaneous in nature and difficult to estimate.	

Subhead	Explanation
<i>Receipts from the European Social Fund</i>	The shortfall in EU receipts arises principally from a timing issue in the payover of the receipts.
Original estimate €13 million	
Outturn €2 million	
Variance  €11 million / 85%	

Vote 29 Communications, Energy and Natural Resources

Sustainable energy programmes

Original estimate	€87 million
Outturn	€72 million
Variance 	€15 million / 17%

Savings were due to slower than anticipated uptake of the commercial and domestic grant schemes under the Better Energy Programme.

This is a demand-led scheme and the slower than anticipated uptake reflects the economic slowdown and lower activity in the construction sector in particular. It can be extremely difficult to accurately predict the requirement for demand-led schemes.

Vote 31 Transport, Tourism and Sport

Public service provision payments

Original estimate	€254 million
Outturn	€290 million
Variance 	€36 million / 14%

Public Service Obligation subventions are allocated to companies by the National Transport Authority to supplement fare income on services that would otherwise be uneconomic. Losses by CIE companies had increased due to rising fuel costs and lower passenger numbers. As a result, the Government decided in July 2012 to provide a further subvention of €36 million to CIE. CIE companies have put a recovery programme in place to avoid a recurrence of the need for emergency support.

Vote 32 Jobs, Enterprise and Innovation

Enterprise Ireland

Original estimate	€169 million
Outturn	€140 million
Variance 	€29 million / 17%

Investments committed to by Enterprise Ireland under the Innovation Fund Ireland were not drawn down at the pace anticipated at the time of the estimate. Commitments by Enterprise Ireland to provide funds are concluded when sufficient other capital has been raised. Fund managers took longer to close funds due to the challenging fundraising environment.

In addition, the development plans of Enterprise Ireland client companies have been curtailed or postponed due to the impact of the economic downturn.

Vote 35 Army Pensions

Defence forces pension schemes and payments in respect of transferred service

Original estimate	€204 million
Outturn	€234 million
Variance 	€30 million / 15%

Mainly due to the higher than projected number of retirements in late 2011 and early 2012. The original estimate for 2012 provided for 345 retirements while the actual number of retirements in 2012 was 597, of which 511 retired before 29 February 2012.

In addition, the pension and gratuity entitlements were higher than average due to the higher proportion of retirements at senior levels and with long service.

Retirement patterns in the defence forces are difficult to predict due to the nature of the pension arrangements in place. This, together with the incentivised retirement provisions up to February 2012, made accurate forecasting of numbers retiring extremely difficult.

Subhead	Explanation
Vote 37 Social Protection	
<i>Payment to the Social Insurance Fund</i>	Social Insurance receipts were €308 million lower than expected. This was partially offset by lower expenditure on Social Insurance Fund schemes and services of €40 million.
Original estimate €1,816 million	
Outturn €2,084 million	
Variance  €268 million / 15%	
<i>Family Income Supplement</i>	Mainly due to a backlog of claims being cleared quicker than provided for in the estimate.
Original estimate €199 million	
Outturn €223 million	
Variance  €24 million / 12%	
<i>Supplementary Welfare Allowance</i>	Recoveries from primary schemes were less than estimated, partially offset by lower recipient numbers.
Original estimate €160 million	
Outturn €180 million	
Variance  €20 million / 13%	
<i>Household Benefits Package</i>	Mainly due to higher energy prices arising on electricity and gas allowances than provided for in the estimate.
Original estimate €125 million	
Outturn €144 million	
Variance  €19 million / 15%	
<i>Tús – Community Work Placement Scheme</i>	There was a lower take-up of places than provided for in the estimate.
Original estimate €84 million	
Outturn €67 million	
Variance  €17 million / 20%	
<i>National Internship Scheme</i>	There was a lower take-up of places than provided for in the estimate.
Original estimate €66 million	
Outturn €55 million	
Variance  €11 million / 17%	
Vote 38 Health	
<i>The National Treatment Purchase Fund Board and Special Delivery Unit</i>	Funding of €71 million was allocated to the National Treatment Purchase Fund in 2012. Of this total, €30 million was subsequently reallocated to the Health Service Executive to meet budgetary pressures in the acute hospital sector arising from activity levels greater than the targets set out in the National Service Plan.
Original estimate €71 million	
Outturn €41 million	
Variance  €30 million / 42%	
<i>Payments to a special account established under section 10 of the Hepatitis C Compensation Tribunals Act 1997 and 2002</i>	The Department is not in a position to forecast the number or value of amounts which will be awarded by the Hepatitis C and HIV Compensation Tribunal to claimants in any given year. The actual payments are dependent on the decisions of the Tribunal and these were less than were originally estimated.
Original estimate €43 million	
Outturn €25 million	
Variance  €18 million / 42%	

Subhead	Explanation
<i>Development, consultative, supervisory, regulatory and advisory bodies</i>	Spending on health agencies, including the two largest agencies funded from this subhead, the Mental Health Commission and the Health Information and Quality Authority (HIQA), was less than anticipated. The Department advances funds to these agencies up to the approved level of expenditure or actual expenditure, whichever is the lesser amount. In respect of the Mental Health Commission, provision was made for Mental Health Tribunal hearings, which are a statutory right under the Mental Health Act 2001. The number of hearings originally provided for did not materialise as projected. There were also a number of other savings initiated by the Commission in 2012. These factors gave rise to a saving on the Commission's allocation for the year. In line with the Health Act 2007, HIQA was due to take on additional responsibilities in the area of registration and inspection of residential disability services. Due to delays in finalising arrangements to undertake this function the Authority did not require its full allocation. There were other savings on this subhead due to anticipated expenditure not arising during the year. This accounted for the bulk of the remaining savings on the subhead.
Original estimate €59 million	
Outturn €48 million	
Variance  €11 million / 19%	
<i>Statutory and non-statutory inquiries and miscellaneous legal fees and settlements</i>	The saving arose within miscellaneous legal settlements and fees. The primary reason was the length of time it took to settle anticipated cases. The Department does not have control over the timing of settlements and it is therefore difficult to estimate the number of cases or their value in a given year.
Original estimate €19 million	
Outturn €9 million	
Variance  €10 million / 53%	

Source: Responses by the relevant Accounting Officers

6 Land Swap Arrangement in the Provision of Affordable Housing

- 6.1** In July 2012, the High Court awarded €32.6 million to a firm of house builders in a case taken against the Minister for the Environment, Community and Local Government arising from a land swap agreement for the purpose of supplying affordable homes to eligible home buyers in the private market.¹ The State was unable to deliver a site situated at Harcourt Terrace in accordance with the land swap agreement. In addition to the amount of the award, court interest of €192,850 arose. The final bill for the firm's legal costs is awaited.
- 6.2** This report outlines the background to the land swap which was the subject of the court award.

Project Timelines

- 6.3** The Affordable Homes Initiative formed part of the 2003 national agreement with the social partners, Sustaining Progress. Under the initiative, some 10,000 social and affordable housing units were to be provided partly through the use of surplus public lands. As part of its remit, the Affordable Homes Partnership (AHP) undertook at the request of the Minister for the Environment, Community and Local Government the project planning and procurement of affordable homes on surplus State lands in the greater Dublin area.²
- 6.4** In 2004, the Government decided to pursue a land swap option as part of the initiative whereby high value land in State ownership would be exchanged with a developer in return for the delivery of affordable housing on a site or combination of sites owned by that developer. Being already zoned residential and serviced, the developer's sites would effectively be 'ready-to-go'.
- 6.5** The deal provided that the successful firm would deliver 215 housing units in the Dublin area within the time frame required by AHP in return for a site owned by the State. The discounts on the 215 housing units were valued at €31.2 million. Figure 6.1 outlines the key dates in the project.
- 6.6** The site involved in this case was at Harcourt Terrace, Dublin. It was owned by the Office of Public Works (OPW) and occupied by a Garda station and the Irish Film Censors Office. The successful bidder offered a price considerably in excess of other bids. The firm concerned already had control of an adjoining site, which it had previously purchased from the State.

1 Affordable housing is housing that is made available for home buyers to purchase at a discount to the market price.

2 AHP was established under the Affordable Homes Partnership (Establishment) Order 2005 to enable the provision of affordable homes to the public. It was dissolved at the end of 2010 and its assets, liabilities and outstanding litigation transferred to the Department.

Figure 6.1 Timelines for Harcourt Terrace land swap

2006	AHP engage architects to carry out feasibility study for developing the Harcourt Terrace site. AHP decide that land swap offers best opportunity to deliver affordable housing. AHP publicly advertise site and decide on the successful bidder.
2007	Agreement signed on 7 December between AHP and successful firm setting out terms of the swap. 215 affordable housing units provided by the successful firm by the year end.
2008	Vacant possession of Harcourt Terrace site to be provided to the firm by the year end. This was not achieved.
2009	Agreement in principle reached with the firm with a view to the site being transferred to the firm and the firm leasing it back to the OPW for a maximum period of 5 years.
2010	Legal documentation to formalise the transfer and lease back is not completed. The firm serves a completion notice on AHP and seeks payment of purchase price. In December, National Asset Loan Management Limited acquired the loans secured on the Harcourt Terrace site from AIB in accordance with the provisions of the National Asset Management Agency Act 2009.¹

Managing the risks in completing the deal

- 6.7** One of the perceived advantages in the approach taken by AHP to securing affordable homes was that it transferred development activities and risks to the firm. However, the deal was not risk free - difficulties were identified in relation to delivering vacant possession of the Harcourt Terrace site. This was raised in May 2006 when OPW wrote to the Department of the Environment, Community and Local Government (the Department) stating that
- It had reservations about the proposed timescale suggesting that it could take three years to relocate the Garda station to a proposed larger building on State owned lands adjacent to the current Kevin Street station.
 - It believed that the existing Garda station should not be closed until sufficient permanent accommodation and facilities were available elsewhere to avoid impairment of Garda operations.
- 6.8** To address the concerns raised by OPW, the tender documentation for the site had specified that freehold title for the site would transfer to the successful bidder once all affordable units were received, subject to a requirement that the site would be leased back to the State until the end of 2008 at a nominal rent of €1.
- 6.9** At the end of 2008, the Garda station continued to be occupied, due to delays in delivering the planned alternative accommodation at a new station on Kevin Street. As a result, OPW was not in a position to provide vacant possession to the firm by the agreed date.
- 6.10** To address the matter, negotiations commenced in early 2009 with the firm in order to put a further transitional arrangement in place. The Irish Film Censors Office vacated its part of the site in March 2009 when it moved to new premises at Smithfield, Dublin.

¹ National Asset Loan Management Ltd. is a special purpose vehicle established by the National Asset Management Agency (NAMA) for the purpose of acquiring, holding and managing assets from participating banks.

- 6.11** The broad shape of an agreement was reached in late 2009 with a view to transferring the site to the firm and the firm leasing the property back to OPW for a five year term from January 2009 with a break clause at year 3, in the event the new Garda station was completed. The total rental cost for the five years was estimated at €3.5 million. The Department provided funding of €950,000 to AHP in late 2009 for onward payment to OPW in order to pay the firm under the deal. The funding of €950,000 was retained by AHP pending the conclusion of the deal.¹
- 6.12** In 2010, a difficulty arose as to whether stamp duty should apply to the transaction. Although the tender advertisement stated that stamp duty was not payable on the conveyance of the land at Harcourt Terrace, the OPW was concerned about the corporate structure being used by the firm in the transaction.² Ultimately, OPW withdrew their objection but at that stage the firm had served a completion notice on AHP under the terms of the contract. As the State was unable to deliver vacant possession, the firm demanded payment of the sale price together with €4.2 million for penalties under the terms of the contract. The State did not accept the claim. The firm instituted legal proceedings in the High Court to secure the payment of the purchase price.
- 6.13** In a judgment delivered in July 2012, the High Court made an award to the firm of €32.588 million comprising
- €31.243 million in respect of the discount given on the purchase price of the affordable homes
 - agreed damages of €562,539 being the costs incurred by the firm in contemplation of carrying out the development
 - interest of €782,491 representing the cost of the firm's borrowing between the date planning permission was obtained and the expiration of the completion notice.
- Court interest of €192,850 was also applied to the award from the date of the court judgement to the date of payment of the award.
- 6.14** In addition, it was agreed to make a payment of €861,000 for the firm's legal costs with the final bill expected to be submitted before the end of 2013. Costs of €131,000 were incurred by the Chief State Solicitors Office (CSSO) in relation to the matter.

Accounting for the payments

- 6.15** The Department and OPW agreed an apportionment of the costs of the award. They also agreed a schedule of payments over a five year period to be paid through the Housing and Sustainable Communities Agency to NAMA as secured lender of the firm. €11.3 million was paid in 2012 as follows
- €5.664 million paid by the Department
 - €5.38 million paid by OPW
 - €0.28 million paid by Housing and Sustainable Communities Ltd from the funding of €950,000 received by AHP in 2009.

In addition, OPW and the Housing and Sustainable Communities Ltd paid €0.86 million towards the firm's legal costs. The firm's final legal costs remained to be quantified.

- 6.16** The liabilities, excluding the outstanding legal costs, of the OPW and the Department at the end of 2012 were €13.6 million and €7.6 million respectively.

¹ After the dissolution of AHP, the funding was passed to a company called the Housing and Sustainable Communities Ltd which commenced operations in 2011. The company's main functions were to assist the Department and local authorities in policy implementation in developing sustainable communities and to undertake such regulatory and other services as requested by the Department. In 2013, the Housing and Sustainable Communities Agency was established under the Local Government (Miscellaneous Provisions) Act 2012 and took over the main activities of the company.

² Instruments made by, to or with the OPW are exempt from stamp duty under section 113 of the Stamp Duties Consolidation Act 1999.

- 6.17** The effect of scheduling payments over five years is that the Exchequer does not need to finance the full payment immediately. However any finance costs borne by NAMA will ultimately reduce any surplus arising to the Exchequer from NAMA's operations.

Views of Accounting Officers

- 6.18** The Accounting Officer of the Department of the Environment, Community and Local Government stated that the failure to close the original agreement was a direct consequence of the inability to provide vacant possession of the site. Notwithstanding this, all parties had agreed the broad outline of a lease agreement by the end of 2009. She said that this arrangement had still not been finalised by September 2010 and the firm eventually served a completion notice on the AHP who, in turn, served a completion notice on OPW. She stated that both the AHP and her Department made repeated requests to the OPW to finalise the wording of the transfer deed and made clear the potential costs to the State for the failure to close the negotiations.
- 6.19** The Accounting Officer of the OPW stated that OPW had engaged in extensive dealings in attempting to bring a satisfactory outcome to the transfer of the property in Harcourt Terrace to the firm and in the putting in place of a lease agreement between OPW and the firm for the period following the transfer. She stated that OPW had at all times acted in good faith, having regard to the advice it received and in a manner that was both prudent and expeditious. She stated that during discussion on the vacating of the Harcourt Terrace Garda station, OPW were informed that it was one of the busiest in the Dublin area and that a commitment had been given that the station would not close until the new Kevin Street station was constructed. She stated that the station was occupied until 2012 when it was closed as part of the general nationwide closure of certain Garda stations.
- 6.20** The Accounting Officer of the CSSO stated that while agreement had been reached in principle in late 2009 to the outline terms of the sale and leaseback arrangement, it took several months for the detailed terms to be finalised at which point the firm refused to complete the deal. She stated that correspondence between the parties had continued throughout this period and noted that the length of time taken to reach agreement on the terms was not unusual for a transaction of this complexity.

Conclusion

- 6.21** As a result of the inability to complete the transfer of the Harcourt Terrace site, the High Court awarded €32.6 million to a firm of house builders together with court interest of €0.2 million and the firm's legal costs which remain to be assessed. The Department and OPW have agreed to apportion the payments with 60% being charged to Vote 13 Office of Public Works and the remainder being charged to the Interim Housing and Sustainable Communities Agency subhead in Vote 25 Environment, Community and Local Government. However, in effect the payment relates to the provision of affordable housing which in the normal course would have been expected to be charged in full to the relevant subhead in Vote 25 Environment, Community and Local Government.
- 6.22** By agreement with NAMA, the award is being paid over a period of five years commencing in 2012. Both Vote accounts recognise the liability to meet the balance of the award in future years.

7 Management of the Fixed Charge Notice System

- 7.1** Members of An Garda Síochána may issue a fixed charge notice to the drivers or owners of vehicles for certain road traffic offences. These include offences committed while driving, such as speeding or driving while holding a mobile phone, and compliance offences, such as illegal parking and failure to display an up-to-date motor tax disc. The penalty associated with a fixed charge notice offence is a fine, or (for offences committed while driving) a fine and the attachment of penalty points to a driver's licence.
- 7.2** One of the key objectives of the fixed charge notice system is to contribute to safer driving and reduced road accident casualties. While most drivers and vehicle owners will usually comply voluntarily with the relevant laws, some may only act in a compliant manner if they perceive that there is a reasonable probability that they will be detected if they commit an offence, and believe that such detections would result in the imposition and enforcement of significant penalties. Conversely, a perceived low probability of detection, or perceived widespread failure to impose penalties following detection could result in increased frequency of commission of offences. A perception of arbitrary or partial application of enforcement of the law by An Garda Síochána could undermine both the deterrence objectives of the system and, more significantly, general public confidence in An Garda Síochána.

Confidential Disclosure Received

- 7.3** In July 2012, a member of An Garda Síochána contacted the Office of the Comptroller and Auditor General seeking a meeting to discuss concerns that member had about the operation of the fixed charge notice system within the force. At the meeting, the member presented a file containing information, which it was stated had been extracted from An Garda Síochána's database for recording and tracking progress in relation to detected offences. The information provided related to around 4,000 cases where it appeared that fixed charge notices issued by An Garda Síochána had subsequently been cancelled, resulting in drivers avoiding the associated penalties, and the loss to the Exchequer of the associated fines income. It also appeared from the information presented that multiple fixed charge notices had been cancelled for some individuals.
- 7.4** The member of An Garda Síochána who presented the file of information alleged that, in many cases, the fixed charge notices had been cancelled corruptly and illegally. It was also alleged that a number of persons who had benefitted from (one or more) cancellations of fixed charge notices for speeding or dangerous driving had subsequently committed similar offences, resulting in some cases in deaths and/or injury to themselves and/or third parties.
- 7.5** A similar set of documents was supplied to the Office by the Chief Executive Officer of the Road Safety Authority in late October 2012¹. In the following months, information about cancelled fixed charge notices and the matters alleged came to public attention through disclosures in Dáil Éireann and in the media.

1. Corrected. Originally stated as August 2012.

Focus of this Examination

- 7.6** On three occasions in the past, the Office of the Comptroller and Auditor General has examined and reported on the system of control applied by An Garda Síochána in relation to the fixed charge notice system or its predecessor 'fine-on-the-spot' system.¹ Key findings from those reports were
- failure to implement penalties in relation to a significant number of fixed charge notices, including cancellation of 3% to 8% of the notices issued
 - inadequate specification of the criteria for situations in which it would be appropriate for An Garda Síochána to cancel fixed charge notices, and failure to record the reasons for cancellations
 - an inability to take appropriate action against drivers of company vehicles who commit offences where the company does not nominate the driver, and a lack of information as to why penalties become statute barred
 - significant levels of non-payment of fines and of cases being sent for court proceedings.
- 7.7** In the circumstances, I had a concern that the controls in place in relation to the operation of the fixed charge notice system might be inadequate, or might not be operated as intended. The information presented to the Office in July and August 2012 appeared to indicate that matters reported in previous reports had not resulted in improved (or sufficiently improved) control systems within An Garda Síochána. For this reason, I initiated an examination of the fixed charge notice system by staff of my Office, to address the following questions.
- What is the extent to which fixed charge notices are cancelled, or otherwise do not result in enforcement of the penalties associated with detected fixed charge notice offences?
 - Are the controls in place in relation to processing of fixed charge notice cases adequate, and are they enforced effectively?
 - Is there a material financial loss to the Exchequer as a result of non-enforcement of fixed charge notices?
- 7.8** The examination was confined to the operation of the system within An Garda Síochána. This included review of the rate of service of summonses in relation to unpaid fixed charge notice cases where legal proceedings were commenced, but did not include examination of the outcome of unpaid fixed charge notices in the courts.
- 7.9** Examinations by my Office focus on the adequacy of systems, procedures and practices implemented by the bodies I audit. Other than to record relevant facts about the actions of individuals, I do not have a remit to investigate or report on the behaviour or motivations of individuals. Accordingly, this examination does not seek to address the allegations that have been made of incidents of corruption and illegality on the part of members of An Garda Síochána or of alleged offences committed by members of the public.

¹ Comptroller and Auditor General Special Report Number 37 (2000); Chapter 7 of the Comptroller and Auditor General Annual Report 2003; and Comptroller and Auditor General Special Report Number 56 (2007).

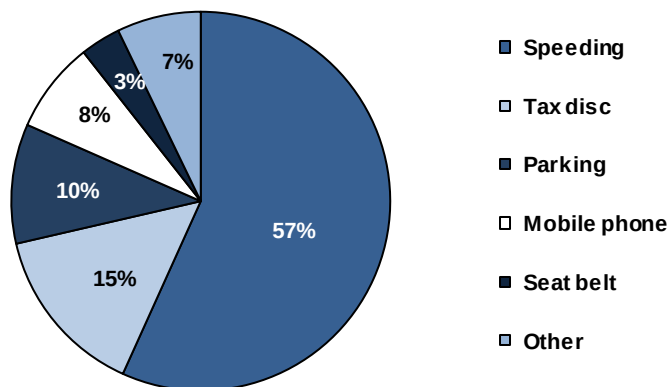
Methodology

- 7.10** An Garda Síochána have adopted a detailed procedures manual for the fixed charge notice system. The manual was last revised in 2005. The operation of the system in 2011 and 2012 was assessed based on the standards prescribed in the manual.
- 7.11** For the purposes of this examination, the Garda Síochána database of fixed charge notices recorded as having been issued in 2011 and 2012 was analysed. The records were matched with data from the National Vehicle and Driver File (NVDF). We also received from An Garda Síochána an analysis of aspects of the Courts Service database.
- 7.12** In addition, the examination team selected random samples of cancelled fixed charge notices in six Garda districts, and in the Garda Fixed Charge Processing Office in Thurles — a total of 350 cases. The file records in relation to each case were requested for examination in the respective offices.

Fixed Charge Notice Processing

- 7.13** During 2011 and 2012, almost 850,000 road traffic offences resulted in the issuing of fixed charge notices.
- 7.14** More than half of the notices issued in 2012 were in respect of speeding offences (see Figure 7.1). Together with tax disc, parking and mobile phone-related offences, these accounted for 90% of the notices issued in 2012.

Figure 7.1 Offences recorded on fixed charge notice system, by type, 2012



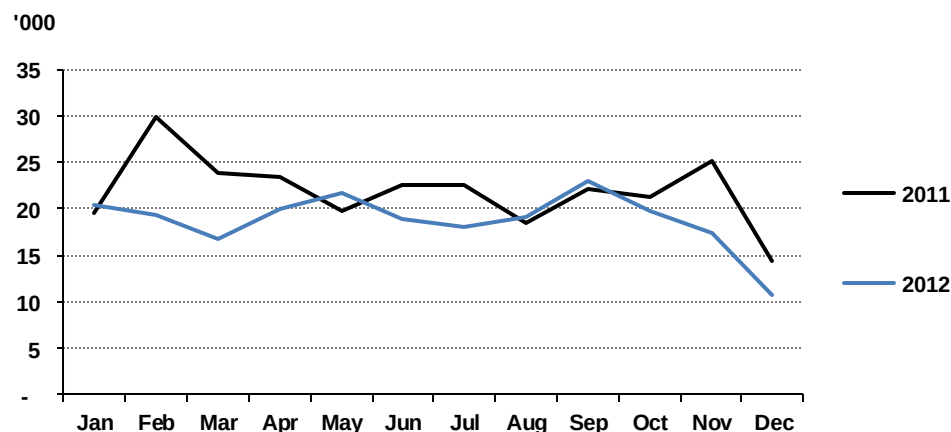
Source: Analysis by the Office of the Comptroller and Auditor General

Note: 'Other' includes breaking traffic lights, driving in bus lanes, driving without reasonable consideration and insurance offences.

Fixed Charge Notice Offences Detected

- 7.15** The number of offences recorded showed significant monthly variation during the course of 2011 and 2012. Figure 7.2 indicates the variations in the level of speeding offence detections during that period.

Figure 7.2 Number of speeding offences recorded by month, 2011 and 2012



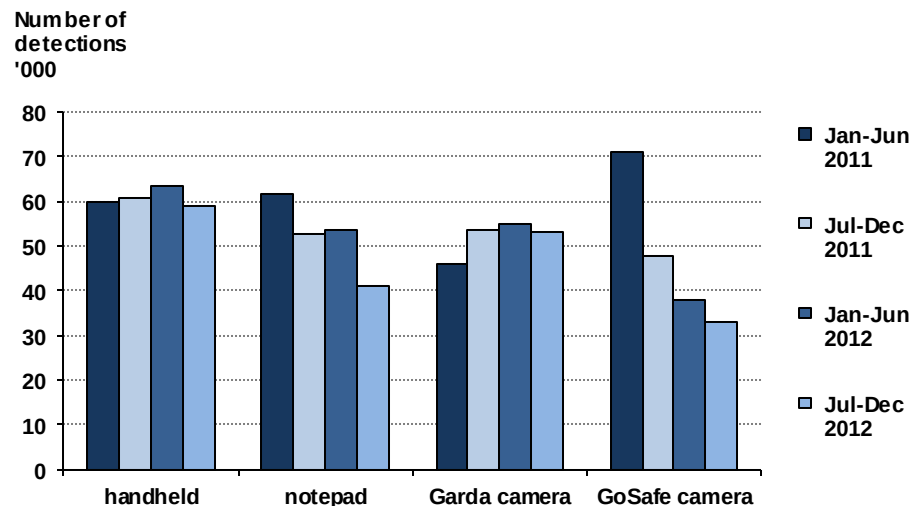
Source: Analysis by the Office of the Comptroller and Auditor General

Detection Methods

- 7.16** The detection of a road traffic offence may be an intercept or non-intercept detection.
- 7.17** Intercept detections are those where a member of An Garda Síochána stops and speaks to a vehicle driver or records details of a parked vehicle. At that point, the Garda member has the discretion, having regard to the facts and circumstances of the case, to initiate a fixed charge notice or alternatively, to issue a verbal warning or provide advice to the driver. Where the Garda decides to initiate a case, the details are usually recorded in a notebook and are later transferred by the Garda onto a duplicate form in the Garda station. Alternatively, they are captured on site in an electronic handheld device.
- 7.18** Speed cameras record non-intercept offences through Garda-manned 'robot' vans or outsourced 'GoSafe' camera vans (in operation since November 2010).
- 7.19** Following detection, the details of each case are entered onto the Fixed Charge Processing System (FCPS) by
- posting of a copy of the duplicate form to the Fixed Charge Processing Office in Thurles for manual entry onto the FCPS
 - docking of the handheld device in a Garda station, with automatic uploading of data onto the FCPS
 - uploading of speed camera detections through the Outsourced Safety Camera Office (OSCAM).

- 7.20** The relative rates of recorded fixed charge offences for each detection method are indicated in Figure 7.3 below. Of particular note is the dramatic fall in the number of recorded detections by GoSafe cameras since early 2011. Detections by Garda cameras remained relatively consistent over the same period.

Figure 7.3 Fixed charge notices issued during, 2011 and 2012



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

Spoiled/Lost Fixed Charge Forms

- 7.21** An Garda Síochána has established a Notepad Tracking and Allocation System (NTAS) to control the issue of fixed charge notice duplicate forms (in notepads of 20 forms each) to members of the force, and the subsequent recording by Garda members locally of the details of cases where the forms have been used, or otherwise disposed of. The counterpart of each used form, and of any spoiled forms are required to be sent to the Fixed Charge Processing Office for entry onto its databases.¹ In practice, spoiled forms are not returned to the Fixed Charge Processing Office, and consequently, its database does not include a record of spoiled forms.
- 7.22** Each form in a notepad has a unique number that is intended to facilitate identification and control. An Garda Síochána does not routinely analyse and monitor the returned forms to identify missing forms, or follow up with the relevant members where forms are unaccounted for. The Accounting Officer stated that a revised process to ensure all notepad notices are accounted for will be included in the revised FCPS user manual fourth edition which is currently under revision by the Garda National Traffic Bureau.
- 7.23** For the purposes of this examination, NTAS records of forms issued between January 2011 and May 2013 were obtained from An Garda Síochána. In that period, around 235,400 forms were issued. The information in the NTAS database was analysed to identify breaks in the identifier number sequence, thus indicating lost or otherwise unaccounted for forms.
- 7.24** Some spoiled forms had been recorded by Garda members on the NTAS. Around 2,100 spoiled notepad forms were recorded — a recorded spoiled form rate of 0.9% of forms issued.

¹ Procedure specified in Fixed Charge Processing System Manual (3rd edition), 2005.

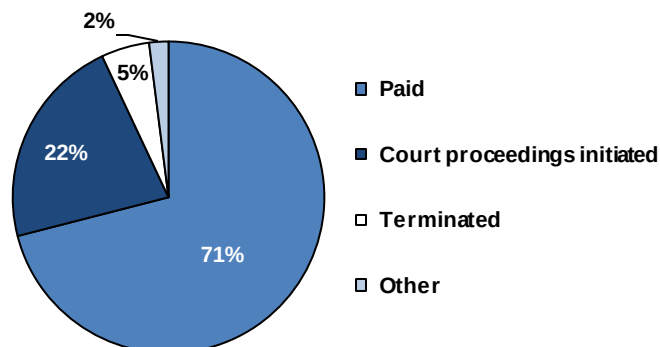
- 7.25** Almost 18,900 further forms (7.4% of forms issued) from notepads in use during that period were not accounted for on NTAS. The reasons that a form may not be accounted for include
- the notepad form had been skipped in the sequence and had not yet been used (although later sequence forms in the notepad had been used)
 - the notepad form was spoiled and discarded locally
 - the notepad form may have been used to record an offence but a subsequent decision was made by the detecting Garda not to proceed with the case
 - the notepad form was used to record the notice offence but was lost in the post to the Fixed Charge Processing Office, or had incorrect or unclear details.
- 7.26** All notice offences recorded on notepad forms sent to the Fixed Charge Processing Office are input to the fixed charge processing system by the Office's staff. Approximately one in every ten forms received is returned by that Office to the detecting Garda to complete or clarify details of the detection. Around one-third of these forms are not subsequently returned to the Office, and so do not result in a notice being issued to the driver or vehicle owner concerned. These forms are either recorded as spoilt notepad forms or are included in the unaccounted for figure.
- 7.27** Overall, 8.3% of the notepad forms issued in the period examined ended up being lost or spoiled, or otherwise unaccounted for.

Outturn of Fixed Charge Notice Cases

- 7.28** When a fixed charge notice is issued by post, the recipient has a period of 28 days from receipt of the notice within which to pay the specified fine amount, which varies depending on the nature of the offence. Payment in the period of 29 to 56 days after receipt of the notice incurs an additional 50% charge. When the payment period has elapsed, the fine cannot be paid and the case must be dealt with through a court.¹
- 7.29** Fixed charge fines were paid within 56 days of issue of the notice in respect of around 71% of the fixed charge penalty notices issued in 2011 and 2012 (see Figure 7.4). More than one in five cases resulted in court proceedings being initiated. 5% of cases were formally terminated, and 2% had other outturns recorded.

¹ The 2010 Road Traffic Act includes a provision that will allow payment of a fine up to seven days prior to the date of a court hearing. This provision has not yet been implemented.

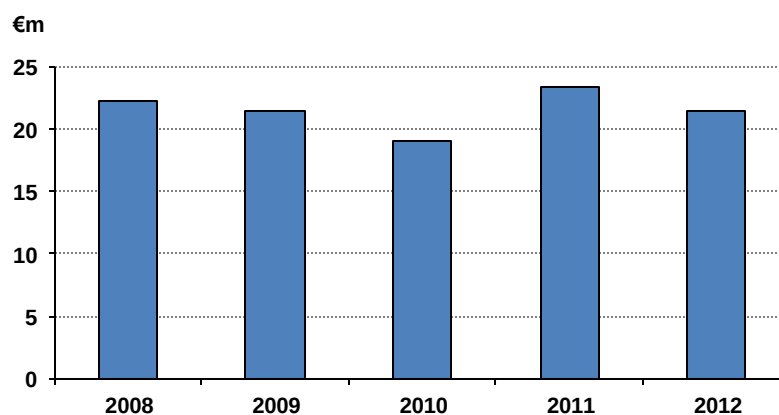
Figure 7.4 Status of fixed charge notice cases recorded in 2011 and 2012



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

- 7.30** For offences detected in 2012, An Garda Síochána had total receipts from the payment of fines amounting to €21.5 million. Receipts of Road Traffic Act fines for the period 2008 to 2012 are set out in Figure 7.5.¹

Figure 7.5 Garda receipts from Road Traffic Act penalties, 2008 to 2012



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

Initiation of Court Proceedings

- 7.31** A total of 21.8% of fixed charge notice cases recorded in 2011 and 2012 were sent for prosecution in court, resulting in the issuing of summonses, either automatically or manually. Summons service is carried out by An Garda Síochána.

¹ Additional receipts from cases that proceeded to court were collected and accounted for by the Courts Service.

- 7.32** Data held on Garda systems in relation to summonses served for fixed charge notice offences is incomplete, because it does not routinely capture the outcomes of cases referred for court proceedings. For this reason, the examination team reviewed summary data from the Courts Criminal Case Tracking System (CCTS) in relation to fixed charge notice cases recorded in 2011 and 2012. This indicated that for 2011 cases — which had sufficient time to be finalised in the courts — half of the cases that proceeded to summons stage were struck out in court because the related summonses had not been served. This suggests that around 11% of all recorded fixed charge notices cases end up unpaid and without being answered in court.

Termination of Fixed Charge Notices

- 7.33** A decision to discontinue proceedings and to terminate a fixed charge notice is effectively cancellation of the notice. The circumstances in which this may occur are set out in the Garda Síochána manual for the fixed charge penalty system. The third edition of the manual has been in effect since 2005.¹

Termination Procedure

- 7.34** This examination found that, in May 2013, 486 individual members of An Garda Síochána had the facility on the FCPS to terminate notices. This comprised
- 41 Chief Superintendents
 - 151 Superintendents
 - 294 Inspectors.
- 7.35** According to the manual, formal authority to cancel a specific fixed charge notice is assigned, in the relevant circumstances, only to
- the District Officer of the location where the offence took place
 - the District Officer responsible for the detecting member
 - the Superintendent overseeing the Juvenile Diversion Programme
 - the Inspector overseeing the Fixed Charge Processing Office in Thurles.

The District Officer is the Superintendent of a Garda district, or an Inspector where he/she is acting District Officer in place of the Superintendent.

- 7.36** The examination found that there are no controls in the system to restrict Garda members who have the facility to terminate cases from doing so in relation to cases not within their authority.
- 7.37** The FCPS includes a monthly report of notice terminations in each Garda district. The report for each district is available to the relevant District Officer. This lists each case terminated, the identity of the person authorising the termination, and other details such as the recorded termination reason and termination date.

¹ The fourth edition of the manual is currently in preparation.

7.38 Notices may be terminated for technical reasons or, in limited circumstances, based on requests for termination from recipients of notices. The main features of the procedure for the management of requests for the termination of a notice are as follows.

- A petition for the termination of a notice must be submitted to the District Officer in whose district the offence occurred. The petitioner must submit his/her request in writing with any relevant supporting evidence.
- The District Officer (or acting District Officer) examines the circumstances and evidence provided and determines whether termination is warranted in accordance with the cancellation policy.
- All documentation relating to notice termination must be retained for audit purposes.

Rate of Notice Termination

7.39 In total, notices were terminated for 42,700 offences detected in 2011 and 2012. This represents around 5% of the notices issued in those years. Just over half were terminated centrally in the Fixed Charge Processing Office in Thurles or as part of the Juvenile Diversion Programme. The remainder were terminated in Garda districts. Consequently, the average termination rate of notices among districts was 2.2%.

7.40 The number of rejected petitions for notice termination is not recorded.

Analysis of Notice Termination Rates at District Level

7.41 There were 110 districts in operation during the 2011 and 2012 period reviewed.¹ Analysis of the rate of notice termination shows considerable variation between districts. The districts with the five highest and five lowest rates of termination of notice offences detected in 2011 and 2012 are set out in Figure 7.6. In the Ennis, Roscommon and Sligo Districts, the rate of termination of fixed charge notices was more than twice the average, and more than 50 times the rates in the Milford and Birr Districts.

Figure 7.6 Rate of notice termination for fixed charge offences detected in 2011 and 2012, selected Garda districts

District	Rate of notice termination
Ennis	5.9%
Roscommon	5.7%
Sligo	5.4%
Navan	4.8%
Loughrea	4.4%
National average	2.2%
Swinford	0.3%
Askeaton	0.3%
New Ross	0.2%
Milford	0.1%
Birr	0.1%

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

Note: This analysis excludes notice terminations by the Fixed Charge Processing Office and the Juvenile Diversion Programme

¹ Following a recent rationalisation programme, the current geographical structure of An Garda Síochána is 6 regions, 29 divisions and 105 districts.

Outside District Terminations

- 7.42** A significant proportion of terminated fixed charge notice cases were terminated outside the district in which the offence was detected. The districts with the highest rates of non-local case termination are shown in Figure 7.7. In a number of districts, more than half of the cases terminated relate to offences detected in other districts. In the Blanchardstown and Bridewell Districts in Dublin, terminations related to 38 and 37 other districts, respectively.

Figure 7.7 'Other district' terminations^a, selected Garda districts, 2011 and 2012

District Office	Number of notice cases terminated	Rate of termination	% of terminations detected outside the District	Number of other districts terminated ^b
Blanchardstown	699	2.3%	50%	38
Bridewell, Dublin	355	3.1%	81%	37
Kevin Street, Dublin	216	0.9%	56%	21
Pearse Street, Dublin	551	3.4%	35%	20
Ennis	1,184	5.9%	27%	16
Ballymun	366	1.4%	43%	15
Navan	191	4.8%	69%	15
Coolock	174	1.1%	45%	12
Henry Street, Limerick	1,146	3.9%	36%	12
Fitzgibbon Street, Dublin	170	2.4%	79%	11
Mullingar	220	1.9%	18%	11

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

Notes: a Dublin Metropolitan Region Traffic and Garda National Traffic Bureau are excluded from this analysis as they cover a number of Districts

b Other districts in which only one notice was terminated are excluded from this analysis

- 7.43** Terminations across district boundaries are intended to be for technical reasons only e.g. where a detecting Garda identifies an error or defect in the case details, and his/her District Officer agrees to the termination. In all other cases of termination, the driver/vehicle owner must submit a petition to the District Officer of the district where the offence was detected, so there should be a record locally of the request for termination.
- 7.44** The examination team sought documentation for a sample of 25 offences (five each in five districts) that were detected in the district but that had been terminated in a different district. Only in three cases (12%) were file documents in relation to the termination available locally. Of the remaining cases, where no documentation was available locally,
- there were 14 cases (56%) where the termination occurred in an adjacent district where a shared Traffic Corp unit was located
 - in eight cases (32%), the terminating district was not contiguous with the district of offence detection.

Accordingly, in this sample, at least one third of the 'terminated outside district' cases appear to have been unauthorised within the terms of the Garda manual guidelines.

Reasons for Termination of Notices

- 7.45** The fixed charge penalty system manual specifies four categories of cases where termination of a fixed charge notice is permitted (see Figure 7.8). This includes technical processing errors, certain exempt cases under legal provisions and, in certain circumstances, participants in the Juvenile Diversion Programme.¹ Terminations are also allowed under 'exceptional circumstances', and some examples of the kind of circumstances envisaged are given. In the latter category, the circumstances described are, in most cases, capable of being supported by independent documentary evidence.

Figure 7.8 Framework of permitted reasons for termination of fixed charge notice cases

Termination reason categories	Examples
Processing/system errors	- incorrect vehicle/driver details recorded - unsuitable speed camera image - notice undeliverable by post
Statutory exemption	- drivers of emergency vehicles where such use does not endanger the safety of other road users (exempt under Road Traffic Acts) - parking in restricted zones while loading or unloading a vehicle (under local authority bye laws)
Juvenile Diversion Programme	No example given
Exceptional circumstances	- vehicle was stolen or broken down - the offender is resident outside the jurisdiction or the vehicle was hired by a non-resident of the State - the vehicle belongs to a person entitled to claim diplomatic immunity - motor tax was paid for the period but the disc was not displayed — supporting evidence required - certain parking offences by a doctor attending to an urgent call
Discretionary ^a	- medical emergency - family bereavement - other

Source: Fixed Charge Penalty System Manual (2005) and the FCPS system

Note: a This category is not given in the system manual, but is included on the fixed charge penalty system as a selection option when recording the reason for termination of a notice.

¹ This is a programme to prevent young offenders from entering the criminal justice system.

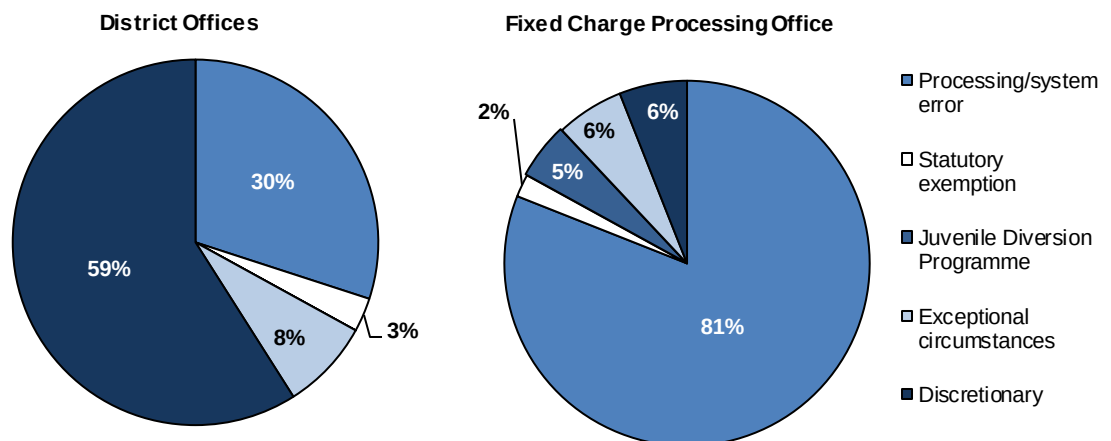
7.46 Prior to April 2012, the FCPS offered limited options for the categorisation of the reason for termination of a notice. As a result, in the period January 2011 to March 2012, in excess of 92% of notice terminations were categorised on the system simply as 'cancelled', with the remainder categorised as 'system error' or being under the Juvenile Diversion Programme.

7.47 The option to record 'cancelled' as the reason for termination has not been available since April 2012, when the software was updated to include an expanded range of options including 'Discretionary— medical emergency', 'Discretionary— family bereavement' and 'Discretionary— other'. The manual was not updated to reflect the change.

Recorded Termination Reasons

7.48 The reasons recorded on the fixed charge processing system for notices terminated in the period April to December 2012 are summarised in Figure 7.9 below.

Figure 7.9 Reason recorded on FCPS for Termination of Notice



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

7.49 The examination team reviewed samples of files relating to notice terminations in the Fixed Charge Processing Office and in five districts where the rate of termination of notice for penalty point offences was in excess of 5%. A sample of files was also examined in a further district with a very low recorded rate of termination of notice cases.

7.50 The audit noted that several of the notice terminations reviewed in the Fixed Charge Processing Office were part of batch terminations, whereby a large number of notices (several hundred in some cases) were terminated due to systemic errors, such as an incorrect townland name recorded on the notices.

- 7.51** From the sample of 300 notice terminations reviewed in district offices, the file documentation recorded a wide range of reasons for the termination of notices. There was no apparent reason stated in 11 cases — 4% — to indicate why the case was terminated. In more than half the cases examined, the terminations had been for 'discretionary' reasons. Circumstances of each case recorded on file, and apparently accepted by District Officers as valid grounds for termination of the case, included
- driver was speeding on way to hospital or GP appointment or visiting others in hospital (26 cases)¹
 - driver acknowledging that the vehicle was not taxed when stopped but that tax arrears had subsequently been paid covering the period when stopped (13 cases)
 - nine cases where drivers acknowledged they had exceeded the speed limit but offered an explanation for speeding such as
 - the road being wide and quiet
 - rushing to pick up a relative from a bus station
 - being late for a religious ceremony
 - hurrying back to a farm as bees were attacking livestock
 - being late for a swimming lesson
 - being on 'urgent domestic business' (no further detail recorded)
 - the vehicle speedometer was not working
 - four cases where the driver acknowledged that an offence was committed and stated that
 - the driver did not see the red light
 - the driver accidentally exceeded the speed limit
 - there was a lack of concentration by the driver who had other issues on his mind, such as a cow dying on his farm.
 - a driver who was stopped for using his mobile phone while driving but who had not explained to the Garda when stopped that the call was urgent and related to his sick child.

7.52 The guidelines for operation of the fixed charge notice system state that all documentation relating to the termination of a case must be retained for audit purposes. The examination of sample cases found that there was relevant supporting documentation for all cases terminated in the Fixed Charge Processing Office. In marked contrast, there was no documentation available to review for almost a quarter of the sampled termination cases in district offices.

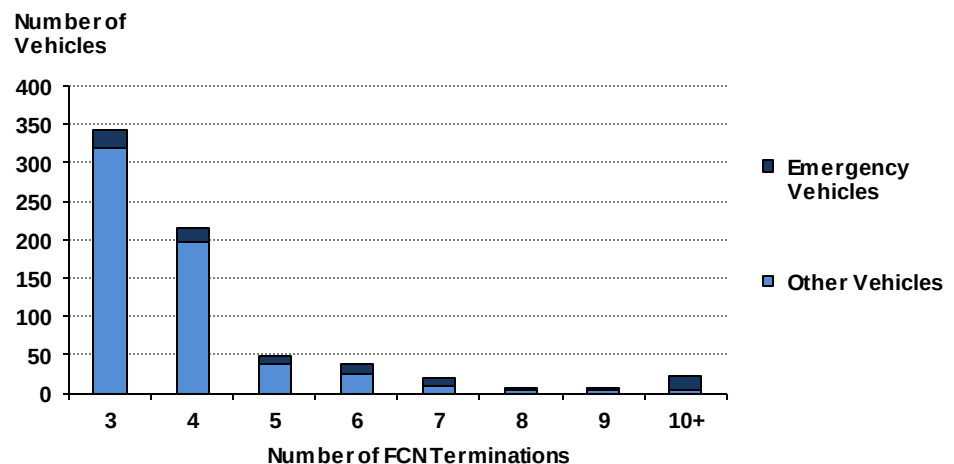
7.53 In over 60% of district office cases where documentation was retained and was available for review, the basis for the notice termination was a letter of petition from the vehicle driver, without any third party corroborating evidence to support assertions made in the petition. In practice, third party corroborating evidence is unlikely to be available for some of the circumstances put forward in petitions as outlined above.

¹ This excludes instances where a medical emergency was suggested even if no evidence of the emergency was on file.

Multiple Notice Terminations for a Vehicle

- 7.54** The database of fixed charge notice cases for 2011 and 2012 was analysed to identify vehicles with multiple terminations, based on the registration number of the vehicle.¹
- 7.55** The frequency of occurrence of three or more case terminations for individual vehicles is set out in Figure 7.10 below. The analysis shows that 2,900 cases were terminated in relation to around 700 vehicles with three or more cases terminated each. Almost 650 terminated cases related to 96 emergency response vehicles.²

Figure 7.10 Multiple fixed charge notice terminations, for offences detected in 2011 and 2012



Source: An Garda Síochána extract from FCPS

¹ Analysis based on the registration number of a vehicle may overstate the number of fixed charge notice terminations for the vehicle owner where there are multiple users of the vehicle or where ownership of the vehicle has changed. Equally, where an individual drove more than one vehicle during the period, the analysis may understate the terminations attributed to an individual driver.

² The guidelines for statutory exemption cases potentially cover fire brigade vehicles, ambulances and vehicles used by Gardaí in the performance of their duty, as provided for by Section 27 of the Road Traffic Act 2004. However, the exemption applies only where such use does not endanger the safety of other road users.

³ Chapter 7, 2003 Report of Comptroller and Auditor General.

Company Summons Cases

- 7.56** A previous report drew attention to an impediment in the FCPS that resulted in an inability to take appropriate action against the drivers of company cars.³ Penalty points cannot be attached to a company, since it cannot hold a driving licence. While there is a legal obligation on a registered owner to report who was driving when an offence is detected, it is frequently reported that the driver at the time cannot be identified. This could undermine a potential court case.
- 7.57** FCPS data indicates that notices were issued to companies for 20,844 road traffic offences during 2011 and 2012, of which
- 28% were paid
 - 23% were terminated
 - 49% were otherwise not pursued, being given 'company summons' status on the system.
- 7.58** Almost all cases that proceed to 'company summons' status relate to speed camera detections. Where the vehicle is not intercepted and driver details taken at the scene, notices are issued to the vehicle owner, as recorded on the NVDF.

7.59 Inconsistencies in the recording of company names on the NVDF complicate identification of 'repeat offender' companies and result in understatement of the count. Notwithstanding this, the analysis of fixed charge cases detected in 2011 and 2012 indicate that

- one company had 203 cases going to 'company summons' status
- two companies had 70 and 82 such cases, respectively
- a further 12 companies had between 20 and 50 such cases.

7.60 Companies with significant number of notices going to company summons status include vehicle hire companies and garages.

7.61 Assuming the fine was paid within 28 days in such cases, the revenue forgone in 2011 and 2012 in respect of company car cases terminated or not pursued is estimated at €1.12 million.

Statute Barred Cases

7.62 Prompt processing of fixed charge notice cases is required because of statutory time limits. If court proceedings are to be taken, they must be initiated within six months of the date of the offence. Thereafter, proceedings become statute barred.

7.63 Over 3,000 notice offences detected in 2011 and 2012 had become statute barred by March 2013. These accounted for around 0.4% of all notice offences detected.

7.64 A driver who receives a fixed charge notice is allowed a 56 day period to pay the fine (including time surcharge, if applicable) prior to a court summons being generated. Since April 2012, the FCPS will not generate a fixed charge notice to send to the driver if there are less than 70 days left until the offence becomes statute barred. Where a notified fine payment is not received, this ensures a minimum of ten working days to initiate court proceedings, which is done electronically.

7.65 Analysis of the records for cases involving offences detected in 2011 and 2012 that subsequently became statute barred indicates that late entry of the data onto the FCPS was a factor. This was particularly a problem where offences were recorded on handheld devices and notepad forms.

- 26% of the cases had been entered on the fixed charge processing system 110 days or more after the date of the offence. Three quarters of these had been recorded on a handheld device, with the remainder recorded on a notepad form.
- 30% of cases had a time lag of 80 to 109 days between the date of offence and date of entry on the FCPS, with the consequence that the offence was likely to become statute barred if the recipient nominated an alternate driver. Half those offences were recorded on a handheld device and half on notepad forms.

7.66 Reduced speed limits apply to certain vehicles in certain speed zones, for example vehicles towing a trailer and heavy goods vehicles. 17% of statute barred notices related to reduced speed limit offences. Such cases detected by GoSafe cameras were not pursued, until a change in Garda procedure in July 2012. Since then, such offences were automatically referred to the Garda Information Services Centre.

- 7.67** Garda records indicate that some cases may have proceeded to court via a manual summons, but are recorded as statute barred because the electronic link between the offence and the manual summons was not recognised. 14% of statute barred cases had a summons (SA1) identifier recorded on the FCPS.

Imposition of Penalty Points

- 7.68** Penalty points are imposed on the licences of drivers through the NVDF, which is maintained by the Department of Transport, Tourism and Sport. Fixed charge fines for 466,000 penalty point offence were paid within the specified timeframe, giving rise to the imposition of penalty points without a court attendance.
- 7.69** Not every paid penalty point offence case resulted in the imposition of penalty points because
- where a number of offences are detected and recorded by a single notice, then in accordance with Section 2 of the Road Traffic Act 2002, only the penalty points relating to the offence with the largest number of points are imposed on the licence of the driver
 - penalty points on foreign driving licences have only been recorded since December 2011- the database indicates that 12% of those who paid fixed charge penalty fines with associated penalty points were holders of foreign driver licences.
- 7.70** The examination team traced all paid penalty point offences detected in 2011 and 2012 to an extract of data from the NVDF. This exercise found that, in general, penalty points resulting from road traffic offences were appropriately imposed on the licences of drivers paying the charge, but there were some exceptions. 2,850 notice offences were not present on the NVDF file. In an examination of a sample of such cases, it was found that all the cases had been forwarded from the FCPS to the NVDF. The reasons they were not recorded on the NVDF included
- 53% had been deleted from the NVDF after the expiration of an automatic penalty point licence disqualification (automatic disqualification occurs when a total of 12 points are accumulated)
 - 36% had been deleted from the NVDF by Road Safety Authority staff on direction from An Garda Síochána, principally due to speed limit or location errors on the notice
 - 11% were rejected by the NVDF and returned to An Garda Síochána as the driver name and licence number on the Garda file did not match details held on the NVDF. Rejected records may be included in a subsequent file if An Garda Síochána can resolve the conflicting details.

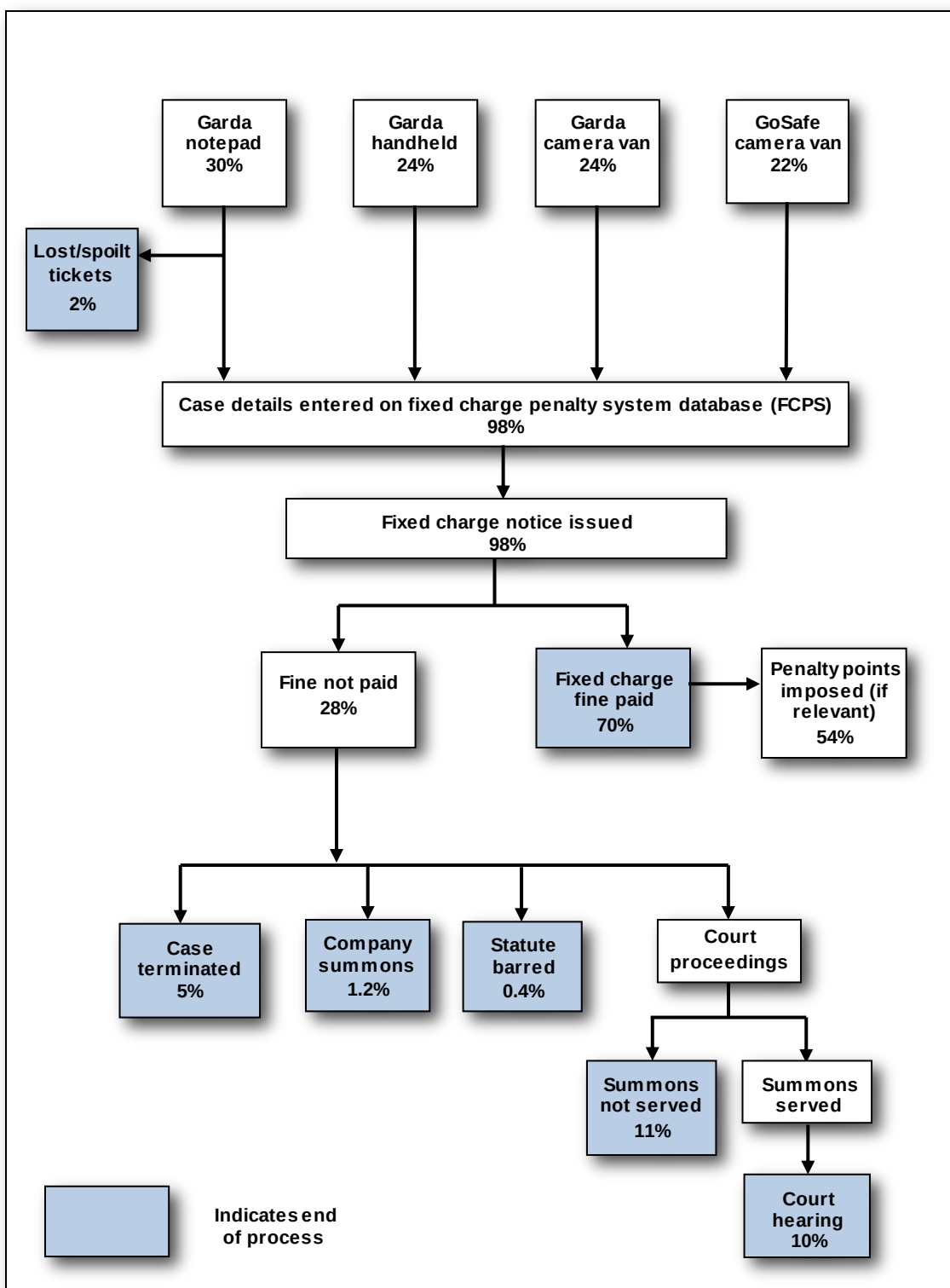
Conclusions and Recommendations

- 7.71** One of the key objectives of the fixed charge notice system is to contribute to safer driving and reduced road accident casualties. The number of fatalities on Irish roads has declined rapidly from a peak in 2005. A similar level of decline has occurred in other jurisdictions. For example, Ireland and the UK both achieved a 51% fall in road fatality rates per capita during the period 2002 to 2010 (the latest period for which international comparisons are available). However, it is not clear to what extent this is attributable to the operation of the fixed charge notice system. Other factors that contribute to the level of fatalities include vehicle design changes, better roads, trends in travel patterns, and road safety promotion.

Overview of Fixed Charge Notice Case Outcomes

- 7.72** Figure 7.11 summarises the results of the data analysis carried out for this examination. This is expressed in terms of the proportion of cases detected in the commission of road traffic offences, and where a decision is made to initiate a fixed charge notice.
- 7.73** The available evidence indicates that the majority of drivers — two out of every three — detected in the commission of road traffic offences paid their fines within the specified time period. Where relevant, penalty points were added to their licence record. In a further 10% of cases, where the fine is not paid, the recipients of fixed charge notices have their cases determined in court.
- 7.74** However, because of significant weaknesses in aspects of the operation of the fixed charge notice system, a substantial proportion of offenders — up to one in five — are able to avoid penalties, and do not end up in court. These operational weaknesses need to be addressed urgently by An Garda Síochána to underpin the effectiveness of the system and to ensure fairness and continued public confidence in, and acceptance of, the fixed charge notice system.
- 7.75** The Commissioner has stated that a new policy in relation to cancellation of fixed charge notices was issued to the entire Garda organisation on 30 August 2013. An Garda Síochána is also in the process of revision of all policies and procedures associated with the general management of the FCPS, through the revised FCPS user manual.
- 7.76** The Commissioner has stated that while the FCPS was designed to capture the life cycle of a road traffic offence incurring a fixed charge notice, payment is outside the remit of An Garda Síochána. Two of every three offenders detected for commission of road traffic offences pay their fine. The reason a proportion of the remainder are not paid involve a variety of factors e.g. vehicles registered to companies, difference in owner details on the NVDF, difficulty locating offenders for service of summonses, technological difficulties such as illegible number plates, exempt vehicles, technological mismatch on specified vehicles, notices undelivered/incorrectly delivered by An Post, etc. These factors will be brought to the attention of the relevant process owners internally and externally by the Garda National Traffic Bureau to effect improvements.

Figure 7.11 Overview of the Fixed Charge Notice System



Control of Fixed Charge Notepad Forms

- 7.77** The design of the control system for fixed charge notice form notepads would allow for effective control of the forms, but this is not being achieved in a significant proportion of cases, because of the high level of unaccounted for forms. Not being required to account for every form creates scope for cancellation of fixed charge notices by Garda members subsequent to initiation of a case, outside of the formal notice cancellation procedure, and without appropriate controls.

Recommendation 7.1: An Garda Síochána should immediately commence monitoring of missing sequence notepad forms and follow up regularly with the relevant Garda members any forms that are unaccounted for. Reasons for any spoilage should be recorded. Any decision by a member of An Garda Síochána not to proceed with a case that has been initiated should be documented, recording the reason and the authorisation for the cancellation. Such cases should be subject to review on a sample basis, including examination of forms retained at local level, and the notebook records of the Garda members with charge of the spoiled forms.

Commissioner's Response: Agreed. This recommendation will be actioned by An Garda Síochána.

Service of Summons

- 7.78** One in nine detected fixed charge notice offences was unpaid but did not result in a court hearing because the summons was not served by An Garda Síochána. The primary risk is that certain offenders may have identified ways of avoiding summons service, and consequently may believe that they can re-offend without consequences. There may also be Garda districts where service of summonses does not receive the required priority due to resource constraints, low prioritisation or for other reasons.

Recommendation 7.2: Better integration between Garda and Courts Service case tracking systems is required to ensure that An Garda Síochána can effectively monitor the outcomes of cases referred for prosecution. This would allow management to analyse the patterns of (non) service of summonses and to identify appropriate responses e.g. targeting of repeat offenders for service of summonses, and to follow up with districts where high rates of non-service of summonses occurs.

Commissioner's Response: Agreed. This matter will be raised at the appropriate level between An Garda Síochána and the Courts Service in the context of the Criminal Justice Integration Project. A proposed new functionality will assist Garda management thereafter to identify districts where high rates of non-service of summonses occurs.

Termination of Fixed Charge Notice Cases

- 7.79** An Garda Síochána have adopted a clearly stated policy in relation to the termination of fixed charge notice cases. This is set out in the force's manual for the system. The policy requires termination in certain cases where statutory exemptions are provided for, subject to specified conditions being satisfied. It also specifies a number of exceptional situations where the relevant District Officer may use his/her discretion and terminate a case, if the relevant facts are established.

7.80 The operation of the FCPS does not accord with the termination policy as articulated in the manual in some key respects. In particular

- Senior officers with the facility to terminate cases on the system are not restricted to doing so only for cases within their line of management (district or unit).
- The system provides for cases to be terminated on additional 'discretionary' grounds, over and above the exceptional circumstances specified in the policy statement.

7.81 There is evidence that the policy on termination of cases is not being applied consistently. In the sample cases reviewed for this examination, a significant proportion of cases appear to have been terminated in circumstances that do not satisfy the stated policy. The rates of termination in many districts are too high to be considered reflective of 'exceptional circumstances'. Absent and inadequate records, and the recorded facts of many cases, give rise to concerns that many cases have been terminated without due cause. Furthermore, there are grounds for concern that certain 'outside district' cases were terminated without appropriate authority.

Recommendation 7.3: The policy for termination of fixed charge notice cases should be reviewed by An Garda Síochána, and amended if required, or restated if not. Controls should be implemented in the FCPS to reflect the authorisation limits specified in the termination policy.

Commissioner's Response: Agreed. This issue has already been identified and actioned by An Garda Síochána as a result of internal review reports on the operation of the FCPS. Guidance to members issued on 30 August 2013 deals with this matter.

7.82 Apart from the files examined in the Fixed Charges Processing Office, the standard of documentation kept in relation to the sample termination cases examined was inadequate, and is contrary to the instructions set out in the system manual.

Recommendation 7.4: An Garda Síochána should institute a system of independent sample-based reviews of termination cases to confirm that decisions in termination cases are adequately supported by documentary evidence of relevant facts and a clear record of the reason why a request for termination was acceded to.

Commissioner's Response: Agreed. A new procedure provides for examinations/audits of the FCPS by the Garda Professional Standards Unit, Garda Internal Audit Section and Assistant Commissioner Traffic.

Recommendation 7.5: The authority on the FCPS to terminate cases should be restricted only to senior personnel in the Fixed Charge Processing Office, and those overseeing the Juvenile Diversion Programme. District officers should have authority to recommend termination in cases that comply with the termination policy, including in exceptional circumstances, subject to the required documentary evidence being supplied to the Fixed Charge Processing Office in support of the recommendation.

Commissioner's Response: Agreed. The authority on the FCPS to terminate cases will be restricted only to senior personnel in the Fixed Charge Processing Office, and those overseeing the Juvenile Diversion Programme. District officers will have authority to recommend termination in cases that comply with the termination policy, including in exceptional cases, subject to the required documentary evidence being supplied to Thurles in support of the recommendation.

A hard copy of all relevant documentation will be retained at the district office for auditing purposes including the termination request. A certified fixed charge notice cancellation form will be signed and dated by the district officer.

Penalty point and multiple termination issues

- 7.83** During the review it was noted that the application of penalty points could not be completed in all cases. In particular,
- In over 300 cases penalty points should have been recorded on the licence of the driver but this could not be undertaken due to the name and licence number on the Garda file not matching details on the NVDF
 - A significant number of the 3,000 notices which became statute barred was due to the late entry of data onto the system due to delays by Gardaí in submitting offences recorded on notepads and handheld devices.
- 7.84** The review also noted around 600 vehicles that had multiple termination of notices in the period. Some of these related to companies and a particular problem in identifying the driver.

Recommendation 7.6: An Garda Síochána and the Department of Transport, Tourism and Sport management should review on a regular basis the level of driver licence mismatches between the Garda file and the NVDF and multiple termination cases to determine whether any individual or system responses should be undertaken. Garda management should also review offences becoming statute barred to determine the responses to be taken.

Commissioner's Response: Agreed. An issue has been identified in relation to complications associated with company registration legislation. In the context of this recommendation, An Garda Síochána will engage with the Department of Transport, Tourism and Sport to examine the issue of driver mismatches.

Department of Transport, Tourism and Sport Accounting Officer's

Response: The Department will, in consultation with An Garda Síochána, who are responsible for the fixed charge notice system, examine the arrangements between the Garda file and the NVDF and multiple offence terminations to identify any deficiencies, and if there are appropriate individual or system responses which can be implemented. There is already a forum of NVDF stakeholders involving An Garda Síochána, the Courts Service and others which considers matters relating to the use and application of NVDF data and we propose to raise these within that group.

The Department regards the NVDF as the central 'record of fact' since it is the basis for issuance of the driving licence itself. An Garda Síochána are provided with a copy of the NVDF driver extract on a weekly basis to facilitate validation of Irish driver number and licence holder details at the time of payment of the fines associated with the fixed charge notices. Consequently, if this verification process is properly applied, there should not be any miss-matches arising from the file submitted to the Department for penalty points processing.

As regards offences committed by the drivers of company cars, the registered owners of such vehicles commit an offence under section 103 (11) of the Road Traffic Act 2002 if they fail to provide the details of who was driving the vehicle at the time of the alleged offence to An Garda Síochána. The provisions of section 103 of the Road Traffic Act 1961 are scheduled to be replaced by new provisions, as set out in Part 3 (sections 34 to 49) of the Road Traffic Act 2010. Section 45 of that Act further enhances the existing provisions contained in section 19 of the 2004 Act in terms of pursuing offences committed by the drivers of company vehicles.

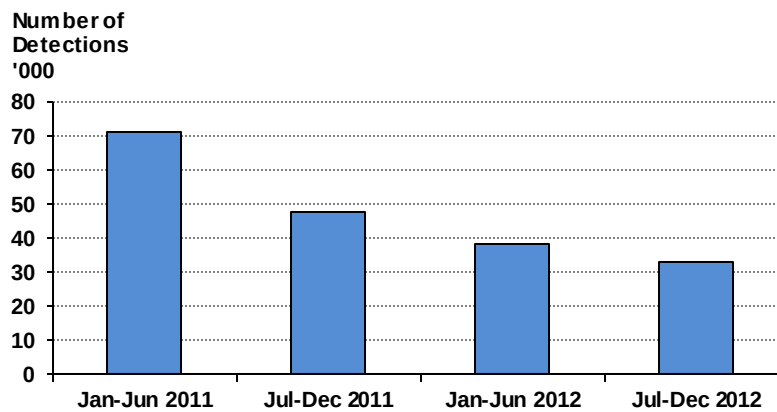
Systems were put in place in June 2006 whereby all company names submitted with change of vehicle ownership notices (including through the online service) are verified against the descriptions in the Companies Registration Office database. This contributes to accurate and consistent legal entity descriptions on the NVDF.

8 Management of Outsourced Safety Cameras

- 8.1 In July 2005, following consideration of a study by consultants and the report of an expert working group, the Government approved a tender process for the outsourcing by An Garda Síochána for a network of speed detecting cameras.
- 8.2 Among the estimates contained in the reports were that
- the system would cost in the region of €4.4 million per annum for approximately 3,000 hours of safety camera detection a month
 - annual revenue from speeding fines would be between €40 million and €70 million a year when the system was fully operational
 - revenue would fall in subsequent years as compliance with speed limits increased, but would remain in excess of the cost of operating the system.
- 8.3 A public procurement process was conducted in 2007 by An Garda Síochána for the provision of a service for speed surveying and monitoring of vehicles. Responses to the tender request suggested that the likely cost of the contract would be significantly greater than had been previously projected. Estimates of annual revenue were revised downwards to around €27 million. The advice to Government in June 2009 noted the difficulties in accurately estimating this figure but the indications were that the revenue would exceed costs. A formal proposal to proceed with the project was approved by the Government in June 2009.
- 8.4 A contract was agreed with the successful tenderer, the GoSafe Consortium, to provide outsourced safety cameras for a period of five years. GoSafe commenced operations in November 2010.

Number of Fixed Charge Notices Issued

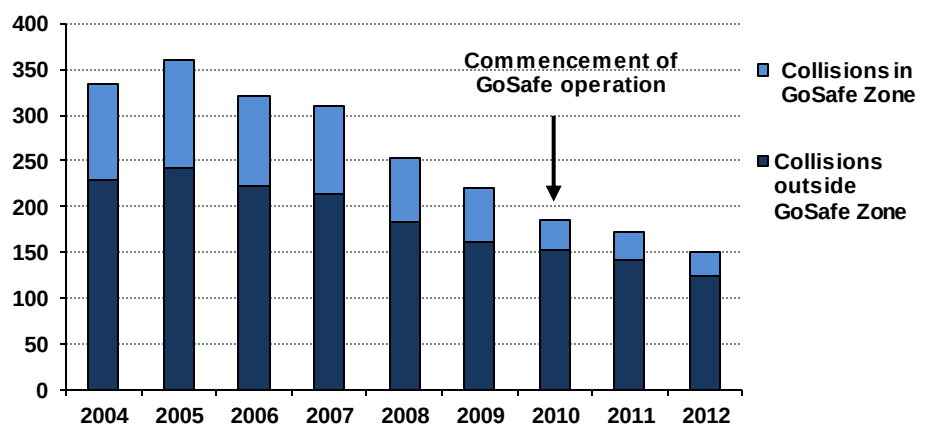
- 8.5 The level of revenue arising from fixed charge notices issued is influenced by the number of detections of speeding offences by the GoSafe system.
- 8.6 The terms of the contract require the GoSafe Consortium to provide 7,475 hours of speed enforcement or speed surveying each month, with a minimum of 6,000 of these hours being for speed enforcement. An Garda Síochána requested 6,000 hours of speed enforcement each month until early 2013, when it increased speed enforcement to 6,725 hours.
- 8.7 Figure 8.1 shows the number of fixed charge notices issued as a result of speeding offences detected by the GoSafe cameras for 2011 and 2012.

Figure 8.1 Fixed charge notices from GoSafe camera detections, 2011 and 2012

Source: Analysis by Office of the Comptroller and Auditor General of fixed charge notices data

Effect of Cameras

- 8.8** In November 2010, GoSafe commenced operating in 518 zones, selected based on road collision data in the period 2004 to 2008. In March 2013, a further 243 zones were added and 34 zones removed following analysis of collision data in the period 2006 to 2012.
- 8.9** The number of fatal collisions in GoSafe zones and other zones is shown in Figure 8.2. In practice, the level of fatalities in the targeted GoSafe zones had reduced very considerably before the outsourced cameras were deployed.

Figure 8.2 Fatal collisions in Ireland, 2004 to 2012

Source: An Garda Síochána

- 8.10** Compliance with speed limits in zones monitored by GoSafe has increased, according to the results of speed surveying by GoSafe. The level of compliance in zones monitored by GoSafe is shown in Figure 8.3.

Figure 8.3 Compliance with speed limits in zones monitored by GoSafe

Speed limit in zone	January 2011	January 2013
50 km/hr	62%	93%
60 km/hr	78%	91%
80 km/hr	89%	97%
100 km/hr	96%	99%

Source: An Garda Síochána

Payments and Receipts

- 8.11** The cost of the operation of the GoSafe system inclusive of VAT was €0.2 million in 2010, €15.8 million in 2011 and €15.6 million in 2012. The estimated cost for 2013 is €16.6 million.
- 8.12** The Department of Public Expenditure and Reform sanction for the GoSafe service provided for an annual expenditure of €13.5 million, excluding VAT. It also stated that the operational cost of the system was to be met from "speeding fines issued as a result of the system" and that the Justice Vote Group would have to carry any shortfall in revenue over the costs of operation from within the provision allocated to the Group.¹
- 8.13** Receipts collected in 2012 from fixed charge notices issued on foot of detections by the GoSafe safety cameras amounted to €4.6 million. As a result, there was a shortfall of €11 million relative to the cost of the service. An Garda Síochána financed the shortfall through the retention of receipts from fixed charge notices issued on foot of other enforcement activities such as intercepts and Garda camera vans.
- 8.14** Total receipts from fixed charge notices in 2012 were €21.5 million. Of this, €15.8 million was retained as appropriations in aid of the Vote. The remaining receipts (€5.7 million) were paid over to the Exchequer. Up to the introduction of GoSafe cameras in November 2010, all receipts from fixed charge notices were paid over to the Exchequer.²
- 8.15** In the Vote Estimate for An Garda Síochána, only a nominal amount (€100,000) is initially allocated as appropriations in aid for receipts from fixed charge notices. However, this is subsequently revised as part of the supplementary estimate process, to reflect the likely receipts.³

¹ This excluded the first twelve months of full nationwide deployment, during which time the Department of Public Expenditure and Reform would fund any shortfall.

² Exchequer extra receipts are sums collected by departments and offices which are directed by the Department of Public Expenditure and Reform to be paid to the Exchequer.

³ A supplementary estimate is required to secure Dáil approval for the provision of additional money to that provided in the estimate for an existing service or to cover any shortfall in appropriations in aid.

Views of the Commissioner

- 8.16** In relation to the allocation of receipts from fixed charge notices to fund the cost of operating the system, the Accounting Officer stated that no funding provision for the cost of the GoSafe contract is made in the annual Garda estimate. As the introduction of speed cameras came at the time of the fiscal crisis, there was no increase in the gross current expenditure ceiling of the Garda Vote. It was decided as part of the estimates process to ring fence revenues by treating them as appropriations in aid in order to fund the operation of the system. This was done by way of a supplementary estimate.
- 8.17** He also stated that a key element of the GoSafe contract is the surveying of speed limit compliance across the country which informs Garda speed enforcement activities. In these circumstances, he considers it appropriate to allocate speed related fixed charge notices generated as a consequential benefit of the operation of the contract to offset the cost of GoSafe.
- 8.18** In relation to the deployment of cameras, the Accounting Officer stated that An Garda Síochána are constantly reviewing both the location and effectiveness of GoSafe zones, as well as the enforcement areas for other detection technologies. He said that several sites could be located within each enforcement zone. He also stated that 310 new sites had been identified and are at the approval stage. It is proposed that these will be in place by the end of the year.
- 8.19** He also stated that a weighting system had been in operation since September 2013 whereby top weighting was given to sites where compliance is lowest and a fatality had occurred in recent years. The weightings will be reviewed every quarter to ensure that any changes in compliance are addressed. In addition, initiatives are underway with local authority engineers to provide facilities to enable GoSafe and other enforcement technologies to be utilised at locations which heretofore were considered inaccessible for operational reasons.

Conclusion and Recommendation

- 8.20** The amount allocated to appropriations in aid from receipts from fixed charge notices is not consistent with the letter of sanction issued by the Department of Public Expenditure and Reform. Receipts from fixed charge notices arising from offences detected other than from the GoSafe system are retained by the Vote.

Recommendation 8.1: An Garda Síochána should seek a revised sanction from the Department of Public Expenditure and Reform for the retention of receipts from fixed charge notices to fund the operation of the GoSafe system.

Commissioner's Response: Agreed. An Garda Síochána will seek a revised sanction from the Department of Public Expenditure and Reform in line with this recommendation.

9 State Pathology Building Project

- 9.1** The State Pathology Service provides independent expert advice on matters relating to forensic pathology and performs post-mortem examinations in those cases where there is a Garda investigation into a suspicious death. The Service operates as a stand-alone unit within the Department of Justice and Equality. Its expenditure is accounted for in the Department's annual appropriation account.
- 9.2** Since the 1990s, the State Pathology Service has operated from prefabricated accommodation in Marino Dublin on a site owned by Dublin City Council (the Council). The Dublin Coroner's Office — which operates with the support of the Council — has operated from similar facilities adjacent to the State Pathology Service. The Coroner's facilities include a mortuary and a morgue, also located in a prefabricated building.
- 9.3** The Department acknowledged that the State Pathology Service's accommodation lacked the facilities required for a modern pathology service. There were also concerns about security given the sensitivity of the work undertaken by the Service, and the dependence of certain prosecutions on the results of the Service's work. The location and physical condition of the Coroner's mortuary and morgue were also considered unsuitable and the mortuary had been the source of complaints from members of the public.
- 9.4** The Department and the Council decided in 2006 that the two services could be accommodated in one new building on the site in Marino and developed plans for a new 'medico-legal centre' project which included the construction of a new autopsy facility, body storage facility, a mortuary and other accommodation.
- 9.5** This report examines the expenditure charged to Vote 24 Justice and Equality related to the development of a new building, and the factors that gave rise to the situation where, despite a significant financial outlay, no new premises is available for the State Pathology Service and the Dublin Coroner's Office.

Administration and Management of the Project

- 9.6** The Department and the Council agreed that the Department would fund two thirds of the cost of the new centre, with the Council providing the site at its facility in Marino and funding the balance of one third of the construction costs. The Council took the lead role in project management, including procurement of the necessary professional services, contractor, etc.
- 9.7** The respective roles were agreed over a period, either through correspondence or meetings. However, there is no single document which sets out the respective roles. A Project Board was established and all decisions were taken by the Project Board. The Project Board consisted of members from the Department, the Council and the stakeholders.
- 9.8** A planning objection was raised by the Department of the Environment, Community and Local Government in March 2007 relating to the location of the project site adjacent to a national monument - the 18th century Casino. It took approximately a year to resolve this planning issue. Ministerial consent for the project to proceed was granted subject to detailed archaeological test excavation.

- 9.9** A tender competition was launched in August 2008. The tender invitation was based on the government departments and local authorities (GDLA) form of contract. Before the contract was awarded, objection was raised by the Department of Finance in October 2008 to the form of contract used. The Department of Finance had issued new forms of construction contracts in February 2007 under Circular 33/06 which were required to be used by all government departments and agencies, including local authorities. The new contract was designed to achieve better value for money on public works contracts. This necessitated revision of the original tender documentation to comply with the new form of contract and the re-tendering of the project.
- 9.10** Following the second public procurement competition, a contract between the Council and a builder was signed in June 2010. Work started on the site in July 2010 on what was expected to be a 13 month build. However, the building contractor went into receivership in November 2010, leaving a partially completed structure.
- 9.11** The receivership gave rise to a number of difficulties which necessitated detailed discussions by the Department and Council with the receiver, the Attorney General's Office, the bondsman and other professionals such as architects and engineers involved in the construction.
- 9.12** Following legal advice, a decision was taken to re-tender the contract to ensure completion of the project and to conform with public procurement rules. However, the Department informed the Council in 2012 that, due to insufficient funds being available and the expectation that funding would not become available in the foreseeable future, a new tendering competition should not go ahead. As a result, the project was indefinitely deferred.
- 9.13** According to the Department, other options to recommence the project were examined. The options included the completion of the build under a public private partnership (PPP) arrangement. However, after consultation with the National Development Finance Agency and the Council, the Department decided that this was not a viable option as it would be difficult to attract interest from the PPP market given the specialised and complex nature of the building and the need to include this project in a bundle with other less complex projects, so as to create a PPP of a marketable size.
- 9.14** The Department has stated that significant legal and procurement challenges were encountered during the project and it was advised that the option in the contract to allow the bondsman to appoint another contractor was not permissible under EU procurement law.
- 9.15** The Department, in conjunction with the Council, is now examining the feasibility of pursuing a significantly scaled down project using the former Whitehall Garda Station which is owned by OPW. (That site was in use as a Garda station at the time the original decision was taken to use the site in Marino). A decision on this project is to be taken when a detailed professional assessment and further costings are available.
- 9.16** A Project Team has been established with members from the Department, the Council and OPW to oversee the new project and to draft a revised business plan.

Costs Incurred

- 9.17** Up to the date that building work ceased in 2010, €3.61 million had been spent on the project.
- 9.18** Between November 2010 and early 2012, the stability of the partially-completed structure deteriorated which resulted in it becoming a risk to health and safety. Advice was received from a structural engineer that the structure should be demolished and this was arranged by the Council in 2013.
- 9.19** The expenditure incurred since 2010 was €550,000 which includes professional fees for the retendering exercise, ongoing security costs and demolition costs. The breakdown of the project costs up to July 2013 is given in Figure 9.1.

Figure 9.1 Project costs, 2006 to 2010

Expenditure category	€
Construction	1,061,878
Consultancy	1,887,131
Professional services	425,413
Council's professional staff costs	120,865
Site investigation	36,682
Miscellaneous costs	81,062
Total 2006 to 2010	3,613,031
Consultancy	123,364
Security	303,779
Demolition	52,062
Professional services	41,380
Plant hire	13,290
Miscellaneous costs	15,795
Total 2011 to date	549,670
Total cost of project	4,162,701

Source: Department of Justice and Equality

- 9.20** An amount of €862,500 was received from the bondsman in 2011 arising from the construction company's failure to complete the construction. This was used to fund costs arising since building work ceased. Therefore, the net cost of the project is €3.3 million.
- 9.21** The Department has paid a total of €2.78 million to the Council over the course of the project. In light of the demolition of the part-constructed building, the asset under development of €2.78 million was written off in the 2012 appropriation account for Vote 24 Justice and Equality. On the basis of the rate of apportionment agreed with the council, advance funding of around €578,000 is held on behalf of the Department to fund the new project.

- 9.22** Figure 9.2 indicates the sums provided in the Estimates for the Office of the Minister for Justice and Equality for the State Pathology building project each year from 2007 to 2013. Substantial provision was made each year. This level of funding would have allowed the Department to pay its share of the cost, had the project progressed in a more timely manner.

Figure 9.2 Capital funding provision and expenditure on the State Pathology building project, 2007 to 2013

	Capital estimate	Outturn
	€000	€000
2007	3,000	—
2008	8,000	1,272
2009	6,500	—
2010	4,500	1,507
2011	3,500	—
2012	2,450	—
2013	2,450	N/A

Source: Estimates for Public Service and the Appropriation Accounts

Conclusions and Recommendation

- 9.23** The project for the building of a new State Pathology Office and Dublin Coroner's facilities commenced in 2007. Because of delays relating to planning, procurement and the building contractor going into receivership, the project was ultimately abandoned. A suitable site is being considered for a scaled down 'medico-legal centre'.
- 9.24** The net project cost incurred after taking account of the bond payment was €3.3 million. The partially completed structure was demolished. The current State Pathology Office and Dublin Coroner's facilities remain in their existing accommodation.

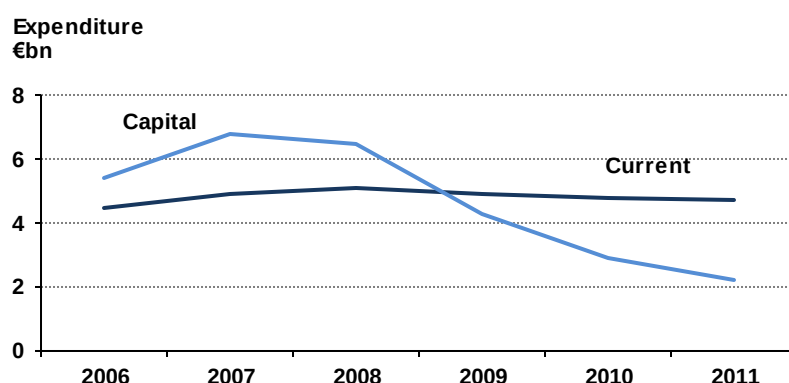
Recommendation 9.1: The Department should review its project risk assessment procedures to ensure that adequate provision is made in project planning to secure planning permissions, and that the prevailing procurement and contracting rules are complied with.

Accounting Officer's Response: The Department agree that the recommendation represents best practice in relation to project management. In relation to planning permission, the only planning issue related to an objection raised by the Department of the Environment, Community and Local Government in accordance with its statutory remit in relation to national monuments. It is difficult, if not impossible, to predict what objections might arise in certain planning matters. Any procurement or contractual issues which came to light during this project were addressed in a timely and comprehensive manner by the Project Team.

10 Central Government Funding of Local Authorities

- 10.1** Aggregate expenditure by local authorities in 2011 (the last year for which information is available) is estimated at €6.9 billion.¹ This comprised around €2.2 billion in capital expenditure, and around €4.7 billion in current expenditure (see Figure 10.1).²

Figure 10.1 Local authority expenditure by type, 2006 to 2011



Source: Department of the Environment, Community and Local Government

- 10.2** Local authority capital spending results in the creation or acquisition of assets that have a use beyond the year in which they are provided e.g. road construction, building or purchase of houses, local amenities, etc. Local authority capital programmes are financed largely by State grants from a variety of sources, with some funding from borrowings, development levies, own internal resources and property sales.
- 10.3** Current expenditure (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 38% of the total in 2011), local authority rates (about 29%) and charges for goods and services such as commercial water charges, housing rents, parking charges, etc. (about 25%).³ The contribution to current expenditure from the different income sources varies between authorities.
- 10.4** As shown in Figure 10.1, annual capital expenditure by local authorities has declined by 68% since peaking at €6.8 billion in 2007. Local authority current expenditure has reduced by 8% from the peak figure of €5.1 billion in 2008.
- 10.5** The objective of this report is to provide an overview of the funds flowing from and through central government sources to local authorities, and of the purposes for which funds have been provided.

¹ Includes expenditure by the 29 county councils, 5 city councils, 5 borough councils and 75 town councils.

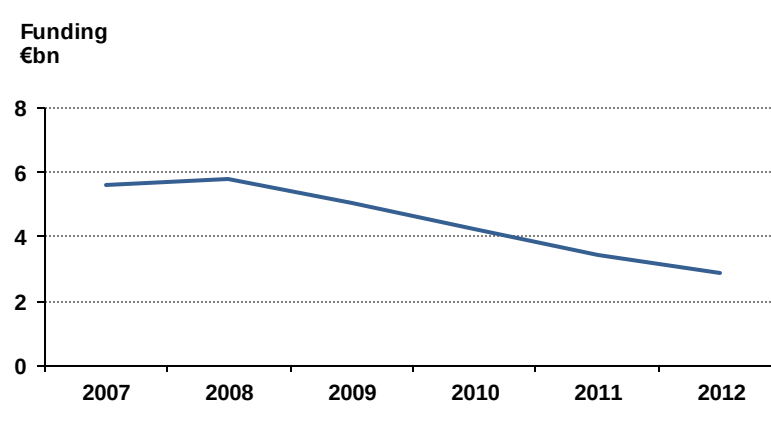
² Collation of local authority expenditure outturns for 2012 had not been finalised by the Department of the Environment, Community and Local Government at the time of this report.

³ The remaining funding sources are contributions from other local authorities (4%), the county charge (2%) and the pension related deduction (2%).

Central Government Transfers

- 10.6** Transfers of funding from central government sources to local authorities in 2012 totalled around €2.9 billion. This is just under half the equivalent figure for 2008.¹ Figure 10.2 shows the trend over the period 2007 to 2012.

Figure 10.2 Central government financing for local authorities, 2007 to 2012



Source: Annex A

- 10.7** Around 62% of central government funding to local authorities in 2012 originated as Exchequer funding (see Figure 10.3). Some of the Exchequer funding was paid directly to local authorities from Voted funds, with the remainder being routed through departmental agencies. The non-Exchequer sourced funding (38% of the total) was provided via the Local Government Fund and the Environment Fund.

- 10.8** 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 regional and local roads.² The Fund is financed mainly by the proceeds of motor tax. Prior to 2012, an annual Exchequer contribution was paid into the Fund from the Vote for the Office of the Minister for the Environment, Community and Local Government (Vote 25). The level of Exchequer contribution averaged around €500 million annually between 2007 and 2009, before falling back to €241 million in 2010 and €175 million in 2011.

- 10.9** The Exchequer contribution to the Local Government Fund ceased in 2012 and was replaced by the proceeds of the household charge which became payable by owners of residential property from January 2012.³ In 2012, almost €114 million collected in respect of the household charge was paid into the Fund. By the end of June 2013, just over €137 million had been collected in respect of the household charge. The household charge was established as an interim measure pending the introduction of a property tax. The new property tax became payable from July 2013 and is administered by the Revenue Commissioners.⁴ Receipts from the property tax collected in 2013 are paid directly to the Exchequer. From 2014, the Minister for Finance will pay into the Local Government Fund an amount equivalent to the property tax paid into the Central Fund during the year.

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

² A small amount of the fund is used to support certain other local government-related initiatives.

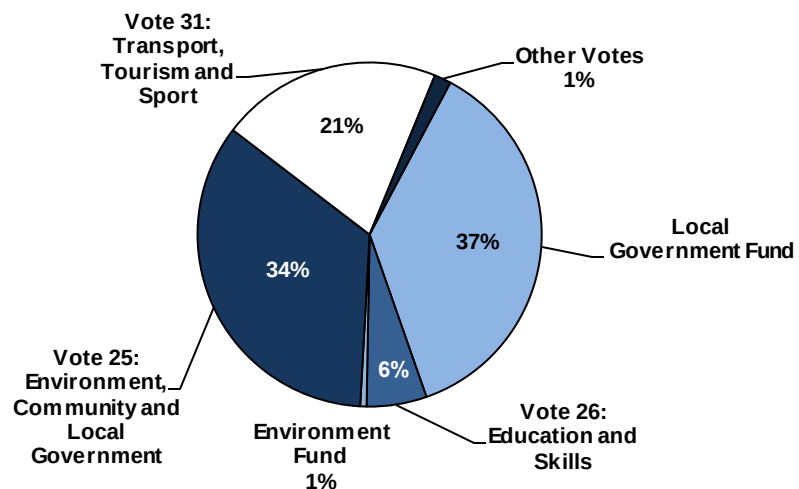
³ The Local Government (Household Charge) Act 2011. The Local Government Management Agency is responsible for collecting the charge on behalf of the sector.

⁴ The Finance (Local Property Tax) Act 2012. The property tax is an annual self-assessed tax which is charged on the market value of all residential properties in the State. A half-year charge applies in 2013, with the tax coming into full effect in 2014.

10.10 The Environment Fund is used primarily to support environmental initiatives, campaigns and programmes, many of which are organised at local or regional level under the auspices of local authorities. The 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.

10.11 Figure 10.3 sets out the principal sources of funding from central government to local authorities in 2012.

Figure 10.3 Sources of central government financing for local authorities, 2012



Source: See Annex A

Application of Funding

10.12 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.

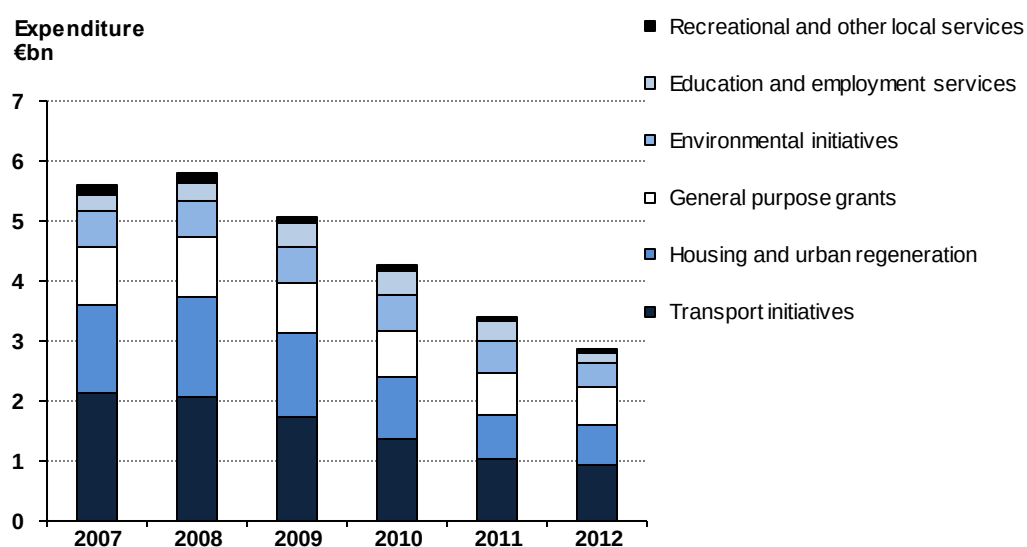
- **Transport Initiatives** – Improvement and maintenance of national roads is the responsibility of the National Roads Authority, operating under the aegis of the Department of Transport, Tourism and Sport. For these projects, the Authority normally uses local authorities as its agents and channels expenditure through them. The Department receives an allocation for the upkeep of regional and local roads from the Local Government Fund. It then channels payments through the National Roads Authority to the local authorities. The National Transport Authority, also operating under the aegis of the Department, funds various local authorities for improvements in the public transport system. Funding objectives include increased accessibility for older people, improved traffic flows, more routes for cyclists and pedestrians and better access for buses and taxis.
- **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 housing, regeneration and remedial work, traveller accommodation, voluntary and cooperative housing, the Rental Accommodation Scheme, housing adaptation grants, and accommodation for homeless people.

- **Environmental Initiatives** – Almost all (89% in 2012) 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 initiatives comes from the Office of Public Works (flood relief works), the Local Government Fund and the Environment Fund.
- **Education and Employment Services** – Prior to 2012, higher education grants were awarded by either the relevant vocational education committee (VEC) or local authority. The Department of Education and Skills reimbursed the cost of grants awarded by local authorities. With effect from the academic year 2012/2013, all new students must submit applications for support under the student grants scheme to a newly established national grant awarding authority – Student Universal Support Ireland. The Department also reimburses local authorities in respect of superannuation benefits and gratuity costs for retired teaching and non-teaching staff of VECs and institutes of technology, who are members of the Vocational Teachers' Superannuation Scheme or the Education Sector Superannuation Scheme respectively. From the end of 2012, responsibility for these superannuation and gratuity payments has transferred from local authorities to the PMG Pensions Section in the Department of Finance.¹ The figures presented for employment services relate to the reimbursement of incurred expenditure paid by the Department of Social Protection to local authorities who act as sponsors in the running of the community employment and jobs initiative schemes.
- **Recreation and Other Local Services** – This comprises central government funding for local authority services such as swimming pool construction and maintenance, library and archive services, 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.

10.13 Figure 10.4 presents a breakdown of the transfers to local authorities for 2007 to 2012 showing the programmes being supported (a detailed breakdown is at Annex A). In 2012, one third of the total provision was in respect of transport initiatives, while housing and urban regeneration programmes and funding for general purposes accounted for just under one quarter each.

¹ The process of transferring responsibility for payments in respect of the cost of pensions and retirement gratuities commenced in November 2010 and was completed in the third quarter of 2012.

Figure 10.4 Central government transfers to local authorities, by expenditure programme, 2007 to 2012



Source: See Annex A

Conclusions

Central Government Transfers

- 10.14** Central government funding to local authorities presents a complicated picture, with transfers coming from a wide range of departments and offices for a variety of purposes. Some streams of funding are delivered directly to local authorities, while others are routed through departmental agencies.
- 10.15** Transfers of funding from central government sources to local authorities in 2012 totalled around €2.9 billion. About 62% of the funding came from Exchequer sources, with the remainder coming from the Local Government Fund and the Environment Fund.

Annex A Central government transfers to local authorities, by expenditure programme, 2007 to 2012

Expenditure Category	2007 €m	2008 €m	2009 €m	2010 €m	2011 €m	2012 €m
Transport initiatives						
National roads improvement	1,476	1,374	1,218	893	516	503
Regional and local roads improvement	622	616	455	412	451	376
Public transport (capital payments)	48	70	63	56	83	62
	2,146	2,060	1,736	1,361	1,050	941
Housing and urban regeneration						
Social housing provision	1,382	1,571	1,297	961	655	598
Affordable housing, etc.	64	89	94	84	68	58
Other housing supports	6	7	4	6	4	3
Urban regeneration	20	5	1	—	—	—
	1,472	1,672	1,396	1,051	727	659
Environmental initiatives						
Water and sanitary services	529	544	558	535	462	343
Flood relief works	14	3	5	17	8	22
Waste management	28	27	8	11	11	5
Recycling	12	22	14	14	12	4
Other environmental measures	11	15	29	16	18	11
	594	611	614	593	511	385
Education and employment services						
Higher education grants	126	137	160	172	184	146
Superannuation and gratuity costs	146	164	219	217	171	15
Employment schemes	12	11	10	9	9	8
	284	312	389	398	364	169
Recreation and other local services						
Swimming pools	28	20	11	3	10	8
Library service	17	15	9	6	7	6
Sports grants, playgrounds and cultural projects	8	5	11	21	9	6
Fire and emergency services	24	24	20	19	12	6
Heritage services (architectural heritage)	7	8	6	5	1	1
Disability services	15	15	12	7	—	—
Miscellaneous capital services	24	40	14	18	11	16
Miscellaneous services	24	32	15	15	16	19
	147	159	98	94	66	62
General purpose grants	948	999	833	763	700	638
Total funding provided to local authorities	5,591	5,813	5,066	4,260	3,418	2,854

Source: The Office of Public Works; Department of the Environment, Community and Local Government; Department of Education and Skills; Department of Transport, Tourism and Sport; Department of Arts, Heritage and the Gaeltacht; Department of Health; Department of Children and Youth Affairs; Department of Justice and Equality; Department of Agriculture, Food and the Marine; Department of Social Protection; Health Service Executive; Civil Defence Board (2012 unaudited); Local Government Fund (2012 unaudited); Environment Fund (2012 unaudited).

Note: Adjustments have been made to some previously reported pre-2012 amounts to reflect all identified transfers of greater than €1 million.

11 Costs of Land Remediation

- 11.1** Land remediation is the removal or nullification of contaminants from soil or groundwater. This contamination may be due to illegal dumping, inadequate management of licensed dumping facilities, pollution effects from current economic activity or residual impacts of previous economic activity.
- 11.2** In 2001, the EU Commission notified Ireland that while regulations introduced by Ireland following previous EU proceedings had considerably improved the legal framework for the management of waste, there were systemic deficient administrative practices in their application. The Commission cited examples of unauthorised waste storage, the unauthorised tipping of waste and the unauthorised operation of landfill sites such as those at Tramore and Kilbarry.
- 11.3** A European Court of Justice judgement in 2005 found that Ireland had not complied with its obligations under Directive 75/442/EEC.¹ This ruling required Ireland to take action on the remediation of contaminated sites.
- 11.4** Currently, there are 31 sites identified where it is necessary to remove or nullify the contaminants from the soil or ground water. These sites can be classified as either unlicensed sites, licensed sites, sites on which there had been industrial activity and sites where there is a need to create a wetland or to compensate for wetland lost as a result of the area being used for a landfill.
- 11.5** The Department of Environment, Community and Local Government (DECLG) has incurred significant costs associated with the remediation of land. The costs incurred up to June 2013 set out in Figure 11.1 below. The costs of individual sites are set out in Annex A to this report.

Figure 11.1 Number of sites, cost to date and estimated future costs at June 2013

Description	No. of sites	Cost to date	Estimated future cost
		€m	€m
Unlicensed sites	4	1.3	6.6
Licensed sites	21	38.4	1.5
Industrial site ^a	1	52.3	Not available
Wetland creation	5	7.4	2.0
Total	31	99.4	10.1

Source: Department of the Environment, Community and Local Government

Note: a As outlined in paragraph 11.9, the Department of Agriculture, Food and the Marine took charge of this site in 2012.

¹ As amended by Directive 91/156/EEC.

- 11.6** Funding for the land remediation has been provided both from Vote 25 Environment, Community and Local Government and the Environment Fund. DECLG has indicated that it is the availability of funds rather than the nature of work that determines where funds will be sourced. An increasing number of programmes are funded by the Environment Fund rather than the Vote.
- 11.7** DECLG has indicated that there has been limited recovery of cost from those responsible for unlicensed sites. However, a number of cases are before the courts.

Haulbowline

- 11.8** The most expensive site remediation to date relates to the industrial site at Haulbowline Island in Cork. Prior to 2012, €52.3 million has been spent by DECLG on the site, including payments for soil investigations, disposal of waste material, foreshore ecological surveys and professional fees.
- 11.9** Since 2012, the Department of Agriculture, Food and the Marine has taken charge of the remediation work on the site at Haulbowline, with expenditure of €702,000 incurred on the Department's Vote in 2012. An application for a waste licence permit to facilitate further land remediation of part of the site will be submitted in late 2013. The future cost of land remediation at this site is not known, pending planning permission for a specific scheme for remediation and subsequent approval of a waste licence permit. Once permission for a specific scheme is received, a tender will issue for the implementation of the approved remediation. A financial plan for the remediation of Haulbowline Island will be finalised following receipt of planning permission and the waste licence permit for the necessary remediation works.

Kerdiffstown

- 11.10** In addition to projects related to the European Court judgment, DECLG has funded the Environmental Protection Agency in relation to managing the response to an underground landfill fire at Kerdiffstown, Naas in January 2011.¹ The Environmental Protection Agency incurred expenditure of €2.2 million in 2012, in addition to €4.1 million in 2011. A recent remedial options report for the long-term remediation of the Kerdiffstown site outlined a number of options which are being reviewed. The associated works for each option will require a competitive tender process.

Remediation of Mines

- 11.11** The Department of Communications, Energy and Natural Resources (DCENR) has incurred costs in relation to remedial works at a State owned mine in Avoca and remediation work completed at the Silvermines site in 2009 and 2010. This follows a Government decision (in June 2005), that the State would undertake remediation work at both sites. In addition, the Government approved the preparation of legislation to empower the State to undertake works at these sites and at other sites where it might be considered necessary in the future.

¹ There had been fires on the site on previous occasions.

- 11.12** A 2008 feasibility study identified the scale of work required to resolve issues at the Avoca site and estimated the cost of this programme to be in the region of €58 million. The study was funded by DCENR at a cost of €615,000. The Government decided in July 2010 to proceed with a more limited programme to address prioritised hazards. The allocation to address these issues is €3 million and is recorded in the capital commitments. Work is expected to commence in 2014.
- 11.13** In 2012, expenditure of €70,000 was incurred in relation to works carried out at Avoca on behalf of DCENR by Wicklow County Council. The total expenditure to date is €685,000. According to DCENR, should funding become available to implement the full programme identified in the study, the cost would be in excess of €50 million.
- 11.14** Following another Government decision in June 2008, future funding for the Silvermines remediation project was to be addressed in the context of the Estimates process. By the end of 2012, expenditure on the Silvermines project totalled €11.6 million. However, in the context of the current economic situation, funding for DCENR's capital projects, including the Silvermines project, was reduced and in consequence this necessitated a rescheduling of previously anticipated elements of the project.
- 11.15** In March 2012, An Bord Pleanála granted planning permission for a Mine Waste Management Facility on part of the Silvermines site. The estimated cost of providing the facility is €6 million. However, this facility will not proceed until such time as sufficient funds are in place to execute the full project to completion.
- 11.16** Costs prior to 2010 were €9.6 million for the Avoca and Silvermines sites. In recent years, the expenditure outturn has been significantly less than the estimate provision in each year.

Figure 11.2 Estimate provision and outturn for 2010 to 2012 for mining services

	Estimate Provision	Outturn
	€m	€m
2010	6.7	2.0
2011	4.7	2.0
2012	4.0	0.3

Source: Appropriation accounts for the Vote for Communications, Energy and Natural Resources

Conclusion and Recommendation

- 11.17** Responsibility for the management of the remediation of land is shared by a number of government departments and agencies. Funding for land remediation is through various Votes and the Environment Fund.
- 11.18** Remediation of land at 34 sites in the State has so far cost over €119 million. The estimated cost to complete the remediation of the two mines and 30 sites associated with the European Court judgement may exceed €66 million. It is expected that substantial costs will arise in respect of future work at the Haulbowline and Kerdiffstown sites, but those costs have not been quantified pending decisions on the specific approaches to be taken.

Recommendation 11.1: The remediation of land at any site is generally a long term project, spanning several accounting periods. Accordingly, it should be accounted for in a similar manner to the accounting for capital projects. This should include the disclosure of the contingent liability (unless it was prejudicial to the State's interests to do so), the contracted commitments, details of the amount spent to date and the amount spent in the current period.

Funding from multiple State sources for the same project should be disclosed in a single primary disclosure note.

Department of the Environment, Community and Local Government

Accounting Officer's Response: Where commitments are identified they are currently included in the overall commitments in the appropriation account. Where a project within the control of this Department receives funding from both the Environmental Fund and Voted funding, this will be disclosed in the notes to the Department's appropriation account.

Department of Communications, Energy and Natural Resources Accounting

Officer's Response: The Department agrees that the contracted commitments and details of spend in the current period should be disclosed in the notes to the accounts.

Annex A**Costs of Land Remediation by Site at June 2013**

Site	Approved cost	Payment from		Expected future cost
		Environment Fund	Vote for DECLG	
	€'000	€'000	€'000	€'000
Unlicensed Sites				
Ardristan, Carlow	N/A	54	—	935
Kilpedder, Wicklow	N/A	54	—	—
Whitestown, Wicklow	N/A	—	763	5,300
Castleruddery, Wicklow	N/A	350	50	435
Licensed Sites				
Ballyjamesduff, Cavan	528	—	396	—
Bailieborough, Cavan	932	—	699	—
Powderstown, Carlow	1,034	—	771	5
Drumaboden, Donegal	1,276	—	957	—
Dundalk, Louth	3,417	—	2,562	—
Dungarvan, Waterford	4,240	407	2,473	74
Drogheda, Louth	3,107	—	2,525	—
Silliot Hill, Kildare	8,901	—	6,365	311
Dunsink, Dublin	5,171	—	3,878	—
Kilbarry, Waterford	7,019	353	4,734	177
Longpavement, Limerick	5,988	263	4,228	—
Tramore, Waterford	4,986	123	3,558	—
Marlinstown, Westmeath	3,129	—	500	39
Basketstown, Meath	5,668	—	891	109
Killerney, Roscommon	1,310	—	250	—
Doora, Clare	1,469	143	847	112
Ballymurtagh, Wicklow	2,315	178	555	60
Carrick-on-Shannon, Leitrim	1,064	63	186	17
Killurin, Wexford	1,810	318	—	318
Mohill, Leitrim	844	—	187	38
Greenwood Site, Cork	380	—	—	285

Site	Approved cost	Payment from		Expected Future cost
		Environment Fund	Vote for DECLG	
	€'000	€'000	€'000	€'000
Wetland Creation				
Sallybank, Limerick	32	—	24	—
Baggot Estate, Limerick	452	75	—	264
Longpavement, Limerick	85	—	52	12
Tramore landfill, Waterford	7,642	1,488	5,432	722
Suir River Wetlands, Waterford	1,700	41	281	953
Industrial Sites				
Haulbow line Site, Cork ^a	N/A	41,089	11,280	Not available
Total costs		45,001	54,443	10,165

Source: Department of the Environment, Community and Local Government

Note: a In addition, €702,000 was incurred by the Department of Agriculture, Food and the Marine after it took charge of the site in 2012.

12 Contract Management in Education PPP Projects

- 12.1** Public private partnerships (PPPs) have been used as a method of procuring public infrastructure in the education sector for more than a decade.
- 12.2** The State has outstanding commitments totalling nearly €4.2 billion in respect of all PPP contracts in place, with six PPPs in the education sector accounting for about 35% of this.
- 12.3** This report examines the control of expenditure on the education sector PPPs that are at the operational stage. In particular, it considers the adequacy of controls in place in respect of price indexation, service performance and benchmarking.
- 12.4** There are currently five PPPs in operation within the education sector. Three contracts relate to bundles of primary and post-primary schools with the remaining two relating to schools within the Cork Institute of Technology – the National Maritime College of Ireland and the Cork School of Music. All of the PPP contracts are on a design, build, finance, operate and maintain basis (DBFOM). The schools included in each PPP contract are set out in Annex A.
- 12.5** To date, the five PPP contracts have incurred cumulative expenditure of just over €300 million, with outstanding commitments estimated at over €1 billion (see Figure 12.1).

Figure 12.1 Expenditure on operational PPPs in the education sector

PPP contract	Service commencement	Contract end	Expenditure		Outstanding commitment ^a
			Pre 2012	In 2012	
			€m	€m	€m
First/second level ^b					
Pilot schools bundle	2002	2027	107	11	188
First schools bundle	2010	2035	18	9	238
Second schools bundle	2011	2036	14	12	326
Third level					
National Maritime College	2004	2029	72	9	116
Cork School of Music	2007	2032	44	8	177
Total			255	49	1,045

Source: Department of Education and Skills

- Notes:
- a The outstanding commitment figure incorporates an assumed inflation rate of 4% for the pilot schools bundle, 2.5% for the Cork School of Music and 2% for the other contracts.
 - b Commitments of over €400 million in respect of the third schools bundle PPP (contract signed in November 2012) are not included because the project has yet to reach operational stage.

Contract Management Arrangements

- 12.6** The Department of Education and Skills (the Department) is the contracting authority for all PPP contracts in the education sector.
- 12.7** The National Development Finance Agency (NDFA) operates as the State's financial advisor in respect of public investment projects. In relation to PPPs in particular, a centre of expertise within the NDFA performs a specialised procurement delivery function, except in respect of local government projects and projects in the transport sector. Contracting authorities retain responsibility for assessing and approving projects and set the parameters within which the NDFA carries out its procurement function.
- 12.8** The remit of the NDFA was extended in September 2012 to allow it to provide contract management services in respect of PPP projects. Where contract management services are provided by the NDFA, the contracting authority generally retains responsibility for certain activities (see Figure 12.2).

Figure 12.2 NDFA role in contract management

NDFA responsibilities	Contracting authority responsibilities
Reviewing and confirming amount of monthly unitary payments, including any performance related deductions.	Approval and payment of invoices (on receipt of NDFA recommendation).
Monitor PPP company performance against project agreements.	Approval of changes to the project agreement.
	Issuing warning or termination notices to the PPP company.
	Determination of benchmarking and market testing of testable services.
	Approval of changes to the ownership structure of the PPP company.

- 12.9** Following a request for support from the Department, the NDFA took on certain functions in October 2012 for managing the contracts for all three bundles of first and second level schools. The Department stated that the decision to request support was made in view of the expertise and skills available within the NDFA for management of PPP projects. It cited resource issues within the Department as another consideration.
- 12.10** The Department has an 18 month service agreement with the NDFA for contract management services. The duration of the agreement can be extended if agreed by both parties and approved by the Department of Public Expenditure and Reform.
- 12.11** The NDFA has produced payment mechanism user guides for the Department for all three school bundle projects. Different management arrangements are in place for the two third level projects. The Department stated that it manages the payment process and Cork Institute of Technology (CIT) manages all other aspects of the contract. A staff member of CIT is named as the contract manager on behalf of the Minister for Education and Skills.
- 12.12** The CIT staff member acting as the contract manager for the two CIT projects has been involved with the projects since the procurement stage and has been involved in managing the contracts since the two projects became operational. The examination found that the contract manager has detailed knowledge of the project agreements.

Payment Indexation

- 12.13** The Department makes monthly unitary charge payments to the PPP company on all of the five operational PPP projects. Unitary charge payments will continue over the term of the contract. The charge is made up of two elements - a fixed cost element and a variable (indexable) element which changes in line with the Consumer Price All Item Index (CPI).
- 12.14** At each indexation review date (specified in the contract), the PPP company submits its calculation of the annual charge for the coming 12 month period. This is based on the terms set out in the payment mechanism schedule of the contract.
- 12.15** Certain information is required in order to calculate the annual unitary charge including
- key dates – the service commencement date and the unitary charge base date (i.e. the date from which indexation is to be applied)
 - CPI indexation values – the value at the base date and the value at review date
 - base date unitary charge values – the fixed and variable elements.
- 12.16** Once the indexation factor is determined, the annual unitary charge can be calculated by adding the fixed and adjusted variable values.
- 12.17** At the request of the Department, the NDFA carried out reviews of the indexation calculations submitted by the respective PPP companies during 2012 for each of the five PPP contracts.
- For the three schools projects, the NDFA found that the indexation calculations were correct.
 - For the Cork School of Music project, the NDFA noted an error resulting in an overcharge of €38,600 to the Department. The Department received the appropriate refund from the PPP company in February 2013. The NDFA subsequently reviewed the indexation calculations for 2011 and confirmed that the error had not occurred in that year.
 - For the National Maritime College, the NDFA noted that a 'utilities margin' had been inflated, which was not in accordance with the contract. It estimated that the potential overcharge arising from the error would have amounted to about €4,800 a year. Since the error was highlighted before the October 2012 invoice had been issued, the PPP company was able to adjust the invoice accordingly. The Department stated that it is currently examining whether any refund is due in respect of this issue.
- 12.18** This examination found that the indexation reviews carried out by the NDFA were calculated correctly and that the key information used was in accordance with that set down in the project agreement.

Monitoring Service Performance

- 12.19** Deductions can be applied to the unitary charges payable if the PPP company fails to satisfy performance standards as set out in the contract.
- 12.20** The two main types of deductions common to all five contracts relate to unavailability and service performance.¹
- Unavailability – a deduction is applied if an area does not meet one or more of the availability criteria set out in the project agreement
 - Service performance – a deduction is applied if the PPP company fails to meet the response time for a required performance standard set out in the project agreement e.g. relating to cleaning, heating or caretaking.
- 12.21** Under the terms of the contracts, PPP companies are obliged to report failures to meet availability and service performance requirements when they occur.

Helpdesk Calls Logged

- 12.22** The PPP companies provide a help desk facility, through which individual schools and colleges can submit service requests.
- 12.23** Under the three school bundle projects, a total of around 5,000 calls were logged by the fifteen schools during 2012. There was an average of around 470 calls per month between September and May, falling to around 250 per month during the June to August holiday period.
- 12.24** The rate of reporting of issues varies considerably between the fifteen schools. The highest number of calls reported to the helpdesk in 2012 from an individual school was 850, while the lowest was just 88.

Monthly Performance Reporting

- 12.25** PPP companies are also required to submit monthly performance reports outlining activities over the previous month. The reports detail any failures to meet service standards, the measures taken by the PPP company to address those service failures and the level of related deductions proposed. Under the service level agreement with the Department, the NDFA circulates the monthly performance reports to each school principal, seeking confirmation that all service failures are included and that the dates for submission and completion of service requests are correct. On receipt of feedback from schools, the NDFA ensures that the appropriate deduction (if any) has been made by the PPP company regarding the next monthly unitary charge payment.
- 12.26** The NDFA meets with the PPP companies on a monthly basis to discuss the performance monitoring report and any issues raised by the individual schools. Any outstanding issues relating to proposed deductions are also addressed at these monthly meetings.
- 12.27** The examination found several instances in 2012 where individual schools did not respond to the request from the NDFA seeking confirmation that the monthly performance report produced by the PPP company was complete and accurate. Payments to the PPP companies were not delayed in these cases. In effect, non response is treated as confirmation from the school that the monthly performance report is correct.

¹ The two most recent PPP contracts (School Bundles 1 and 2) include a further 'reporting' deduction which is applied to the unitary charge if the PPP company payment mechanism report omits details of an unavailability or service performance deduction.

Deductions Applied

- 12.28** No deductions were made to unitary payments by the Department in respect of any of the contracts prior to 2007. Figure 12.3 shows the deductions applied by the Department since 2007.

Figure 12.3 Deductions applied to project unitary charges, to end 2012

	Pilot schools bundle	First schools bundle	Second schools bundle	National Maritime College	Cork School of Music
	€000	€000	€000	€000	€000
2007	35			—	—
2008	—			—	—
2009	—			—	—
2010	—	57		—	—
2011	—	695	—	—	—
2012	15	67	153	—	—

Source: The Department of Education and Skills

Note:  Indicates that schools were not operational.

- 12.29** Up to the end of 2012, the total deductions in respect of all PPP projects in operation were just over €1 million, which represented about 0.3% of the cumulative expenditure. The deductions were in respect of both unavailability and service performance issues post occupancy. The Department has stated that deductions in 2011 were mainly as a result of the main contractor (Pierse Contracting Ltd) going out of business just prior to the schools becoming operational with resultant unavailability of some services.

Benchmarking and Market Testing

- 12.30** Benchmarking and market testing processes are used in PPP contracts to ensure that the sponsoring authority is continuing to receive value for money in respect of contract services provided, over the life of the contract. Either the public or private partner can enforce the testing processes.
- 12.31** The testing is primarily focused on the services provided by the facilities management company. These services, commonly referred to as soft services, may include catering, cleaning, security and waste management services.
- 12.32** Benchmarking is the process by which the PPP company compares its own (or its subcontractors') charges for providing services to the current market price of equivalent services. If the PPP company charges are higher than the benchmark prices, the public body would receive a reduction in the unitary charge. The benchmarking process can result in an increase to the unitary charge where the PPP company charges are lower than the current market price level.¹
- 12.33** Where public and private partners do not agree on the outcome of a benchmarking process, the PPP contracts generally allow for the parties to carry out a market testing exercise.

¹ The individual project agreements specify the relevant percentage movement in the PPP company costs which would trigger a price change to the unitary charge.

- 12.34** Market testing involves the retendering by the PPP company of the relevant services in order to test the value for money of current services against competing market suppliers. Any increase or decrease in the cost of such services following market testing should be reflected by an adjustment in the unitary charge payable by the sponsoring authority.
- 12.35** In all five educational PPP contracts, the options of benchmarking and market testing are available in the fifth year of the operational stage and every five years thereafter. Consequently, the Department has had two opportunities to consider the potential for savings to be delivered through benchmarking in relation to the pilot schools bundle and one opportunity in relation to each of the CIT projects.
- 12.36** The examination found evidence that the Department had considered whether to invoke the benchmarking provisions, as opportunities arose under each of the contracts, but decided against it in each case. However, there was no documentary evidence of any detailed analysis supporting those decisions. Such analysis would need to identify current market costs for similar services and compare them to the charges for the services provided by the PPP company.

Third Party Income

- 12.37** In all five projects, the State parties to the respective contracts can receive income from third party use, catering or vending under the contract provisions.
- 12.38** In 2012, CIT received income totalling €44,000 in relation to the Cork School of Music. This was the minimum income CIT could have received as it was the guaranteed payment level set out in the contract. CIT also received €20,100 as its guaranteed share of third party use in respect of the National Maritime College.
- 12.39** The PPP contract for the National Maritime College provided for a further guaranteed minimum annual income that CIT would receive from the PPP company in relation to catering and vending, regardless of the actual level of income generated. The level of guaranteed annual income (subject to indexation) specified in the project agreement was €9,000 in the first contract year, rising in stages to €15,000 in the fifth contract year and remaining at that level thereafter.
- 12.40** At the end of 2008, the PPP company served notice to CIT that it was invoking the benchmarking provisions under the contract in relation to the catering and vending services, as it was becoming loss-making for the PPP company to provide the services. In 2009, the Department and the PPP company reached agreement that the PPP company would withdraw its request to trigger the benchmarking of the catering services in exchange for the cessation of that element of the guaranteed payments to CIT.

Conclusions and Recommendations

Contract Management Arrangements

- 12.41** PPP contracts are underpinned by project agreements that are complex and detailed. In order to manage the contracts effectively, the responsible staff need to fully understand the contract provisions, including the output specifications and payment mechanisms. Financial and technical skills are also required.
- 12.42** Within the NDFA, a multidisciplinary team is responsible for contract management of the schools bundles. Skill sets available include financial analysis, project management and engineering. The contract management services provided by the NDFA in respect of the school bundles since October 2012 have proven to be effective.
- 12.43** The CIT also has significant skills and experience in relation to the management of PPP contracts. However, there is a risk of over-reliance on a single individual, as much of CIT's capacity in this area is vested in the contract manager for the two CIT projects.
- 12.44** The Department's Accounting Officer stated that its move in the course of 2012 to vest responsibility for management of existing PPP schools contracts with the NDFA represented a significant change in the Department's approach. He indicated that the Department intends to further avail of the NDFA's expertise through outsourcing contract management arrangements for future PPP schools. The Department is also committed to exploring the potential for further NDFA involvement in contract management for the CIT projects.

Payment Indexation

- 12.45** The NDFA identified errors in the indexation calculations submitted by the respective PPP companies in 2012 in respect of the National Maritime College and Cork School of Music projects.

Recommendation 12.1: All future annual indexation calculations submitted by PPP companies should be forwarded to the NDFA for review.

Accounting Officer's Response: Agreed. This recommendation is already being implemented. Arrangements are in place for the NDFA to review indexation calculations.

Recommendation 12.2: In light of the errors identified by the NDFA in respect of indexation calculations for 2012, the Department should satisfy itself that calculations for prior years were correct and that no overpayments have been made.

Accounting Officer's Response: Agreed. The Department will pursue the question of the NDFA conducting further sample checks for the pre-2012 period in respect of the pilot schools and third level colleges with a view to verifying the accuracy of previously conducted internal checks.

Monitoring Service Performance

- 12.46** Feedback from schools on service performance issues provides valuable information on whether contracted services are being received. Several instances in 2012 were noted where schools did not respond to the request from the NDFA to confirm that the monthly performance reports prepared by PPP companies were complete and accurate.

Recommendation 12.3: The Department should remind schools staff responsible for monitoring service delivery of the importance of providing formal feedback on the monthly performance monitoring reports to ensure that contracted services are being delivered and that deductions, where appropriate, are being applied.

Accounting Officer's Response: Agreed. The Department will continue to ensure that robust and effective systems are in place to monitor service performance and will re-iterate to the schools involved the importance of providing formal confirmation of the accuracy and completeness of the monthly performance reports.

Benchmarking and Market Testing

- 12.47** Benchmarking provisions in PPP contracts provide an opportunity to test at regular intervals whether the price paid for contract services remains competitive. In the past, this was not done by the Department. A benchmarking exercise requested by the Courts Service in 2011 resulted in an 8% reduction in the costs of certain services at the Criminal Courts complex.

Recommendation 12.4: As future opportunities arise, the Department should consider whether savings could potentially be delivered by way of benchmarking and market testing and should document the reasons for proceeding, or not, as appropriate.

Accounting Officer's Response: Agreed. The Department is acutely aware of the option for benchmarking and will continue to keep the option under review and to document the reasons for its decisions.

Annex A Schools included under PPP Contracts

PPP contract name/school name	Location	County	Service commencement date
Pilot schools bundle			
1. Ballincollig Community School	Ballincollig	Cork	November 2002
2. Largy College	Clones	Monaghan	December 2002
3. Maria Immaculata Community College	Dunmanway	Cork	November 2002
4. St. Attracta's Community School	Tubbercurry	Sligo	November 2002
5. St. Caimin's Community School	Shannon	Clare	November 2002
First schools bundle			
1. Gallen Community School	Ferbane	Offaly	October 2010
2. St Mary's CBS	Portlaoise	Laois	August 2010
3. Scoil Chríost Rí	Portlaoise	Laois	July 2010
4. Banagher College	Banagher	Offaly	October 2010
Second schools bundle			
1. Gaelscoil Bheanntraí ^a	Bantry	Cork	July 2011
2. Bantry Community College	Bantry	Cork	October 2011
3. Kildare Town Community School	Kildare	Kildare	October 2011
4. Abbeyfeale Community College	Abbeyfeale	Limerick	August 2011
5. Athboy Community School	Athboy	Meath	October 2011
6. Wicklow Town Community College	Wicklow	Wicklow	September 2011

Source: Department of Education and Skills, NDFA

Note: a Primary school. All others are post-primary.

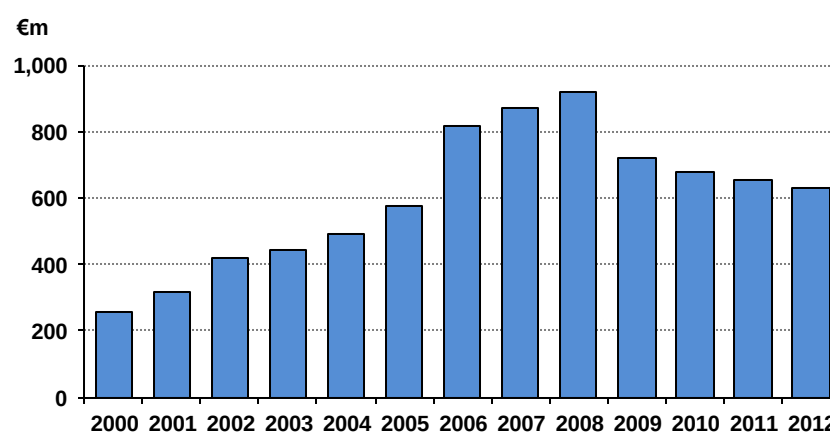
13 Official Development Assistance

- 13.1** Official development assistance (ODA) is the transfer by state agencies of resources – either in cash or in the form of commodities, services or technical co-operation – to developing countries or territories, or to multilateral development agencies.¹
- 13.2** Irish Aid is the Government's programme for overseas development. The programme is managed by the Development Co-operation Division of the Department of Foreign Affairs and Trade.
- 13.3** The purpose of this report is to present all ODA flows in one statement and to outline the control systems in place in respect of the major components of the Irish Aid programme.
- 13.4** 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 the main activities of the Department, accounted for under Vote 28: Foreign Affairs and Trade and the development assistance accounted for under Vote 27: International Co-operation. 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 27.²

Official Development Assistance Transfers

- 13.5** Irish ODA totalled €629 million in 2012. This included a €70 million apportionment of the EU ODA budget, which accounted for 11% of the total. Figure 13.1 shows the trend in the level of Irish ODA since 2000.

Figure 13.1 Irish official development assistance, 2000 to 2012

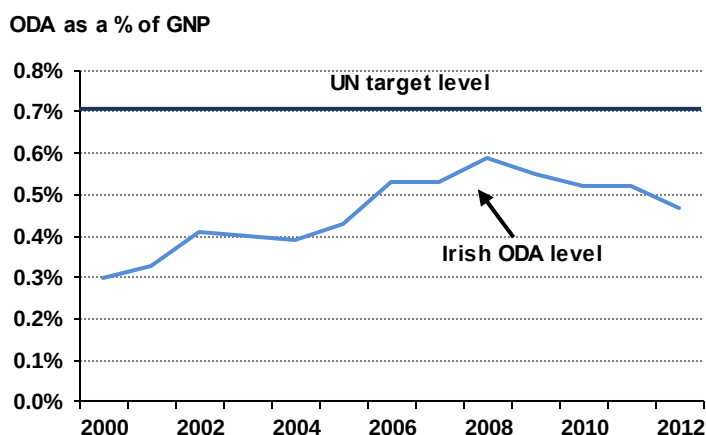


Source: Irish Aid Annual Reports; Department of Foreign Affairs and Trade

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 The total gross expenditure for Vote 27: International Co-operation and Vote 28: Foreign Affairs and Trade, in 2012, was €509 million and €208 million respectively.

Figure 13.2 Irish official development assistance relative to GNP, 2000 to 2012



Source: Irish Aid Annual Reports; Department of Foreign Affairs and Trade

- 13.6** The United Nations (UN) has set a target for developed countries to contribute ODA equivalent to 0.7% of their Gross National Income (GNI) each year.¹ In 2005, the EU Council set an objective for member states to reach the 0.7% target level by 2015.²
- 13.7** Ireland's ODA contribution in 2012, at 0.47% of Gross National Product (GNP), was 7th highest among OECD countries.³ As Figure 13.2 indicates, Irish ODA increased from 0.3% of GNP in 2000 to a high of 0.59% in 2008, before falling back to its current level of 0.47%.
- 13.8** Five donor countries exceeded the UN target in 2012: Luxembourg (1%), Sweden (1%), Norway (0.9%), Denmark (0.8%) and the Netherlands (0.7%).⁴ 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.
- 13.9** Ireland's new policy for international development, launched in May 2013, sets out the vision, goals and priorities for Ireland's aid programme over the coming four years.⁵ The policy renews the Government's commitment to achieving the 0.7% GNI target. In recognition of the economic situation in Ireland, it states that the short-term aim is to maintain ODA at current levels, while moving towards the 0.7% target when the economy improves.
- 13.10** Assistance is provided to developing countries either directly through bilateral contact with the countries themselves or indirectly through pooled funds managed by international aid organisations (multilateral assistance). 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.
- 13.11** Figure 13.3 presents an overview of the major elements of Ireland's ODA in 2012, highlighting the programmes that were funded, in whole or in part, under Vote 27. Annex A outlines the key programmes under which ODA was provided in 2012.

1 UN General Assembly Resolution 2626 (XXV), 24 October 1970.

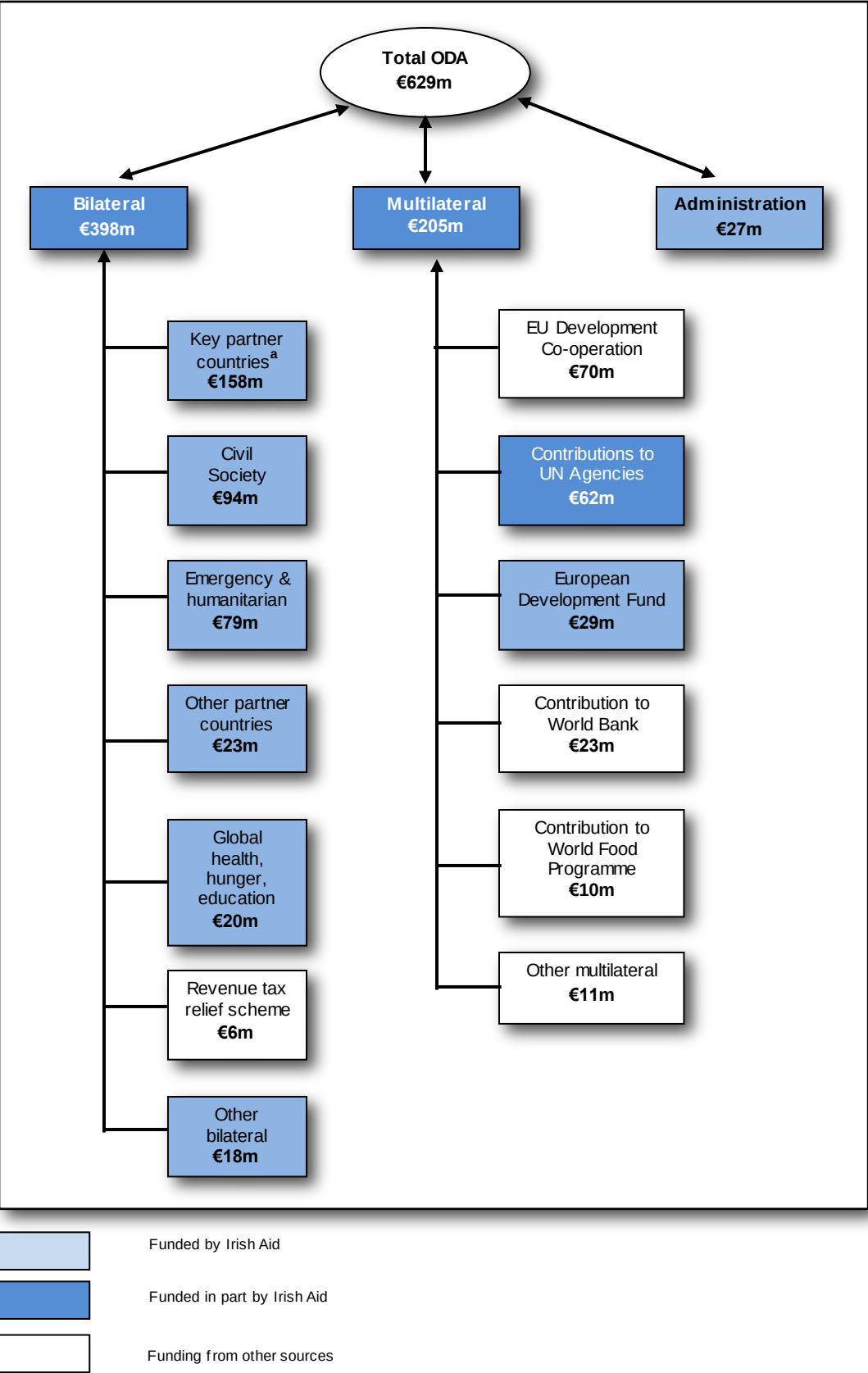
2 Council of the European Union Meeting No. 2660, External Relations Council, Brussels, 24 May 2005. The objective does not apply to member states that joined since 2002.

3 Irish Aid reports ODA as a percentage of GNP rather than GNI. The European Commission's Eurostat website states that GNI and GNP are conceptually identical, although calculated differently.

4 OECD, Net Official Development Assistance (preliminary data for 2012), April 2013.

5 One World, One Future: Ireland's Policy for International Development, May 2013.

Figure 13.3 Overview of Ireland’s ODA in 2012



Note: a Key partner countries were previously referred to as programme countries

Control Framework

- 13.12** Given the inherent risks of fraud and corruption associated with the delivery of development assistance, a robust system of control is required to provide assurance to Irish taxpayers that funds reach their intended destination, are used for their intended purpose and are having the desired impact in targeted countries and communities.
- 13.13** Due to the breadth of the ODA programme and the diversity of funding arrangements in place, the nature and extent of the controls that are appropriate vary between individual measures. In general, controls are applied at three levels
- Ex-ante assessment is carried out at the planning stage of new funding initiatives to inform decisions on the most appropriate format of the intervention and the funding channel through which ODA is to be delivered.
 - Audit work focuses on the appropriateness of the accounting and financial management systems of partner organisations and aims to provide assurance that funds have been used for their intended purpose.¹
 - Evaluations assess the design, implementation and results of projects in order to determine their efficiency, effectiveness, impact and sustainability.
- 13.14** Information sharing with other donors is an important element of the control system, enabling the Department to identify emerging risks. Co-operation measures include regular meetings between ambassadors and other embassy officials, as well as briefings with the World Bank and the International Monetary Fund.

Multilateral Assistance

- 13.15** Multilateral assistance programmes typically involve the application of a pool of funds from multiple donor countries for development purposes. As a result, it is difficult to isolate and carry out ex-post audit of the funds contributed by Ireland. Consequently, reliance is placed on the existing audit arrangements in force for the international aid organisations.²
- 13.16** The multilateral organisations through which Irish ODA is delivered each have their own evaluation units and management boards which conduct regular reviews of all aspects of their operations. Reports of evaluations carried out are made available to Irish Aid and many are also publically available.
- 13.17** In addition, Ireland is a member of the Multilateral Organisation Performance Assessment Network, which is a group of 17 donors with a common interest in assessing the effectiveness of major multilateral organisations.
- 13.18** Assessments on behalf of the Network were carried out during 2012 in respect of a number of UN programmes – the Global Alliance for Vaccines and Immunisation, the African Development Bank and the World Bank. Assessments planned for 2013 include the UN Food Programme, the World Health Organisation and the Asian Development Bank.

¹ Partner organisations are the intermediary bodies through which Irish Aid funding is delivered to the developing countries.

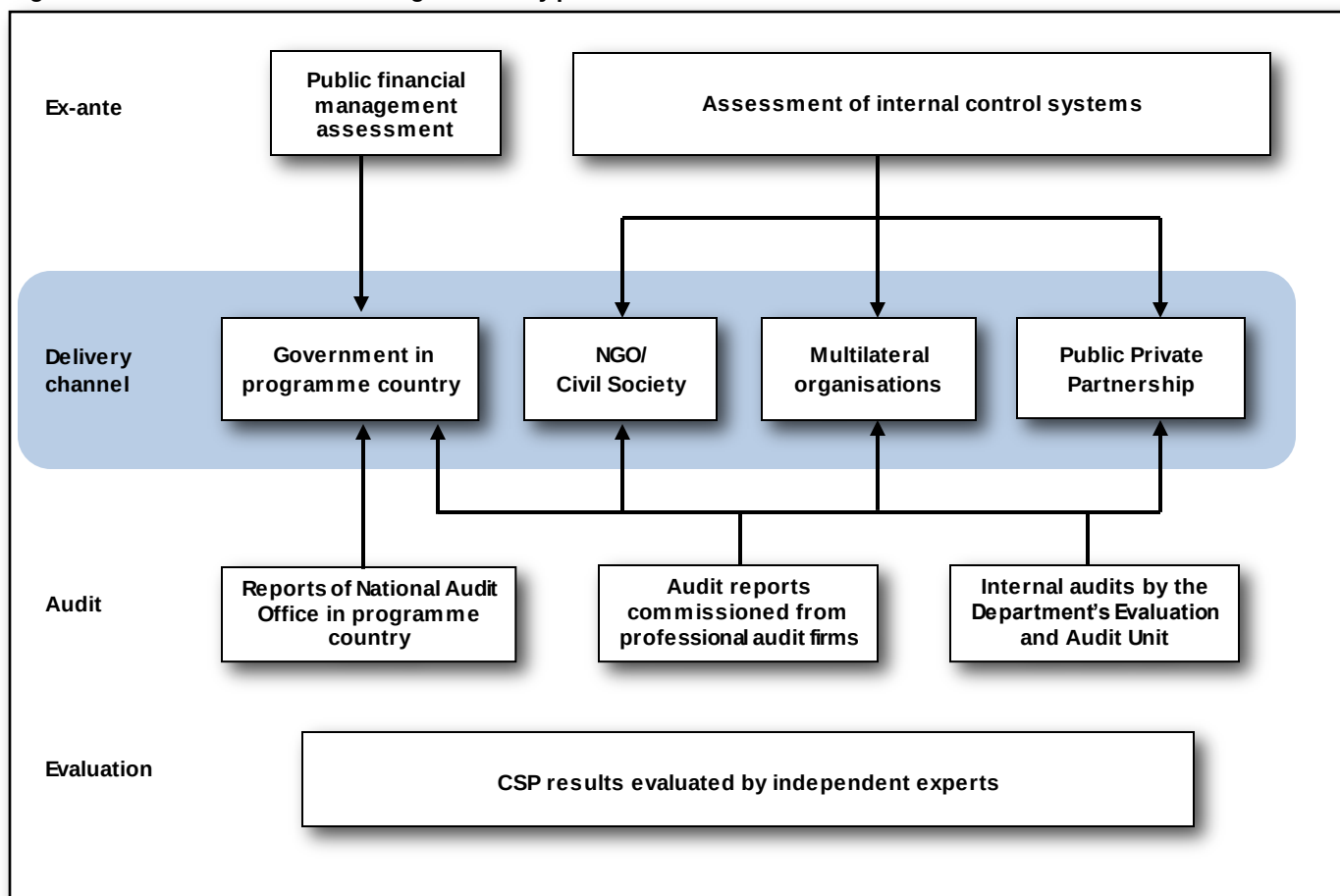
² The majority of multilateral funding from Ireland is delivered through EU or UN organisations.

Bilateral Assistance

13.19 Assistance provided to key partner countries in accordance with agreed multi-annual country strategy papers (CSPs) accounts for about 40% of bilateral ODA¹ Figure 13.4 sets out the audit and evaluation regime in place in respect of funding provided to key partner countries.

13.20 For other types of bilateral assistance, the audit and evaluation arrangements are generally stipulated in the funding agreements with partner organisations and, at a minimum, involve the submission of annual audit reports prepared by independent bodies.

Figure 13.4 Audit and evaluation regime for key partner countries



¹ Country strategy papers set out the strategies, objectives and expected results of development engagement in individual countries over a five year period.

Ex-ante Assurance

- 13.21** In early 2011, the Department implemented a new policy of undertaking ex-ante financial management assessments when considering whether to deliver ODA through government systems in key partner countries. The assessments cover 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 audit office.
- 13.22** The policy is to undertake two public financial management assessments in relation to each CSP. The first assessment is carried out during the planning phase when the strategy is being developed. A follow up assessment is carried out at around the mid-point of the five year plan. By October 2012, initial public financial management assessments had been completed in respect of all Irish Aid key partner countries with the exception of Uganda.
- 13.23** Where it is proposed to deliver ODA through NGOs, multilateral organisations or public private partnerships, ex-ante assessment focuses on the strength of the internal control systems of the potential partner organisations.

Audit Assurance

- 13.24** Expenditure in key partner countries, including management and administration costs, was €198 million in 2010, which is the latest year for which the audit programme has been substantially completed.¹ The level of audit assurance achieved to date in respect of 2010 expenditure is about 94% - Figure 13.5 outlines the source of that assurance.

Figure 13.5 Source of audit assurance for 2010 key partner country expenditure^a

Key partner country	NAO reports ^b	Commissioned from professional audit firms ^c	Internal audits by Evaluation and Audit Unit	Total expenditure audited
	€m	€m	€m	€m
Mozambique	11.2	26.3	—	37.5
Uganda	16.7	17.9	—	34.6
Tanzania	26.5	4.6	—	31.1
Ethiopia	18.4	7.5	—	25.9
Zambia	12.6	4.6	0.1	17.3
Vietnam	7.0	6.3	—	13.3
Lesotho	0.3	9.8	0.2	10.3
Malawi	2.1	6.1	—	8.2
South Africa	—	4.0	—	4.0
Timor Leste	—	3.3	—	3.3
Total	94.8	90.4	0.3	185.5

Source: Department of Foreign Affairs and Trade

Notes: a This figure captures assurance up to end April 2013.

b Reports of the national audit offices in programme countries.

c This category includes reports commissioned by Irish Aid, partner organisations or joint donors in a particular project.

¹ This expenditure includes just over €4 million in respect of South Africa. While it is not one of Irish Aid's key partner countries, an agreed multi-annual country strategy paper is in place in South Africa and the programme management arrangements are similar to those for key partner countries.

- 13.25** Where assistance is delivered via governments in partner countries, assurance is generally in the form of audits of public bodies carried out by the partner country's national audit office as part of its annual certification programme. The Department examines the audit reports to identify the issues relevant to Irish ODA, which can be difficult because Irish funding assistance may be related to one part of the programme of the body, and the audit reports vary in content and approach. In addition, while the audit reports may be qualified in terms of an overall audit opinion, the reasons for qualification vary and may be based on issues not related to programmes funded by Irish Aid.
- 13.26** Reports commissioned from professional firms tend to be more focused on specific projects or funding programmes supported by Irish Aid. As a result, the interpretation of audit findings and opinions in these reports is more straightforward.
- 13.27** Figure 13.6 presents an analysis of the audit opinions expressed in audits carried out by professional audit firms in relation to 2010 expenditure.

Figure 13.6 Audits by professional firms of 2010 key partner country expenditure

Key partner country	Total expenditure audited €m	Audit opinion	
		Unqualified	Qualified
Mozambique	26.3	99%	1%
Uganda	17.9	99%	1%
Lesotho	9.8	100%	—
Ethiopia	7.5	100%	—
Vietnam	6.3	100%	—
Malawi	6.1	100%	—
Zambia	4.6	100%	—
Tanzania	4.6	98%	2%
South Africa	4.0	98%	2%
Timor Leste	3.3	100%	—
Total	90.4		

Source: Department of Foreign Affairs and Trade

- 13.28** The Department stated that qualifications in reports by professional audit firms have tended to relate to systems issues, lack of documentation or failure to fully comply with grant conditions.

Internal Audits by Evaluation and Audit Unit

- 13.29** The Department employs a professionally qualified internal auditor in each of the key partner country embassies. The internal auditors report directly to the heads of mission and to the Evaluation and Audit Unit. The primary role of the internal auditors is to ensure that appropriate internal control systems are in place and are being adhered to.
- 13.30** In addition to carrying out some assurance work themselves, they are responsible for examining audit reports received from other sources and following up on issues relevant to Irish Aid. An important aspect of this work is engagement with the developing country's national audit office. In most key partner countries, internal auditors are members of working groups, along with other donors and local government officials, engaged in the monitoring of public management reforms.
- 13.31** Internal auditors prepare quarterly reports which are approved by the Head of Mission and then submitted to the Evaluation and Audit Unit. The reports provide an update on audit coverage achieved and highlight issues identified in the audit reports received during the quarter. Where significant issues are identified by internal auditors or are brought to their attention, these are to be notified immediately to the Head of Mission and the Evaluation and Audit Unit. The Department stated that the Evaluation and Audit Unit analyses risks identified in audit reports and may carry out further audit work itself in respect of specific funding schemes.

Evaluation

- 13.32** It is the policy of the Evaluation and Audit Unit to carry out an evaluation in the final year of each five year CSP for key partner countries. In addition to assessing the results achieved from funds invested, evaluations aim to identify lessons that can be applied in the design of future plans. Three formal evaluations of key partner country aid programmes were completed in 2012
- Ethiopia CSP (2008-2012)
 - Lesotho CSP (2008-2012)
 - South Africa CSP (2008-2012).

Fraud in Uganda

- 13.33** On 19 October 2012, the Auditor General in Uganda reported on the misappropriation of €11.6 million of donor funding intended for the Peace, Recovery and Development Plan (PRDP). A total of €4 million had been contributed by Irish Aid. The balance of the misappropriated funds came from Norway, Sweden and Denmark.

Overview

- 13.34** The PRDP is a programme of reconstruction for Northern Uganda, managed through the Office of the Prime Minister. Funding for the PRDP is included under Irish Aid's current CSP for Uganda (2010-2014). The total budget for the first phase of the PRDP was €473 million, of which Ireland contributed €7.25 million over two years.

- 13.35** The agreed funding arrangements for the PRDP involved payments from Irish Aid and other donors being made into a designated holding account in the Central Bank of Uganda and then being transferred promptly into the Government of Uganda's consolidated account. An Irish Aid payment of €3.25 million made into the designated holding account in October 2010 was promptly transferred to the Government's consolidated account and applied to the PRDP as intended.
- 13.36** The fraud related to an Irish Aid payment of €4 million in July 2011 that remained in the Central Bank holding account until December 2011 when it was transferred to a previously dormant account under the control of the Office of the Prime Minister. The money was subsequently withdrawn by various fraudulent means, including transfers to personal accounts, the use of fake vouchers and bogus suppliers and the forging of signatures.
- 13.37** Following the publication of the Ugandan Auditor General's report, the Tánaiste and Minister for Foreign Affairs and Trade announced the suspension of all Irish Aid funding channelled through the Government of Uganda. In December 2012, €4 million was recovered from the Government of Uganda.

Effectiveness of Controls

- 13.38** This section considers the effectiveness of the control system operated by the Department in respect of Uganda at the time that the fraud took place.

Ex-ante Controls

- 13.39** The Department did not carry out a formal public financial management assessment prior to the current CSP for Uganda (2010-2014), since the CSP had commenced before the new assessment model was introduced. However, the Department has stated that consideration was given to the strength of systems in place at the time the CSP was adopted. This consideration was informed by assessments of the public financial management system in Uganda that had been carried out around this time by various international agencies.
- 13.40** The Department referred specifically to a fiduciary risk assessment carried out by the UK Department for International Development and a number of Public Expenditure and Financial Accountability (PEFA) assessments which it stated contained generally positive findings about the public financial management system in Uganda.¹
- 13.41** In addition, Ireland and other donors, including the EU and World Bank, were monitoring a number of indicators of Government performance through a joint annual assessment process. One of the conclusions of the process in December 2010 was that the budgetary controls in place in Uganda satisfied the basic conditions for good public financial management, including transparency, accountability and effectiveness in the use of resources.
- 13.42** The Department has stated that significant progress was being made at that time towards ensuring the independence of the Office of the Auditor General in Uganda. The mandate of the Auditor General was set out in both the constitution and the 2008 National Audit Act. A corporate plan has been in place since 2006, aiming to ensure the financial and operational independence of the Auditor General and to provide policy direction for annual operational plans.

¹ The PEFA programme is a partnership between several donor agencies and international financial institutions, under which assessments are carried out of the condition of public expenditure, procurement and financial accountability systems in developing countries.

- 13.43** Ireland has provided technical and financial assistance to the Office of the Auditor General in Uganda since 2006 to build the skills and capacity required to conduct complex examinations.
- 13.44** In 2006, Irish Aid commenced supporting the financial oversight institutions in Uganda through a financial management and accountability programme. Ireland's contribution to the programme had exceeded €7 million by the end of 2011, of which about €0.8 million has supported programmes in the Office of the Auditor General. The Department has recently signed an agreement with the Office of the Auditor General in Uganda to provide €304,000 as direct project support towards the establishment of a directorate of forensic audit.
- 13.45** In addition, Irish Aid provides funding to the International Organisation of Supreme Audit Institutions (INTOSAI) to support capacity building measures for national audit offices in developing countries. The Office of the Auditor General in Uganda is one of the beneficiaries of support through INTOSAI.

Audit Reports

- 13.46** As indicated in Figure 13.5, audit assurance in respect of development assistance to Uganda is obtained through a combination of audits produced by the Office of the Auditor General and reports commissioned from professional audit firms.
- 13.47** In April 2011, the Office of the Auditor General in Uganda initiated a value for money study of programmes managed by the Office of the Prime Minister, as part of its annual audit work programme. However, due to the absence of key records, the study could not be finalised in time for inclusion in his annual report to parliament. Following media coverage regarding the alleged mismanagement of funds by the Office of the Prime Minister, the Auditor General was requested to carry out a special investigation. It was the report of this special investigation that highlighted the fraud in respect of PRDP funds.
- 13.48** During the course of this examination, I asked the Accounting Officer whether the Department had been aware of any deterioration in the public financial management system in Uganda prior to the fraud incident that occurred in December 2011 or the publication of the Auditor General's report in October 2012. In his response, the Accounting Officer did not refer to any specific concerns that had been noted. He indicated that the Department had obtained assurance on the overall robustness of government systems, including the independence of the Office of the Auditor General, through close co-ordination with other donors in relation to risks and key financial management and governance indicators.

Evaluation and Audit Unit Investigation

- 13.49** Quarterly reporting to the Department's Evaluation and Audit Unit by the internal auditor based in the Ugandan Embassy commenced in 2007. Reports have been received in respect of each quarter since then. The quarterly reports have provided details of issues raised in audit reports received, highlighting any qualified reports and outlining the follow-up action proposed. The Department stated that the reports also provided regular updates on public financial management reform issues as well as information on governance issues, corruption allegations and prosecutions as a result of Government investigations.

- 13.50** Following the publication of the Ugandan Auditor General's report, a team from the Evaluation and Audit Unit was sent to Uganda to investigate the circumstances around the fraud and to identify any system weaknesses that may have facilitated it. In November 2012, the Unit completed a report outlining its findings and making a number of recommendations. Annex B presents the report recommendations and provides an update on the Department's progress in implementing them.
- 13.51** The overall conclusion of the Unit's report was that the misappropriation involved a high level of collusion that would have been difficult for normal control systems to pick up, as key controls were bypassed by the individuals that were responsible for implementing them. However, the report did identify a number of weaknesses and internal control failures in relation to systems operated by both the Government of Uganda and the donor countries. The areas of concern relating to Irish Aid included
- **Systems for tracking funding** – there was no documentation supporting the receipt for the €4 million payment and no confirmation of its subsequent transfer into the consolidated account.
 - **Management information** - the financial management reports agreed at the outset of the PRDP that would have provided a clear overview of programme funding and expenditure were not received.
 - **Management structures** – there was no detailed action plan allocating responsibility between donors for specific tasks in relation to monitoring of the programme.
 - **Human resources** - issues affecting the capacity and experience available to the Irish Embassy in Uganda included changes in the two key senior management posts, the fact that cover in respect of the internal auditor's maternity leave was on a part-time basis and that there was a vacancy in the role of development specialist.

Evaluation

- 13.52** The most recent evaluation of the Irish Aid Uganda country programme was published in 2009 and related to the 2007-2009 CSP. In terms of relevance, the evaluation found that the CSP was well aligned with the Government of Uganda's policies and supported the country's strategic priority of poverty reduction. It was also noted that support for programmes in the area of governance and public financial management was appropriate.

Department's Response to Findings

- 13.53** The Department has undertaken a number of initiatives aimed at enhancing controls across the bilateral assistance programme, since the completion of the Evaluation and Audit Unit's investigation into the fraud incident in Uganda.
- 13.54** In November 2012, the Accounting Officer requested the heads of mission in all key partner countries to undertake an immediate review of internal controls, risk management systems and reporting procedures. The areas covered under the reviews included the adequacy of management structures, human resources, management communications and systems for tracking funding provided through government systems.

- 13.55** In February 2013, the Accounting Officer hosted a meeting in Lusaka, for all heads of mission, to discuss common themes arising from the internal review exercise including dealing with resource constraints and specific funding risks associated with multi-donor scenarios. In addition, the head of the Department's Evaluation and Audit Unit discussed management of the key risks associated with the ODA programme, which are the misappropriation of funds and the failure to achieve results.
- 13.56** In March 2013, the Department's Evaluation and Audit Unit commenced a series of audit visits to key partner countries with the aim of formally assessing the adequacy of controls in each country and identifying any common weaknesses that may exist. The terms of reference for the assessments cover all areas of programme management including systems for grant approval and management, organisation structures, risk management processes, internal control systems and management information systems. Once all of the visits have been completed, a synthesis report covering the results of all of the assessments will be prepared. It is expected that this report will be complete in October 2013.
- 13.57** The role of Chief Risk Officer has been assigned to an Assistant Secretary within the Department. The Chief Risk Officer works closely with all other areas of the Department, including the Development Cooperation Division and the Evaluation and Audit Unit in particular. The main responsibilities of the role include
- overseeing, in conjunction with the Department's management committee, the development and maintenance of the risk management system
 - establishing the type and extent of risks that the Department is prepared to tolerate
 - ensuring that the Department's risk registers are kept up to date
 - monitoring the most significant risks on a regular basis
 - advising management regarding the mitigation of risk
 - engaging with other government departments and offices in relation to good practice in the area of risk management.

Conclusions and Recommendation

- 13.58** Irish ODA totalled €629 million in 2012, which is just over two-thirds of the peak figure of €921 million recorded in 2008.
- 13.59** The statement of policy for international development, launched in May 2013, renews Ireland's commitment to achieving the UN target of annual ODA equivalent to 0.7% of GNI. The proportion achieved for Irish ODA in 2012 was 0.47%.
- 13.60** In view of the nature of development assistance, risks of fraud and corruption are significant factors that must be addressed by donor countries. Controls applied by the Department in respect of ODA funding include ex-ante assessments in relation to potential partner organisations, as well as audit and evaluation work aimed at providing assurance that funds distributed are being used as intended and programmes funded are having the desired impact. Intelligence on emerging risks is captured through information sharing with other donors. In addition, internal auditors based in the embassies in key partner countries liaise with other donors and officials from the partner country government and monitor developments in relation to public financial management.
- 13.61** In October 2012, a report by the Auditor General of Uganda, highlighted the misappropriation of funds from a number of donors, including €4 million from Irish Aid. The Ugandan Auditor General's report refers to negative media publicity (prior to June 2012) regarding funds managed by the Office of the Prime Minister.
- 13.62** Through its presence on the ground in Uganda and information sharing with other donors, the Department should have been aware of concerns in relation to funding provided through Ugandan Government systems, prior to publication of the Auditor General's report. While this may not have prevented the fraud from occurring, it may have allowed the Department to put additional checks in place that would have uncovered the fraud at an earlier stage.

Recommendation 13.1: The Department should implement a risk dashboard system for key partner countries, based on key risk indicators. This should facilitate timely identification of a deteriorating risk environment so that appropriate action can be taken at an early stage.

Accounting Officer's Response: Agreed. The Department has already commenced a process of strengthening its risk management systems at key partner country level. Once the report on risk management systems in key partner countries is produced by the Evaluation and Audit Unit (due in October 2013), immediate steps will be taken to implement the recommendations of that report and to ensure that an appropriate risk dashboard system is in place in key partner countries.

- 13.63** The report prepared by the Department's Evaluation and Audit Unit noted that the fraud involved a high level of collusion at senior levels within the Office of the Prime Minister and the Central Bank of Uganda. However, it also identified some weaknesses in Irish Aid systems and made a number of recommendations. Details of progress made by the Department towards implementing the recommendations are included at Annex B.

- 13.64** At an overall level, the Department's response to the reported fraud appears to have been appropriate and proportionate, both in terms of the initial investigation and suspension of funding and the subsequent initiatives aimed at enhancing controls and addressing the weaknesses identified. In particular, the assignment of the role of Chief Risk Officer provides an opportunity to implement enhanced risk management measures in relation to Irish Aid.

Annex A Key Assistance Programmes

Bilateral Development Assistance

Ireland delivered bilateral assistance worth €398 million in 2012. Figure A1 presents a breakdown of bilateral transfers.

Figure A1 Bilateral ODA, by type, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Vote 27 International Co-operation expenditure					
Assistance to key partner countries	218.6	195.0	181.7	180.5	157.6
Assistance to other countries	38.2	24.5	20.2	21.3	22.6
Civil Society Support, including co-financing with NGOs	134.2	107.6	99.9	92.0	93.6
Global health, hunger and education initiatives	67.6	27.8	18.6	23.9	20.4
Emergency and humanitarian assistance	108.4	67.7	64.2	66.2	78.9
Other programmes	39.5	25.1	22.2	22.6	18.4
Bilateral ODA by other government agencies	8.3	7.2	6.1	7.9	6.0
Total bilateral ODA	614.8	454.9	412.9	414.4	397.5

Source: Department of Foreign Affairs and Trade

Assistance to Key Partner Countries

A total of €158 million was spent in 2012 on formal country assistance programmes which are long-term strategic partnerships with the governments of selected countries to support poverty reduction and development. The key partner countries supported are Ethiopia, Lesotho, Malawi, Mozambique, Tanzania, Timor Leste, Uganda, Vietnam and Zambia.¹ Development assistance is managed by the Irish embassies in key partner 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

Assistance of almost €23 million was also provided in 2012 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.² Support was also provided for a programme in the Occupied Palestinian territory and for a HIV/AIDS programme in Zimbabwe that is delivered through NGOs.

¹ Timor Leste is no longer a key partner country, following the closure of the mission in October 2012.

² Ireland's new policy for international development, launched in May 2013, provides for Sierra Leone to become a key partner country.

Civil Society Support

The civil society budget provides NGOs, missionary groups and other civil society partners with funding for development interventions. Expenditure in this area rose marginally in 2012 to nearly €94 million. The principal channels of expenditure are

- Programme Fund (€64.9 million) – long term and predictable funding is provided to 18 NGOs to support implementation of their strategic plans.¹
- Mísean Cara (€16 million) – this management agent for missionaries provided sub-grants to 61 missionary organisations in 2012. It also supports capacity building and oversees development interventions.
- The Civil Society Fund (€5.2 million) – multi-annual funding is provided for projects across a range of social and economic sectors. In 2012, some 42 NGOs were funded under this scheme.
- Development of the NGO sector (€3.7 million) – funding is provided to build capacity in the NGO sector.
- Development education funding (€3.2 million) – funding is provided through an annual development education grant and strategic partnership programme for organisations engaged in promoting understanding of and engagement with global development and justice issues.
- The In-Country Micro Projects Scheme (€0.6 million) – budgets are allocated to seven Irish embassies and one consulate to provide direct support for small-scale development projects. The scheme operates in developing countries where there is no Irish Aid development programme but Ireland has diplomatic accreditation.

Global Health, Hunger and Education Assistance

Expenditure on health, hunger and education schemes in 2012 amounted to just over €20 million, which represented a 15% decrease on 2011. 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. Assistance is delivered through civil society organisations, UN agencies and global funds.

Emergency and Humanitarian Assistance

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 Red Cross and the UN, that have a proven ability to deliver the required assistance quickly and effectively. Emergency and humanitarian assistance totalled almost €79 million in 2012, representing an increase of nearly 20% on the equivalent figure for 2011.

In order to facilitate rapid response, €26.8 million was contributed in 2012 (an increase from €18.8 million in 2011) to pooled funding arrangements, including the UN's Central Emergency Response Fund. Other UN agencies received about €20 million through consolidated appeals and basket funding. The NGO sector was provided with €17.7 million, of which €15.4 million was provided to Irish-based organisations. A further €12.1 million was channelled through the Red Cross and the remaining €2.4 million was distributed through various other channels.

¹ The Programme Fund was introduced in 2012 and replaced the previous Multi-Annual Programme Scheme and Block Grants.

Multilateral Development Assistance

Multilateral assistance involves contributing to international aid organisations that pool funds from member countries and apply them for development purposes. Figure A2 presents a breakdown of the organisations funded.

Figure A2 Multilateral ODA, by organisation, 2008 to 2012

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
United Nations, including voluntary contributions to UN agencies	102.1	60.1	59.9	60.7	62.3
European Community agencies and initiatives					
EU Budget for Development Co-operation	85.3	95.0	77.5	72.0	70.4
European Development Fund	22.0	22.0	23.2	29.5	29.0
World Bank and other multilateral institutions	53.6	32.8	28.3	30.8	25.0
Co-financing with multilateral agencies	7.7	21.2	43.7	21.4	17.8
Total multilateral ODA	270.7	231.1	232.6	214.4	204.5

Source: Department of Foreign Affairs and Trade

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 (€70.4 million in 2012) represents Ireland's deemed share of total overseas development assistance disbursed from the EU development co-operation budget in 2012.
- 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's key partner 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.

Annex B Implementation of Recommendations from Evaluation and Audit Unit Interim Report

	Recommendation	Status (July 2013)
1	Full recovery of the €4 million should be sought and funds should be returned to an account under the control of the Department of Foreign Affairs and Trade.	€4 million was recovered from the Government of Uganda in December 2012 and deposited in a Ugandan Embassy account.
2	No further disbursements should be made to the Government of Uganda until all the follow up audits planned by the Office of the Auditor General (OAG) are completed, the Government's response to the findings has been assessed and there is credible evidence of sustained improvement in internal controls over the public financial management system. This is likely to be late second half of 2013 at the earliest.	Follow up audits by the OAG are on going and will be concluded Summer 2013. Funding through Ugandan Government systems was suspended in October 2012. The aid programme for 2013 does not provide for direct funding through government systems, with the exception of bilateral support to the OAG.
3	It would be inadvisable to proceed with any programmes managed or under the supervision of the Office of the Prime Minister for the foreseeable future and at least until the further reports are received from the OAG and substantively addressed.	The office of the Prime Minister does not have any involvement, either funding or technical, with any aspect of the 2013 aid programme.
4	Any further audit work in respect of controls for the PRDP, the Office of the Prime Minister and the Ministry of Finance Planning and Economic Development should be left to the office of the OAG. Irish Aid should establish a mechanism for communication with the OAG to ensure that areas of concern are included in future audits.	Embassy staff meet with the OAG on a regular basis to discuss follow-up on the fraud incident and any associated areas of concern. The OAG is conducting audits of approximately 16 ministries. A summary of issues will be included in the annual statutory report for 2011/12, which is due to be presented to Parliament in the coming months.
5	If so requested, support should be considered for the OAG to ensure that the work programme outlined is completed in the shortest possible timeframe.	The 2013 aid programme provides for support to the OAG. A proposal for capacity building support to the OAG is currently being considered.
6	In implementing programmes, in particular new programmes, consideration should be given as to whether additional audit work over and above the annual statutory audit by the OAG is necessary. This should be discussed with the OAG and could include internal audit, specific programme audit, or some form of ongoing audit of internal controls at various levels of the programme.	The Embassy, with the support of Irish Aid staff in Ireland, is in discussion with the OAG about this. Appropriate measures will be agreed and put in place.

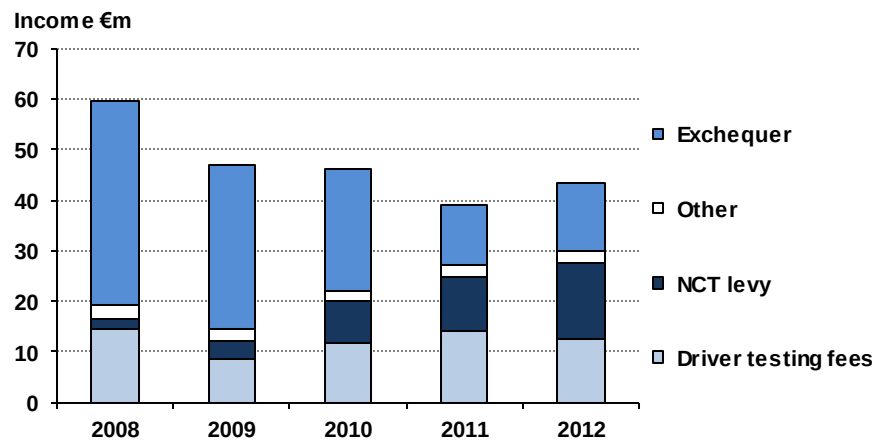
	Recommendation	Status (July 2013)
7	Provisions of Memorandum of Understanding (MOUs) must be translated into specific systems, processes and actions at operational level. This applies in particular to the requirement that proper financial information is available. All programme managers should understand the financial flows and key obligations agreed to in programme MOUs and have the tools to assess risks in the programme they are managing. A basic understanding of the system of national accounts is essential in this.	An MoU tracking matrix has been put in place and is regularly monitored by the programme management team. With the support of Irish Aid staff in Ireland, the Embassy will ensure that the requisite systems, tools and documentation are in place and documented, and any appropriate additional training is provided to programme staff.
8	Embassy Kampala should review and strengthen where necessary its implementation of the requirements of the Irish Aid Financial Policies, Guidelines and Procedures Manual and also ensure that roles and responsibilities in this area are clearly defined and properly understood.	With the support of Irish Aid staff in Ireland, the Embassy continues to review and strengthen its internal systems. Further training will be provided to all programme staff on systems and procedures. A senior financial and risk officer, with international experience, has been recruited to assist the Embassy in strengthening systems.
9	Embassy Kampala must ensure procedures are in place to track clearly that funds disbursed to Government are properly received into and transferred to the agreed accounts on a timely basis and reflected in published government accounts.	A system of programme fund tracking and monitoring is now in place and the management team ensures adherence through monthly checks.
10	The required structures for regular interaction and communication between internal audit and senior management at the Embassy should be fully activated and utilised and relevant issues arising should be brought to the attention of headquarters promptly in accordance with existing policies.	More formalised procedures for financial, audit and risk information sharing are now in place and include more frequent interaction with Irish Aid staff in Ireland.
11	The Evaluation and Audit Unit should review its work plan and consider ways to further strengthen its focus on risk areas. Linkages and communications between internal auditors at headquarters and field level should be strengthened including increasing frequency of visits.	Evaluation and Audit Unit has increased the number of supervision and support visits to the Embassy, with clearly defined and agreed outputs and outcomes.
12	The adequacy of the Department's policy around handover processes should be reviewed to ensure that there is adequate continuity between changing staff in managing complex programmes of this nature. This should include provision for substantive face-to-face handover in the Embassy.	At embassy level, handover processes have been reviewed and improvements implemented. This will include face-to-face handovers where feasible. The incoming Head of Development assigned to Kampala will have a substantial handover period on the ground with the outgoing Head of Development and the programme team. The general issue of handover processes, including training requirements, across missions with responsibility for delivering the Irish Aid programme is also being reviewed.

	Recommendation	Status (July 2013)
13	Regular risk assessments should be carried out across all programmes including risk assessments of specific programmes or projects. This would take account of the changing risk profile which is characteristic of many developing countries.	A specific programme risk register has been developed and agreed with HQ as part of the internal business planning process. The programme risk register will be reviewed and where appropriate, updated in regular programme team meetings.
14	In the light of issues raised in this report a review should be undertaken of the management arrangements, including risk and financial management, in all key partner countries to ensure that all procedures and protocols are being properly implemented and risks appropriately identified and managed.	At the request of the Secretary General in November 2012, ambassadors undertook immediate reviews of internal control and risk management systems. The Secretary General has also met with ambassadors to reinforce the importance of having appropriate systems in place. A comprehensive review of management arrangements by the Evaluation and Audit Unit in all key partner countries is nearing completion and a report with recommendations will be presented to the Secretary General.

14 Cash Balances in the Road Safety Authority

- 14.1** *Public Financial Procedures* require that any balance of grants paid by a department remaining unexpended at the end of the year is liable to be surrendered back to the Exchequer. It is a requirement that particular care is taken to avoid over-issues, especially at the end of the financial year, and there should be no automatic issue of the full amount provided without ascertaining whether the funds are required to meet the grantee's actual funding requirements. The overall principle underlying these cash management procedures is that there should be economy in the management of State funds.
- 14.2** Recurrent grant funding is provided to the Road Safety Authority (the Authority) from the Land Transport Programme of Vote 31 Transport, Tourism and Sport. As Figure 14.1 indicates, Exchequer grant funding to the Authority has declined significantly in recent years. Over the period 2008 to 2012, the Authority has derived an increasing proportion of its income from non-Exchequer statutory charges, principally fees for driver testing and a levy on the proceeds of the national car test. The significant increase in the levy in 2012 is attributed to the introduction of annual testing of cars aged 10 years or more, and the general ageing of the national car fleet.
- 14.3** The Department's long-term objective is for the Authority to operate without Exchequer grant support, and to be fully funded from statutory charges and the levy.

Figure 14.1 Road Safety Authority — sources of income, 2008 to 2012

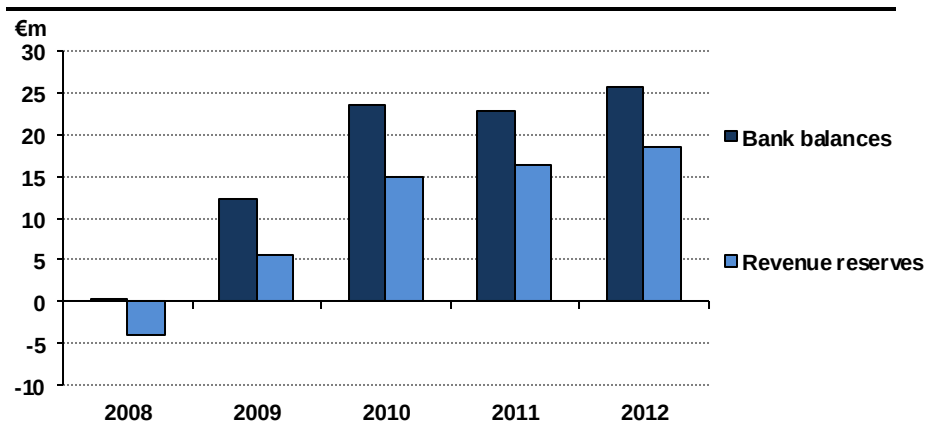


Source: Road Safety Authority financial statements 2008 to 2012

Control of Reserves

- 14.4** The Road Safety Authority Act 2006 provides that the Authority shall not be compelled to surrender to the Exchequer any moneys that it has on hands at the end of a financial year and may retain such moneys to finance its operations. The Minister for Transport, Tourism and Sport (the Minister) may require the Authority to pay a dividend to the Exchequer.
- 14.5** The Authority has accumulated very significant revenue reserves and cash balances in recent years (see Figure 14.2). At end 2012, the Authority's bank balances amounted to €25.5 million. This included €2.7 million in advance payments of fees by driver testing applicants. The advance payments are treated as deferred income in the Authority's financial statements, and are released to income in the following year as the tests are taken. As a result, these amounts are not included in the Authority's revenue reserves at year end.

Figure 14.2 Bank balances and reserves in the Road Safety Authority, 2008 to 2012



Source: Road Safety Authority financial statements 2008 to 2012

- 14.6** The Road Safety Authority Act 2006 provides for the development of a service level agreement that, in accordance with the functions assigned to the Authority, would govern 'certain tasks to be carried out, advice given, functions performed or standards adhered to in the performance of its function in the public interest'. The Act stipulates that the advance of funds would be conditional on compliance with the terms of the agreement.
- 14.7** In a memorandum of understanding dated 30 January 2012 between the Department and the Authority, it was agreed that
- the Authority's revenue reserves would be maintained at a level not exceeding €16.4 million
 - as part of the monthly draw-down of Exchequer funds, the Authority would produce management accounts in a timely manner to allow the Department to assess the Authority's financial position and to determine if any surplus in excess of the reserve agreed at the start of the year had arisen.

In the 2012 service level agreement between the Department and the Authority, it was agreed that

- if an unanticipated surplus in excess of the agreed reserve had arisen, then the Authority would explain in writing the reasons for the increased income or underspend
- following discussion between the Department and the Authority, the Department would advise the Authority of any adjustment that should be made to the next request for draw-down of Exchequer funding.

14.8 In November 2012, the Authority advised the Department that reserves had increased above the agreed limit. The Department agreed to allow the Authority to increase its reserves to €20.2 million and draw down the remainder of the 2012 allocation.

14.9 The 2013 service level agreement refers to the procedures governing the draw-down of the 2013 Exchequer allocation of €8 million. This agreement allows the Authority to increase its reserves to €22.5 million.

14.10 The Authority's stated reason for wishing to maintain a large reserve was as follows

- It needed capital funds in order to modernise its portfolio of driver testing centres, in accordance with recommendations from an externally-commissioned review. Approximately €4 million had been earmarked for this expenditure.
- Other capital projects planned for 2013 and 2014 were listed in the 2013 service level agreement and totalled €14 million.
- A further reserve had been set aside to cater for any unforeseen events in 2014 including industrial action, strategic outsourced supplier failure or a material drop off in demand led services and related fee income.

Views of the Accounting Officer for Vote 31

14.11 The Accounting Officer stated that the service level agreements concluded between his Department and the Authority in recent years have taken account of the changing circumstances of the Authority and have strived to balance the interests of the Exchequer with additional functions conferred on the Authority in a difficult economic climate. The two major additional functions, undertaken by the Authority at Government direction, involved assuming responsibility for the Commercial Vehicle Roadworthiness Service (CVR) and the National Driver Licence Service. Despite the considerable initial outlay involved, particularly in relation to CVR, both services have been commenced without recourse to additional Exchequer funding.

14.12 The arrangements in place through the annual service level agreement have, in the Department's view, proven successful in ensuring that the Authority has adequate funding to finance an essential capital programme while also providing the mechanisms for identifying situations where the capital reserve exceeds the agreed amount, resulting in reductions to Exchequer draw-downs.

14.13 The Accounting Officer has stated that, in the context of negotiating the annual service level agreement, the Department examines and discusses with the Authority the list of planned capital projects. Based on that discussion, the Department sets the reserve limit within which the Authority is expected to operate. Specific approval for the capital projects is not sought from the Department of Public Expenditure and Reform, but the process of concluding the service level agreement and the system by which the reserve level is agreed upon has been notified to that Department.

- 14.14** The Accounting Officer also stated that his Department has commenced a review in the light of significant changes to the Authority's functions over the past few years. The focus of the review is on whether the legislation under which the Authority operates is sufficiently robust to support the extent of its current and possible future functions and if a change in corporate governance requirements is necessary. The review will also examine the checks and balances that will be necessary when the policy objective of the Authority operating on a full non-Exchequer funding basis is achieved. The outcome of the review will be a report to the Minister on the possible reform of the Authority. A steering group, comprising representatives of his Department, the Authority and the Department of Public Expenditure and Reform is overseeing the review. The Department will review future Authority financial profiles in light of the outcome of the review.

Performance Oversight by the Department

- 14.15** The stated purpose of the 2012 and 2013 service level agreements with the Authority is to formalise the arrangement for the provision of the services detailed in the Authority's annual business plans. The 2012 plan was a 200 page document with identified outputs for each of the Authority's four directorates. It details a total of 260 outputs for the Authority.
- 14.16** The agreements provide for an annual review of the Authority's performance under the agreement. No formal review was conducted in respect of 2012. The Department considered that its on-going discussion with the Authority fulfilled this requirement.
- 14.17** The Chief Executive of the Authority stated that the Authority provides detailed and timely monthly management accounts and an annual business plan and budget to the Department. The Authority has been proactive in developing an annual memorandum of understanding and service level agreement with the Department in order to formalise the reporting relationship. This has been augmented by monthly update meetings between the Chief Executive and the Department.

Conclusion

- 14.18** Since 2010, the Authority has consistently had receipts considerably in excess of its immediate funding requirements. Notwithstanding significant reductions in annual Exchequer funding to the Authority, this has resulted in the build-up of substantial cash balances. The Authority's additions to fixed assets have been much less than the available reserves, amounting to €3.2 million in 2012 and €2 million in 2011.
- 14.19** Cash balances held by public bodies significantly in excess of their requirements has an opportunity cost, in the form of interest on State borrowing that might not be required with tighter cash management.
- 14.20** Service level agreements between departments and public sector bodies should include a small number of relevant performance indicators covering the volume and quality of services provided by the body so that performance can be effectively monitored and reported.
- 14.21** The service level agreement between the Department and the Authority provides for a performance review. In that context, it would be expected that a formal review of planned and actual outputs would be completed at the end of each year. Such a review was not conducted in 2012.

Recommendation 14.1: The Department and the Authority should develop key performance indicators and conduct a formal review of actual performance each year against those indicators.

Accounting Officer's Response: Agreed. The recommendation will be addressed and taken on board as part of the review of the Authority that is currently taking place and to which the chapter refers.

Chief Executive's Response: The Authority will comply in full with the development of key performance indicators and in having a formal review of performance against such indicators.

15 Staff Appointments in the National Gallery of Ireland

- 15.1** Under the Appropriation Acts, the National Gallery of Ireland is supplied with an annual grant for its salaries and expenses. Dáil approval and authority for this expenditure is given in the annual Appropriation Acts. In addition, the National Gallery is required to secure the sanction of the Department of Public Expenditure and Reform in relation to employment of new staff. The issue of formal sanction in respect of voted expenditure is an essential element of the procedure for the management and control of public expenditure.
- 15.2** The Gallery operates under a governance and management system originally approved under the terms of the National Gallery Act 1854. The Act has been amended from time to time to provide for additional requirements. Under the 1854 Act, the Governing Body's role includes appointment of employees "subject to such regulations and conditions as they (the Governing Body) think proper".

Appointment of Director

- 15.3** In late 2010, the need to appoint a new Director to the Gallery was established.
- 15.4** The Board of Governors and Guardians of the National Gallery has responsibility for the appointment of the Director. It is not involved in recruitment of other staff. In recruiting the Director, the Board appointed members to a Search and Selection Committee that was managed under the auspices of the Public Appointments Service (PAS). The Committee included a nominee of the Department of Arts, Heritage and the Gaeltacht and an independent chairperson.
- 15.5** In January 2011, the Department of Public Expenditure and Reform¹ sanctioned the recruitment of a new Director. The sanction contained a number of specific conditions which included that
- the post should be filled at the level of Principal Officer higher grade, with no additions on the basis of a fixed term five year contract
 - the draft contract of employment should be cleared by the Department of Public Expenditure and Reform
 - the services of the PAS should be used in the recruitment of the Director.
- 15.6** An open competition was held by PAS in April 2011. The post was advertised in relevant international media. A booklet provided for the information of candidates included the details of the post and outlined the terms and conditions of the employment. The salary details were in line with the conditions outlined in the sanction. The salary scale is set out in Figure 15.1. No information was provided in relation to removal expenses.

¹ Functions in relation to staff appointments and salary approval previously held by the Department of Finance were transferred to the Department of Public Expenditure and Reform when it was established in June 2011.

Figure 15.1 Salary scale — Principal Officer higher grade, with effect from 1 January 2010

Scale	Salary
Point 1	€85,957
Point 2	€89,399
Point 3	€92,853
Point 4	€96,295
Point 5	€99,236
Long service 1	€102,335
Long service 2	€105,429

Source: Department of Public Expenditure and Reform

- 15.7** Following an interview process, the Committee made a recommendation to the Board, which in turn authorised the offer of appointment.
- 15.8** Following negotiations between the Gallery, the Department of Arts, Heritage and the Gaeltacht and the Department of Public Expenditure and Reform, appointment of the Director at a salary commencing at the fifth point on the scale was sanctioned. However, this sanction was specifically subject to
- no additional benefits, in cash or in kind, being payable, other than reasonable vouched removal expenses to relocate to Ireland i.e. no performance related award, no company car, etc.
 - no removal expenses to be paid to relocate elsewhere upon expiration of the contract.
- 15.9** In November 2011, an offer was made to an overseas candidate which included the sanctioned rate of pay and that reasonable vouched expenses would be paid if incurred in relocating to Ireland.
- 15.10** In addition to the sanctioned rate of pay, the new Director received a further payment in 2012 of €40,000, net of tax and Pay Related Social Insurance for removal expenses. This payment was made from non-Exchequer sources available to the Gallery, not from the Vote.
- 15.11** Of the €40,000 in removal expenses paid, supporting vouchers to the value of €3,700 have been received to date. Following tax advice, the Gallery grossed the unvouched element of the expense payment to €87,454 for tax purposes, with the grossed up cost also being paid out of the non-Exchequer resources of the Gallery.
- 15.12** The Gallery's Audit and Risk Committee discussed the contractual issues regarding the appointment of the new Director and it recommended that the Board of the Gallery give formal approval for the use of Gallery own funds in meeting 'non-salary costs' as required.

Views of the Chair of the Board

- 15.13** The Chair of the Board stated that the sanction allowed for the payment of reasonable relocation expenses, which, in the Board's view, could be properly defined in this case as that level of expenses payment that would make a candidate from overseas no worse off in taking up the post than a person already domiciled in Ireland. She also stated that the Board was obliged to determine what was 'reasonable' when it came to relocation expenses for a candidate taking up a position and relocating from overseas. The nature of the property market along with the dysfunctional nature of the banking system in Ireland made family relocation unattractive for a senior mid-career professional. This was compounded by the fact that the contract was for five years only. The resolution was to recognise that the relocation would be on-going over five years and that the expenses of travel would need to be met in order to achieve the outcome where the overseas candidate would be "no worse off in taking up the post than a person already domiciled in Ireland". She stated that the operation of this arrangement on relocation expenses will be subject to annual audit by the Gallery's internal auditor. The first of these audits, covering the initial months after appointment, was conducted in September 2012 with the next one due in the coming months. The Gallery's intention is that these audits will ensure that the expenses associated with travel from abroad are fully vouched.

Conclusion

- 15.14** The payments approved by the Board did not comply with the sanction issued by the Department of Public Expenditure and Reform.

Award of Contracts of Indefinite Duration to Gallery Staff

- 15.15** The Gallery recruited 30 staff as Security Attendants on a contract basis when the Gallery's new Millennium wing was opened in 2002. All these staff were employed on fixed term/specified purpose contracts, in accordance with the sanction prescribed by the Department of Public Expenditure and Reform. During the period 2002-2011, the Gallery obtained approval to recruit some of these staff on a permanent basis, others left and some of these were replaced on a permanent basis. The result was that there were 15 staff on fixed term/specified purpose contracts which expired in the period July to September 2011. The staff concerned were then made redundant.
- 15.16** Six of those staff made claims for 'contracts of indefinite duration' under the terms of the Protection of Employees (FTW) Act 2003.¹
- 15.17** The National Gallery had employed these staff on a series of four fixed term contracts of employment between January 2002 and September 2011. The first contract of employment (January 2002 — June 2005) stated "the specific purpose of this contract is that you are employed to secure the National Collection at the National Gallery incorporating the Millennium Wing, on a temporary basis until such time as refurbishment commences at the National Gallery's historic buildings under the Gallery's Development Plan. When this occurs, the specified purpose hereunder will cease and accordingly your employment will terminate in accordance with Clause 2. It is not possible to estimate when the specified purpose of your contract will cease but your employment will not in any event continue beyond 30 June 2005 and therefore you are accepting this offer of employment on the strict understanding that the nature of your employment is temporary".

¹ The statutory provisions in relation to such contracts are explained in Figure 15.2.

Figure 15.2 Contract of Indefinite Duration

A fixed term contract is a contract of employment where the end date of the contract is known at the outset. A specified purpose contract is a contract of employment which terminates on the occurrence of a specific event or cessation of a specific purpose.

The term 'contract of indefinite duration' (CID) is generally used to describe an employment contract that has lasted (or is intended to last) more than 52 continuous weeks. The term CID comes from the Protection of Employees (Fixed-Term Work) Act 2003. That Act prohibits the use of successive fixed-term contracts and provides that an employee is entitled to a CID once he or she has been on fixed-term contracts for more than four years, unless there is objective justification to keep the employee on fixed-term contracts.

Subsection 9(3) of the Protection of Employees (Fixed Term Work) Act 2003, states that "where any term of the fixed term contract purports to contravene [subsection 9(1) or 9(2)], the term shall have no effect and the contract concerned shall be deemed to be a contract of indefinite duration."

Subsection 9(1) indicates that where a fixed term employee completes or has completed his or her third year of continuous employment with an employer, the fixed term contract may be renewed by that employer on only one occasion and any such renewal shall be for a fixed term of no longer than one year.

Subsection 9(2) indicated that where a fixed term employee is employed on two or more continuous fixed term contracts, the aggregate duration of the contracts shall not exceed four years.

Objective grounds are described in Section 7(1) in the following terms. "A ground shall not be regarded as an objective ground ... unless it is based on considerations other than the status of the employee concerned as a fixed term employee and the less favourable treatment which it involves for that employee (which treatment may include the renewal of a fixed term employee's contract for a further fixed term) is for the purpose of achieving a legitimate objective of the employer and such treatment is appropriate and necessary for that purpose."

- 15.18** The second contract (June 2005 to March 2011) had similar wording and specifically included "Your employment will terminate automatically without any right to notice on the commencement of refurbishment". During this time, the Gallery was awaiting approval to proceed with its master development plan. As part of the plan, it was envisaged that sections of the Gallery would be closed for long periods and therefore, there would be reduced requirement for Security Attendants.
- 15.19** Refurbishment of the Gallery commenced in the Dargan Wing in March 2011. However, the refurbishment works were being undertaken on a phased basis, therefore, the services of these staff was required for a further short period, pending the commencement of refurbishment in other parts of the Gallery.
- 15.20** Two other contracts were given to cover the period from March to June and June to September 2011.
- 15.21** From March 2009, the Gallery was in regular discussions with the Department of Public Expenditure and Reform for additional attendant staff on a permanent basis as a result of natural wastage.

- 15.22** The Gallery has stated that, it sought legal advice at all stages of recruitment and contract renewal beginning in 2002 and ending in 2012, and complied precisely with all advice provided. Throughout the period, the legal firm advised that, although the legislation was relatively new and un-tested, the Gallery had a strong case and would probably be able to successfully defend any claims.

Labour Court Hearing

- 15.23** From July 2011 onwards, complaints were made by six staff to the Rights Commissioner in relation to employment rights. Each of the outcomes differed but the decisions of the Rights Commissioner were appealed by the six staff members to the Labour Court in December 2011. The cases were heard during summer 2012.
- 15.24** In respect of the first three cases heard, the Court determined in September 2012 that
- the specified purpose contract of employment set in June 2005 was not justified on objective grounds (within the meaning of Section 7(1) of the Act) and was deemed a contract of indefinite duration
 - the fixed term contract of employment offered in June 2011 was not justified on objective grounds and was deemed a contract of indefinite duration
 - the Gallery could not claim that the contracts did not meet a 'fixed and permanent need' for the Gallery.
- 15.25** The Court ordered the Gallery to
- reinstate the staff members into their employment with effect from the date of the termination of their employment
 - pay the staff members any arrears of pay due to them less any amount of monies paid to them by way of redundancy pay they had already received
 - award them €3,000 each in compensation.
- 15.26** The Gallery decided that it should reinstate all six staff in December 2012. The costs involved are
- legal costs — €124,509
 - reinstatement costs — €281,426 i.e. salary arrears from the date of redundancy (a net payment was made after taking account of redundancy payments already paid)
 - compensation costs — €15,000.
- In addition, there are legal costs for one of the claimants currently in dispute. A negotiated settlement is anticipated before the end of 2013.
- 15.27** According to the Gallery, due to subsequent staff departures, the employees who were taken back are required by the Gallery and are productively employed.

Conclusion

- 15.28** The Gallery incurred expenditure in the region of €420,000 in relation to the re-instatement of the six Security Attendants, including arrears of salary for the fifteen month period when the attendants had been made redundant. There are also long term costs for the State as these employees accrued pension rights from the commencement of the contracts.
- 15.29** Issues involving contracts of indefinite duration also arise elsewhere in the public sector. This is a particular issue in relation to employees in the third level education sector.

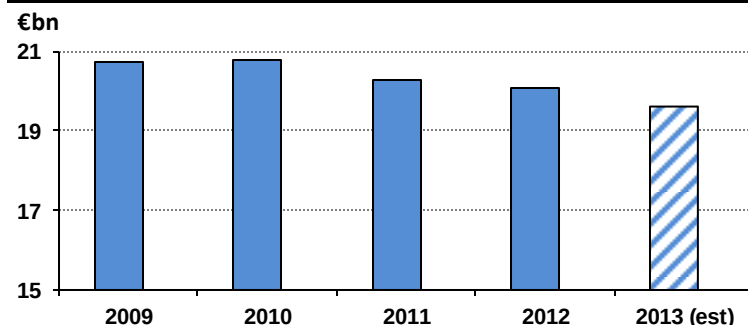
16 Expenditure on Welfare and Employment Schemes

- 16.1** In 2012, €20.1 billion was spent on welfare and employment schemes. The vast bulk of this expenditure is incurred by the Department of Social Protection (the Department). The schemes are funded through the two accounts operated by the Department — the Exchequer-funded Vote for Social Protection (Vote) and the Social Insurance Fund (SIF). The SIF derives most of its income from PRSI contributions. However, since mid 2010, the SIF has required a subvention from the Exchequer (paid through the Vote) to bridge the gap between its income and expenditure. There is close financial interaction between both accounts in their operation.
- 16.2** The purpose of this report is to present a consolidated view of expenditure on welfare and employment schemes taking into account expenditure from both the Vote and the SIF. Previously, a number of income support schemes were funded by other public bodies. However, in recent years most of those schemes have been transferred to the Department or have been phased out. These have been included in the consolidation for prior years to provide meaningful trend analysis. The report also sets out the sources of funding as well as the Department's administration costs.
- 16.3** Expenditure funded by other public bodies on certain programmes that could also be considered to have broad welfare or employment support objectives has not been included in the consolidation. This includes
- payment to participants in training for employment programmes funded by the National Training Fund and the Department of Education and Skills
 - medical card expenditure and blind welfare allowance met from the Health Service Executive's Vote
 - 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
 - payment of the early childhood care and education scheme funded by the Department of Children and Youth Affairs.

Trends in Expenditure

- 16.4** Figure 16.1 shows trends since 2009 in expenditure on welfare and employment schemes together with the estimated expenditure for 2013.

Figure 16.1 Expenditure on welfare and employment schemes, 2009 to 2013



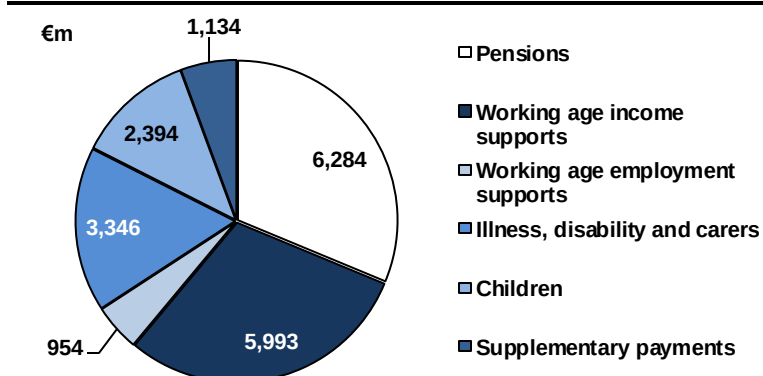
Source: Annex A

- 16.5** The format of the accounts for both the Vote and SIF has been revised with effect from 2012. As a result, scheme expenditure is now presented by programme category. The programme categories are

- Pensions
- Working age income supports
- Working age employment supports
- Illness, disability and carers
- Children
- Supplementary payments.

- 16.6** An analysis of 2012 expenditure by category is presented in Figure 16.2. Annex A analyses expenditure by category over the period 2009 to 2013.¹

Figure 16.2 Expenditure 2012, by category



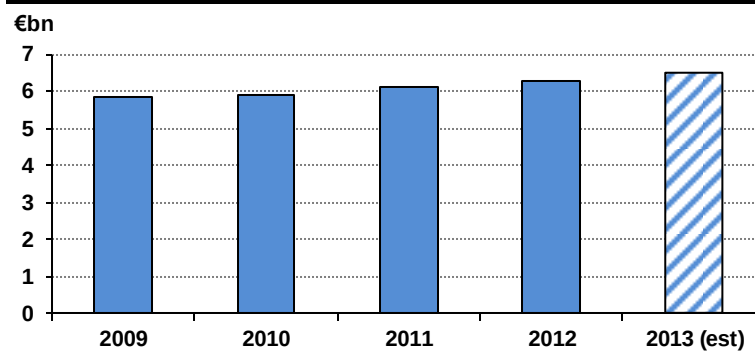
Source: Annex A

¹ Earlier years have been re-stated as necessary, in line with the Department's revised categories.

Pensions

- 16.7** Expenditure on pensions totalled €6.3 billion in 2012. This represents an increase of 7% over 2009. A further increase of 3% is projected for 2013 (Figure 16.3). State pensions account for the bulk of the increase over the period. This is due to increases in the number of recipients from 370,000 in 2009 to 423,000 in 2012.

Figure 16.3 Pension expenditure, 2009 to 2013

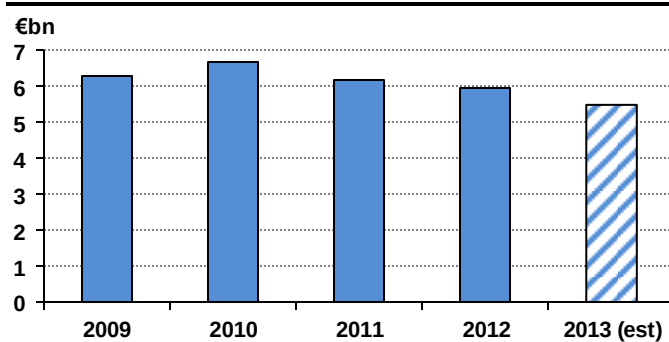


Source: Annex A

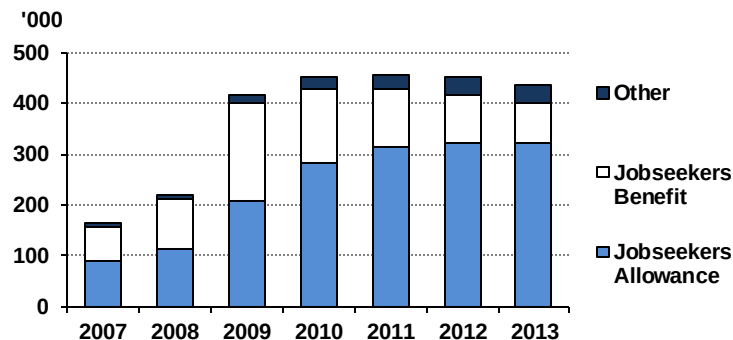
Working Age Income Supports

- 16.8** Expenditure on working age income supports accounted for 30% of all expenditure in 2012. Total expenditure in 2012 was €6 billion — this represents a decrease of 10% since the peak in 2010 (Figure 16.4). The main support provided is jobseekers allowance and benefit which together account for two thirds of the expenditure in this category. Figure 16.5 shows the numbers on the live register between June 2007 and June 2013.
- 16.9** Overall, the number of people on the live register increased from 166,000 in June 2007 to 458,000 in June 2011. By June 2013, this had fallen to 435,000, a decrease of 5%.
- 16.10** In June 2008, jobseekers allowance claimants accounted for just over half of all live register figures. By June 2013, this had increased to 74%, as individuals exhausted their entitlement to jobseekers benefit and transferred to jobseekers allowance.

Figure 16.4 Working age income support expenditure, 2009 to 2013



Source: Annex A

Figure 16.5 Trends in live register, June 2007 to June 2013^{a,b}

Source: Central Statistics Office Live Register June 2007 to June 2013

- Notes:
- a Around 20,000 jobseekers' claimants are not included on the live register — systematic short-time workers, self employed, short-term enterprise allowance, work placement programmes open/graduate and persons aged over 65.
 - b Other — principally includes unemployed persons who do not qualify for jobseekers payments but have applied for credited social insurance contributions.

16.11 Jobseekers payments are projected to decrease by €130 million in 2013 based on

- a projected 3.5% decrease in the numbers of claimants
- a reduction in the duration of jobseeker's benefit
- a full year's impact of the reduction in the base payment entitlement from a six day week to a five day week, effective from July 2012. This affects part-time or casual workers who account for one fifth of those on the live register.

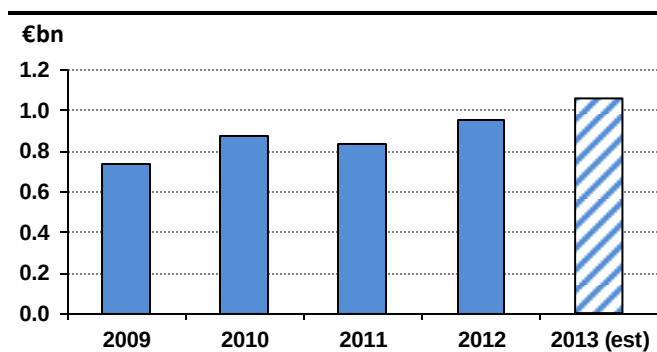
16.12 The other main contributors to the projected reduction of almost €500 million or 8% in working age income support are

- a €196 million reduction in expenditure on redundancy and insolvency arising from the abolition of the statutory redundancy employer rebate from January 2013
- a change in the age condition of the youngest child and a reduction of the amount of earnings disregarded for eligibility for one parent family payment contribute to the expected expenditure reduction of €123 million.

Working Age Employment Supports

16.13 Expenditure on employment schemes for the period 2009 to 2013 is set out in Figure 16.6. In 2012, just under €1 billion was spent on employment supports. This represents an increase of 30% over 2009.

Figure 16.6 Working age employment support expenditure, 2009 to 2013

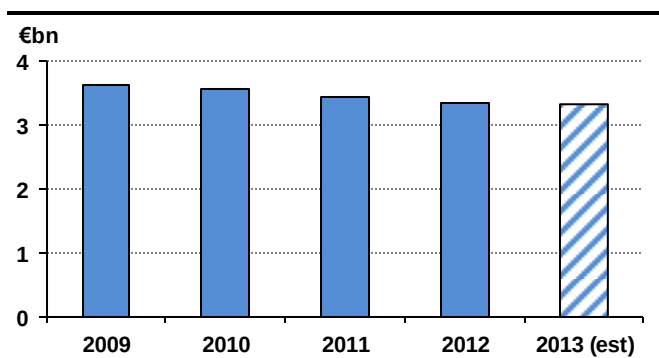


Source: Annex A

Illness, Disability and Carers

- 16.14** Expenditure in relation to support for illness, disability and carers decreased by 8% between 2009 and 2012 from €3.6 billion to €3.3 billion (Figure 16.7). Most of the decrease relates to disability allowance, illness benefit¹ and invalidity pension. The number of recipients of illness benefit and invalidity pension has decreased in the period, while there has been a marginal increase in the number of recipients of disability allowance. Expenditure on each scheme has decreased due to rate reductions. A further marginal decrease in expenditure in this category is projected for 2013.

Figure 16.7 Illness, disability and carers expenditure, 2009 to 2013



Source: Annex A

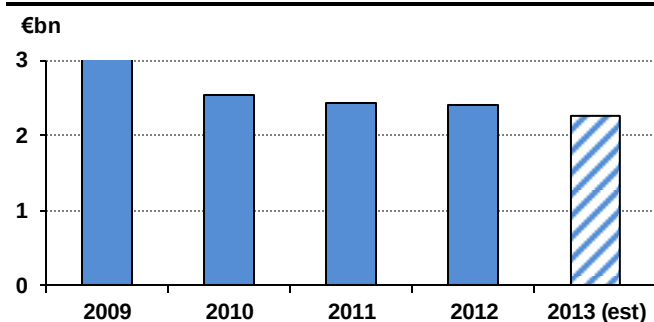
Children

- 16.15** Expenditure in relation to support for children was €2.4 billion in 2012. This represents a decrease of 21% over 2009 (Figure 16.8). The decrease is mainly accounted for by the reduction in child benefit rates over the period and the replacement of the early childcare supplement with a scheme that has an education focus which is not included in the consolidated figures.² A further decrease of 6% in expenditure on support for children is projected in 2013.

1 There were changes in the entitlement conditions for new claimants which impacted on expenditure from January 2011.

2 The early childhood care and education scheme. This is accounted for in Vote 40 Children and Youth Affairs.

Figure 16.8 Support for children expenditure, 2009 to 2013

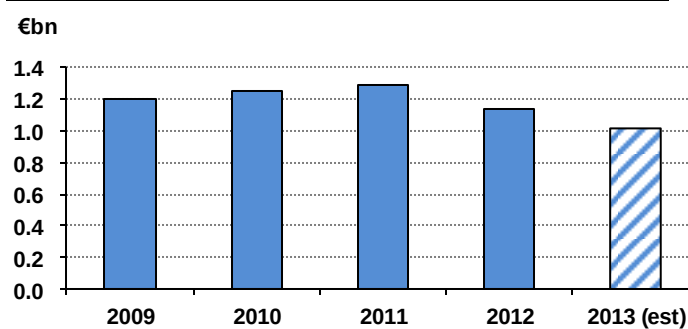


Source: Annex A

Supplementary Payments

- 16.16** Expenditure on supplementary payments increased by 7% from €1.2 billion to €1.3 billion between 2009 and 2011. The increase was accounted for mainly by increased expenditure on fuel allowance in 2011. In 2012, there was a decrease in total supplementary payments of 12% to €1.1 billion (Figure 16.9). This is mainly due to a reduction of €80 million in rent supplement payments due to a revision of the maximum rent limits and €55 million reduction in fuel allowance payment due to a reduction in the number of weeks for which the allowance is payable. A further decrease of 10% is projected for 2013, mainly due to changes in rent supplement, mortgage interest supplement and household benefits package.

Figure 16.9 Supplementary payments, 2009 to 2013



Source: Annex A

Source of Funding

- 16.17** The consolidated expenditure includes expenditure under both the Department's Vote and the SIF, and expenditure met from other Votes in earlier years. By 2011, the Department was responsible for almost all expenditure. This was due to the transfer of responsibility for various schemes from the HSE, the Department of Children and Youth Affairs, and the Department of Education and Skills. Figure 16.10 summarises expenditure by source for the period 2009 to 2013.

Figure 16.10 Source of welfare and employment expenditure, 2009 to 2013

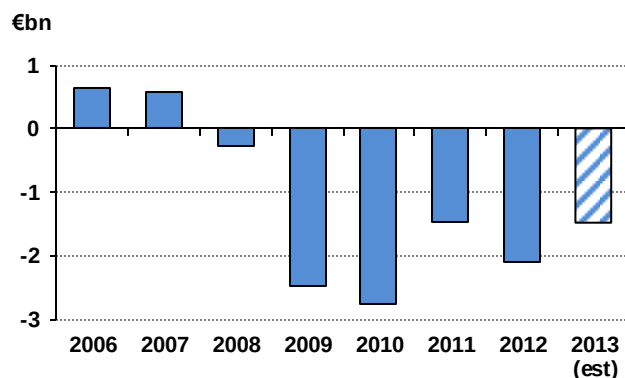
Source of Funding	2009	2010	2011	2012	2013
	€m	€m	€m	€m	Est €m
Social Insurance Fund	9,503	9,180	8,723	8,587	8,314
Voted Expenditure					
Social Protection	10,355	11,032	11,540	11,518	11,299
Jobs, Enterprise and Innovation	443	221	4	—	—
Community, Equality and Gaeltacht Affairs	99	67	—	—	—
Education and Skills	—	287	—	—	—
Health Service Executive	92	—	—	—	—
Children and Youth Affairs	231	11	1	—	—
Total Funding	20,723	20,798	20,268	20,105	19,613

Source: Audited Appropriation Accounts 2009-2012 Audited Social Insurance Fund Financial Statements 2009-2012; Estimates for 2013 as voted by Dáil Éireann

Social Insurance Fund Deficit

- 16.18** In 2012, €8.6 billion of welfare and employment expenditure was met from the SIF. 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. Under the Social Welfare Consolidation Act 2005, there is provision for the Exchequer to fund any deficit.
- 16.19** Since 2008, SIF expenditure has exceeded income (Figure 16.11). Until May 2010, the shortfall was met from the SIF's accumulated reserves. Since then, it has been met by a subvention from the Exchequer. In 2012, a €2.1 billion subvention was paid from the Exchequer to the SIF. This was 15% higher than the original estimate. There is provision for a subvention of €1.5 billion in 2013.
- 16.20** In addition to the Exchequer subvention, the Social Welfare and Pensions Act 2012 provides for advances to be made from the Central Fund if necessary to ensure sufficient moneys are available in the SIF to fund payments. The requirement for such advances arises because the bulk of transfers from Revenue into the SIF are at the end of each month, while benefit payments are made throughout the month. In December 2012, €300 million was advanced from the Central Fund. This advance was repaid before the end of 2012.

Figure 16.11 Surplus/ (deficit) on Social Insurance Fund, 2006 to 2013

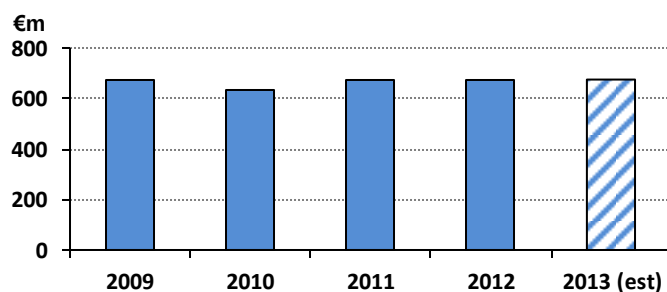


Source: Social Insurance Fund Financial Statements 2006-2012; Estimate for 2013 as voted by Dáil Éireann

Administration Costs

- 16.21** Figure 16.12 shows the trend in the Department's administration costs from 2009 to 2013. Projected expenditure for 2013 is similar to the 2012 levels of €671 million. The Department's administration costs are analysed in Annex B.

Figure 16.12 Department of Social Protection administration costs, 2009 to 2013



Source: Annex B

Conclusions and Recommendation

- 16.22** Around €20.1 billion was spent by the Department on welfare and employment measures in 2012 — 3% below 2009 expenditure.
- 16.23** The majority of welfare schemes are now administered by the Department and funded through either the Vote for Social Protection or the Social Insurance Fund (SIF). The formats of the accounts of both the Vote and SIF have been revised and scheme expenditure is now presented under identical programme categories in each account.

Recommendation 16.1: To enhance public accountability, the Department should publish a consolidation of its expenditure on welfare and employment schemes as an addendum to the Appropriation Account of the Vote.

Accounting Officer's Response: Agreed. In drafting the 2013 appropriation account, the Department will provide an addendum, as suggested.

Annex A Payments by Scheme and Category^a

Expenditure Category	2009	2010	2011	2012	2013
	€m	€m	€m	€m	Est €m
Pensions					
State Pensions	4,473	4,537	4,727	4,913	5,099
Widow s'/Widowers' / Surviving Civil Partners' Pension	1,362	1,343	1,346	1,351	1,348
Bereavement Grant	19	18	19	20	22
Total	5,854	5,899	6,092	6,284	6,469
Working Age Income Supports					
Jobseeker's Allowance	2,005	2,809	2,975	3,055	3,098
One Parent Family Payment	1,121	1,110	1,089	1,058	935
Jobseeker's Benefit	1,734	1,285	927	737	564
Redundancy and Insolvency Benefit	350	490	326	318	122
Maternity Benefit	331	324	309	303	297
Basic Supplementary Welfare Allowance	241	207	174	179	161
Farm Assist	93	111	114	108	100
Deserted Wife's Benefit	100	93	86	84	80
Other Working Age Supports	90	84	75	64	62
Pre-Retirement Allowance	97	78	60	46	33
Treatment Benefits	100	51	23	19	19
Widow s' Widowers'/Surviving Civil Partners Pension (Non Contributory)	24	19	18	18	16
Deserted Wife's Allowance	6	5	4	4	3
Adoptive Benefit	1	1	1	—	1
Health and Safety Benefit	1	1	1	1	1
Total	6,294	6,669	6,183	5,993	5,492
Supplementary Payments					
Rent Supplement	511	517	503	423	403
Household Benefits Package	359	368	370	369	284
Fuel Allowance	200	229	266	211	211
Free Travel	73	74	76	76	77
Mortgage Interest Supplement	61	66	68	55	42
Total	1,204	1,253	1,282	1,134	1,017

Expenditure Category	2009	2010	2011	2012	2013 Est
	€m	€m	€m	€m	€m
Working Age Employment Supports					
Employment Programmes	389	385	367	330	351
Job Initiative	36	30	30	26	25
Rural Social Scheme	48	44	47	45	45
TÚS Community Work Placement Scheme	—	—	12	67	96
Back to Work Allowance	77	88	115	127	126
Back to Education Allowance	107	180	202	200	189
National Internship Scheme - JobBridge	—	—	8	55	82
Partial Capacity Benefit	—	—	—	2	9
Other Working Age Employment Support	10	10	7	57	87
Employment Subsidy Scheme	18	93	4	—	—
Community Service Programme	51	45	45	45	46
Total	736	875	837	954	1,056
Illness, Disability and Carers					
Disability Allowance	1,143	1,110	1,089	1,088	1,115
Illness Benefit	920	943	876	774	732
Invalidity Pension	682	640	607	603	601
Carer's Payment	533	528	532	534	559
Respite Care Grant	99	128	130	136	111
Domiciliary Care Allowance	123	96	100	102	107
Disablement Benefit	86	79	77	76	74
Blind Pension	16	16	16	16	15
Injury Benefit	18	18	17	16	14
Total	3,619	3,557	3,443	3,346	3,328
Children					
Child Benefit	2,495	2,213	2,076	2,047	1,912
Family Income Supplement	167	186	205	224	230
Back to School Clothing and Footwear Allowance	67	77	91	66	49
School Meals	35	35	35	35	37
Child Related Payments	20	23	23	22	23
Early Childcare Payment	231	11	1	—	—
Total	3,016	2,545	2,431	2,394	2,251
Expenditure on all Schemes^b	20,723	20,798	20,268	20,105	19,613

Notes: a Annual expenditure data is based on audited appropriation account figures (2009 to 2012) and audited SIF data (2009 to 2012). Estimates for 2013 as voted by Dáil Éireann.

b Due to rounding, certain scheme expenditures may not sum to the category totals reported

Annex B Department of Social Protection Administration Costs

	2009	2010	2011 ^a	2012	2013
					Est
	€m	€m	€m	€m	€m
Administration and management	538	528	581	576	581
Agency and service grant	81	55	45	46	47
Expenditure under other Votes	37	31	39	36	40
Notional rent	16	15	10	11	11
Other	3	3	2	2	2
Total Expenditure	675	632	677	671	681

Note: a The Department assumed responsibility for funding FÁS employment supports from 1 January 2011. 2011 costs include the administration element of funding provided to FÁS by the Department. From 1 January 2012 administration expenditure for former FÁS schemes is met from the Department's budget.

17 Regularity of Social Welfare Payments

- 17.1** The Department of Social Protection (the Department) is required to ensure that the expenditure it incurs has been applied for the purposes for which the money was made available by Dáil Éireann, and that its financial transactions conform with the authorities under which they purport to have been carried out. Financial transactions are considered to be 'regular' when both of these conditions are satisfied.
- 17.2** Payments in excess of the entitlement under the terms of welfare schemes are 'irregular'. Such payments can arise due to
- claimant fraud — where the claimant intentionally provides incomplete or inaccurate information in order to receive benefits, or deliberately fails to inform the Department of relevant changes in circumstances
 - 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's staff.
- 17.3** I referred in my certificates on the 2012 Appropriation Account for Vote 37 and the 2012 Account of the Social Insurance Fund (SIF) to the level of irregularity of scheme payments, which I considered material in the context of each account.

Department's Review Programme

- 17.4** The Department undertakes fraud and error surveys to establish the level of risk associated with particular schemes and areas with a view to designing processes and control measures specifically targeted to minimise the level of future risk.
- 17.5** The Department considers a number of factors when selecting and scheduling schemes to be surveyed. These include
- whether a previous survey of the scheme has been conducted
 - the length of time since the last survey
 - coverage of both Vote and SIF schemes
 - scheme expenditure
 - the burden of undertaking the survey including the capacity of the inspectorate, scheme and local offices, and medical assessors.

- 17.6** The Department's programme of surveys envisages at least two surveys each year over the six years to 2016. The schedule is reviewed annually and adjusted if necessary in the light of business needs and emerging trends. A survey of the rent supplement element of the supplementary welfare allowance scheme was added to the schedule and commenced in March 2013. Surveys of the remaining elements of that scheme will be conducted in subsequent years.
- 17.7** The Department is currently finalising the outcome of its survey of the jobseekers allowance scheme undertaken in 2012. A survey of widows/widowers/surviving civil partner's pension (contributory) commenced in August 2013. Surveys of invalidity pension and illness benefit are also scheduled for 2013.
- 17.8** This report looks at fraud and error surveys completed in 2012 and 2013, to assess the reliability of the process and the implications of the results.

Estimates of Level of Irregular Payments

- 17.9** An estimate of the level of excess payment is not available for all schemes. Figure 17.1 sets out an estimate of the scale of irregular payments for 2012 based on the latest available fraud and error surveys for schemes where such surveys have been carried out.

Figure 17.1 Estimated levels of irregular payments in surveyed schemes

Account and scheme	Year of survey ^a	Estimated level of irregular payment		Scheme cost 2012
		Scheme	Department ^b	€m
Vote schemes				
Family Income Supplement	2005	3.3%	n/a	224
State Pension (non-contributory)	2007	1.9%	n/a	963
Jobseekers Allowance	2009	3.1%	n/a	3,055
Disability Allowance	2010	18.4%	4.1%	1,088
One-Parent Family Payment	2011	7.1%	2.7%	1,058
Child Benefit	2012	0.5 %	0.5%	2,047
Social Insurance Fund schemes				
Illness Benefit	2006	0.4%	n/a	774
State Pension (contributory/transition)	2008	1.1%	n/a	3,949
Jobseekers Benefit	2011	2.5%	1.6%	737

Source: Department of Social Protection

Notes: a Base year for survey

b Net loss to welfare system taking account of cases where disallowed scheme claims are succeeded by claims/dependant payments on other schemes.

Vote Funded Schemes

- 17.10** There is wide variation in the level of irregular payments in Vote funded schemes. The surveyed Vote schemes account for €8.4 billion of expenditure. The extent of irregular payments in schemes that have not been surveyed and which account for a further €3.1 billion of expenditure, is not known.

SIF Funded Schemes

- 17.11** There is also variation in the level of irregular payments in SIF schemes. The State pension (contributory/transition) and jobseekers benefit schemes accounted for over half of the €8.6 billion SIF scheme expenditure in 2012. Each scheme has estimated irregular payment levels in excess of 1% of expenditure.

Latest Survey Results

- 17.12** In June 2012, the Department published the findings of fraud and error surveys of three schemes - jobseekers benefit, disability allowance and one-parent family. The findings of its survey of child benefit were published in March 2013. The results of these surveys are summarised in Figure 17.2.
- 17.13** Three of the four schemes had expenditure in excess of €1 billion in 2012. The jobseekers benefit scheme cost €737 million.
- 17.14** The 2012/2013 surveys, unlike previous surveys, calculated the 'net loss' to the Department. This involves adjusting the level of irregular payment identified to take account of cases where the claimant becomes eligible for payment under another scheme or becomes an adult dependant of another claimant. Therefore, while the 'gross loss' represents the level of fraud and error in the scheme, the net loss seeks to take into account the impact on the welfare system as a whole.
- 17.15** Significant factors in relation to the schemes included
- the majority of fraud and error cases identified in the jobseekers benefit scheme arose because claimants received benefits for days when they were working
 - over 75% of the fraud and error cases in the one-parent family scheme were attributed to claimants' means and approximately 10% to cohabitation
 - most fraud and error in disability allowance arose because the claimants were found to no longer meet the qualifying medical criteria
 - in the five child benefit fraud cases identified, the claimants were found to have left the country without notifying the Department.

Figure 17.2 Estimated value of irregular welfare payments — 2012 and 2013 surveys

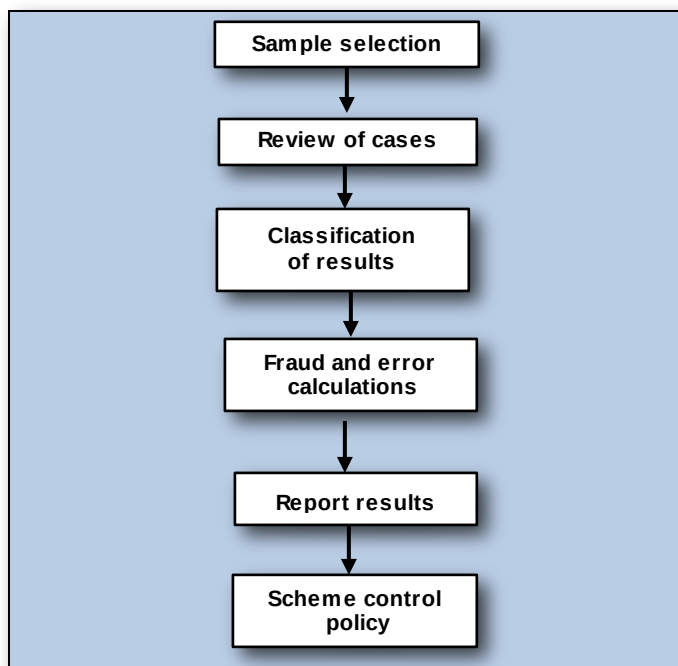
	Percentage of scheme payments, by value		
	Scheme irregular payments	Reinstated or transferred claims	Net loss
Jobseekers Benefit			
Due to fraud	0.1%	-	0.1%
Due to error	2.4%	0.9%	1.5%
Total	2.5%	0.9%	1.6%
One-Parent Family Payment			
Due to fraud	6.7%	4.4%	2.3%
Due to error	0.4%	-	0.4%
Total	7.1%	4.4%	2.7%
Disability Allowance			
Due to fraud	2.1%	0.9%	1.2%
Due to error	1.0%	0.1%	0.9%
Due to medical ineligibility ^a	15.3%	13.3%	2.0%
Total	18.4%	14.3%	4.1%
Child Benefit			
Due to fraud	0.5%	-	0.5%
Total	0.5%	-	0.5%

Source: Fraud and Error Survey Reports, Department of Social Protection, June 2012 and March 2013

Note: a The Department considers that a change in medical eligibility does not constitute a fraud or error.

The Survey Process

- 17.16** The Department's Fraud Initiative 2011-2013 sets out an approach to control of schemes which includes the identification of risks in each scheme and the development of an appropriate control policy.
- 17.17** The surveys involve the selection of a sample of cases and review of those cases by social welfare inspectors. Deciding officers then make a decision on eligibility in each case based on the outcome of those reviews. The results are processed centrally and a fraud and error survey report is compiled. The key stages in the process are set out in Figure 17.3.

Figure 17.3 Key stages in Fraud and Error Survey process

17.18 The criteria necessary for successful implementation of a survey of underlying fraud and error on a claim scheme are

- all cases for inclusion in the survey are selected randomly from the population of cases in payment at a specific time
- the sample size is sufficiently large to yield reasonably reliable estimates
- the reviews are carried out promptly following sample selection
- cases are tested fully for all possible breaches of regulations
- the monetary value of any changes as a result of the review together with the monetary value of the sample is captured so that the results can be extrapolated to draw conclusions about the estimated value of the loss
- the results of the survey are capable of being audited.

17.19 The recent fraud and error surveys were audited against these criteria. In doing so, a sample of the cases that were selected for survey was examined for each scheme. The sample consisted of 50 cases selected from the four surveys.¹ Databases compiled by the Department in respect of each survey containing the outcome of its investigations were also examined. In addition, a statistical consultant was engaged to provide advice on the sampling methodology.

¹ Ten cases for each of disability allowance and one-parent family schemes and 15 cases for each of jobseekers benefit and child benefit schemes.

Sample Selection

- 17.20** The Department selected random samples of 1,000 cases each in the case of the one-parent family, jobseekers benefit and child benefit schemes. A sample of 1,050 cases was selected randomly for review in the case of disability allowance.
- 17.21** The examination identified a number of issues with regard to the sampling process. These are outlined in the following sections.

Population Definition

- 17.22** In two of the surveys examined, the population from which the samples were drawn was restricted. The survey of the one-parent family scheme excluded cases administered centrally and the jobseekers benefit survey was limited to cases with less than 50 paid days. The restriction in the population to be sampled may result in unrepresentative results.
- 17.23** The Accounting Officer considers that the decisions to restrict the population in these surveys were taken for valid business reasons. In the case of the one-parent family survey, centrally administered cases were excluded to be consistent with the previous survey of the scheme and because the majority of cases are administered by local offices. It was considered that this would best highlight the risks associated with the scheme. As the jobseekers benefit scheme is time limited and has a high level of 'churn', claims with a more recent commencement date were selected for review to maximise the potential number of cases to be surveyed.

Sample Size

- 17.24** The review of sample cases is a significant task. Using data from previous surveys and applying sampling theory, the sample size for the desired confidence level and margin of error considered to be acceptable can be determined. While confidence intervals are narrower for larger sample sizes, an acceptable margin of error in the survey results can potentially be achieved with a significantly smaller sample than the standard 1,000.
- 17.25** It may be possible to achieve the same margin of error with smaller sample sizes using stratified sampling. A stratified random sample is a method of sampling that involves the division of the population into smaller groups (known as strata) based on shared attributes or characteristics. A random sample from each sub-group is selected. A larger number may be selected from strata where there is a greater risk of fraud and error, with the results re-weighted at the end in line with the profile of the population.
- 17.26** The Department selected a stratified random sample in the case of the child benefit scheme. The stratifying variables used were method of payment (bank or post office) and PPS number.

Selecting Cases

- 17.27** Cases should be selected at random from the population of cases in payment. There will often be circumstances where a case selected as part of the sample will have to be excluded, for example, where the claimant has died. Oversampling can be used to allow for these cases, with the selection of the next available case in an ordered list of sampled cases to replace losses.

- 17.28** The jobseekers benefit survey report notes that 204 (20%) of the selected cases were excluded from the review. Some of these were cases where payments had been suspended at the date of sample selection. When selected, the local offices closed the claims without review and the claim closures were not attributed to the survey process. On that basis they were excluded from the survey results. Given this level of exclusion, there may be scope to use oversampling.
- 17.29** Regarding the disability allowance survey, whilst overall the sample size was sufficient, 39 cases were excluded from the review. They were excluded for a variety of reasons including inability to locate files or because the case was already under review. Excluding cases already under review may result in understatement of fraud and error rates in the sample.
- 17.30** The Accounting Officer stated that the 39 cases were excluded from the survey before the files were sent to inspectors for review and that the Department still had in excess of 1,000 cases for review. The Department's approach is to include cases in certain categories such as cases already under review, unless their status is identified prior to the case being sent for review. In the Department's opinion, this is a legitimate approach.

Review Process

- 17.31** Social welfare inspectors were required to carry out reviews of the sample claims and complete a standard inspection report specific to the particular scheme under investigation. The instructions to staff varied between schemes but in general inspectors were required to review claims for proof of identity, residency and any other change of circumstances which may affect eligibility. All cases for review and their outcomes were recorded on a computer system, with each survey and sample claim having a unique identification number.
- 17.32** Deciding officers based their decision in each case on the outcome of the inspector's review. The decision was recorded on a form for each case, except in the child benefit survey where the decisions were recorded electronically.
- 17.33** In the case of the disability allowance survey, a Departmental medical assessor reviewed compliance with the medical qualifying conditions based on supporting evidence provided by the claimant.
- 17.34** All cases in schemes where medical assessment is a factor are reviewed by both social welfare inspectors and medical assessors. There may be scope to use two-phase sampling to streamline this. This would involve a review of all sample cases by a social welfare inspector and a medical review of only a sample of those cases. Ratio or regression analysis techniques could then be used to estimate the level of fraud and error.

Timeliness of Review

- 17.35** The cases selected should be reviewed as soon as possible after extraction to avoid post-sampling events affecting the outcome. In the surveys examined, some such events were taken into account in 'de-selecting' cases for review.
- 17.36** The surveys took between eight months (jobseekers benefit) and 22 months (disability allowance) to complete.

- 17.37** In the case of the disability allowance scheme, there was a gap of six weeks between the date of sample selection and staff being advised of the survey. The Department has pointed out that this delay is not considered to be a significant issue because this is a long term scheme with minimum 'churn'.
- 17.38** A replacement sample was selected in the case of the jobseekers benefit survey due to delays in starting the data collection process. Because of these delays it was appropriate to select a new sample. However, commencement of reviews promptly after sample selection would negate the need for new samples and lead to a more efficient process.
- 17.39** As previously recommended, the use of continuous reviews for some schemes could help to achieve more timely completion of reviews.

Review Evidence

- 17.40** A standard social welfare inspector report provides a clear record of the extent and result of the review carried out. It helps ensure that there is clear evidence that all key criteria have been addressed. Standard reports could also be used to outline the reasons for excluding a selected case from review as well as details of all unsuccessful attempts to contact a claimant.
- 17.41** Standard reports were not used in about one third of cases reviewed as part of this examination. The Accounting Officer stated that the Department considers there is a clear record of the extent and result of the review carried out in all cases. She stated that in many of the cases, the standard report was not completed because the social welfare inspector did not interview the customer.
- 17.42** Case files should contain evidence that all the checks required to review a case were carried out. In general, fraud and error documentation is not filed separately in claimant files. This makes verification of the basis for the review decision difficult. While there was evidence in most cases of at least some of the checks carried out, for 24 of the 50 cases reviewed, gaps in the documentation of evidence were noted. The Department has examined these cases and has stated that it is satisfied with the evidence supporting each review.
- 17.43** In a small percentage of cases, a review by a social welfare inspector was not carried out. The Department has stated that these cases were desk reviewed and it is satisfied that they were appropriately reviewed and classified.

Classification of Results

- 17.44** For three of the four schemes, a fraud and error database with the outcome of each case was completed by the central support unit or the scheme headquarters. These databases classified cases as resulting in 'no change', 'fraud', 'customer error' or 'department error'. The database also recorded whether each fraud and error case resulted in a termination, a reduction, an increase or an overpayment relating to earlier periods.
- 17.45** For a small number of cases examined, it appeared that the case had been incorrectly classified. These included cases which were treated as 'no change' but where there were clear indications that payment had been reduced or terminated.

- 17.46** The Department's policy is to classify cases where payment is terminated or reduced as 'no change' unless the termination or reduction can be specifically linked to the survey process. The Department should consider the impact of this approach on the classification of results.
- 17.47** The Accounting Officer pointed out that this practice reflects the legitimate movement that happens over the lifetime of a social welfare claim. Payments on schemes are not static and a customer's entitlement can terminate, reduce or increase for many legitimate reasons. The Department, however, does not consider this movement to be fraud, customer error or departmental error.

Fraud and Error Calculations

- 17.48** Where a case review indicates that there is a payment in excess of entitlement, the amount of the excess payment is calculated and recorded on the database as a termination or a reduction in claim. The excess payment calculated is adjusted in situations where the claimant successfully appeals the determination or is found to be entitled to another social welfare payment either in their own right or as an adult dependant.
- 17.49** While in general, the calculations were in order, the examination noted a small number of cases where the calculations had not been carried out correctly.

Reporting Survey Results

- 17.50** For each survey, the Department publishes the overall rate of fraud and error, the rate of re-instated or new benefits to which claimants became entitled either in their own right or as adult dependants and the resultant net loss rate. These are reported both by value and number of claims.
- 17.51** There is a level of uncertainty with all estimation techniques. The reports provide a point estimate only of the level of fraud and error in each scheme. No measure of uncertainty is reported for the level of fraud and error cases either by value or number of claims.
- 17.52** There are no monetary values given in the reports for the weekly payments to the sample population or the amount of fraud and error discovered. The results are reported only in percentage terms. The total scheme expenditure is not reported and an extrapolation of the estimated cost of fraud and error in the scheme as a whole is not presented.

Quality Control

- 17.53** Quality control at all stages of the fraud and error survey process is important in ensuring the results are sound and can be relied on. The findings of the examination indicate that there is scope for the Department to strengthen existing controls. Clearer procedures and instructions to staff would also help to ensure quality. In addition, an independent quality review of a sample of cases to ensure consistency in decision making would be useful.
- 17.54** An independent review of the decision process was included in the procedures for the disability allowance survey. Those procedures provided for a sample of the 'change in rate' cases to be reviewed by the Decisions Advisory Office.¹ No cases were reviewed however.

¹ The Decisions Advisory Office of the Department has responsibility for ensuring that decisions made on social welfare claims are consistent and of good quality.

- 17.55** The Accounting Officer stated that the planned review by the Decisions Advisory Office was subsequently not considered necessary as cases had been decided by a central experienced unit and at the time the Decisions Advisory Office lacked staff experienced in disability allowance decisions.

Scheme Control Policy

- 17.56** The scheme control policy, which is in place for each scheme, should be updated to reflect the fraud and error survey findings. Control policies and procedures were updated for the disability allowance and jobseekers benefit schemes following the surveys. No changes were considered necessary to the other two schemes.
- 17.57** It was noted that in the disability allowance survey, deciding officers were required to capture whether the claim had previously been reviewed and if so, the date of the last review. There would be merit in examining the last review date of all surveyed cases in order to establish whether there is any link between review dates and high risk cases as revealed by the fraud and error review.

Conclusions and Recommendations

- 17.58** The Department's fraud and error surveys provide valuable information about the level of payments in excess of entitlements and the risks associated with particular schemes. While, in general, the surveys are conducted in accordance with the Department's procedures, the examination identified a number of areas where improvements can be made both to improve the efficiency of the survey process and increase the reliability of the results.
- 17.59** The Department's main objective in carrying out surveys is to identify categories of cases that present the highest risk. The scheme control policies for the schemes surveyed were amended where necessary as a result of the surveys completed.
- 17.60** Fraud and error surveys provide an opportunity for the Department to estimate reliably the underlying level of welfare payments in excess of entitlement. This would provide a basis for assessing the effectiveness of the Department in detecting excess payments and in tracking its effectiveness over time in deterring such payments. A key factor in this is ensuring the representativeness of the samples that are drawn from the scheme population.

Recommendation 17.1: The Department should ensure that surveys are designed in such a way as to enable the results to be extrapolated to the scheme population.

Accounting Officer's Response: Part agreed. The Accounting Officer stated that it is her considered view that the extrapolation of survey results to scheme expenditure as a whole is not appropriate and is not the purpose for which surveys are conducted. Surveys are a point in time measure. She stated that the outcomes of surveys are analysed to identify the high risk claims and to profile high risk customers so that an appropriate control response is developed. The Department takes the necessary and appropriate steps to address and eliminate the risks identified as quickly as possible. The Department will, however, examine this issue in its consideration of the possibility of having a continuous survey in operation for some schemes.

- 17.61** The fraud and error reports document the results in terms of a percentage of gross expenditure. The results are presented as a point estimate and are not reported in monetary value terms.

Recommendation 17.2: The Department should report the monetary amounts of fraud and error identified as well as the percentages.

Accounting Officer's Response: Agreed. The monetary value of fraud and error identified will be published in future surveys.

- 17.62** Review of 1,000 cases in each survey is a resource intensive exercise. The results of previous surveys and consideration of the acceptable margin of error for each scheme may enable sample sizes to be reduced. Stratified sampling is also a potential means of reducing sample size. 'Two-phase' sampling could streamline the review process for schemes involving medical assessment. Oversampling can be used to deal with cases that have to be omitted due to post-survey events.

Recommendation 17.3: The Department should

- Carry out a review of the sample size for each scheme using data from past surveys and sampling theory to determine the optimum sample size. This should be updated after each survey.
- Consider the scope for using stratified sampling in all schemes.
- Consider the use of 'two-phase' or 'double' sampling for assessing medical cases.
- Review its policy for excluding certain categories of cases after selection and explore the use of oversampling to account for situations where cases have to be omitted after selection.

Accounting Officer's Response: Part Agreed. The Accounting Officer notes the points raised in relation to sampling. However, she stated that a sufficient sample of cases from each category of claimant was essential if the survey results were to be used to direct control policies for schemes. The Department will consider the use of stratification for future surveys. 'Two phase' sampling will be considered in the context of the planned survey of the invalidity pension scheme. Consideration will also be given to the use of oversampling to account for cases that have to be omitted after selection.

- 17.63** There is a long time lag between sample selection and reporting of results — the surveys took between eight and 22 months to complete.

Recommendation 17.4: Reviews should be carried out promptly after sample selection and clear cut-off dates should be established. The possibility of having a continuous survey in operation should be considered for some schemes whereby, a certain number of cases would be reviewed each month or periodically over the year.

Accounting Officer's Response: Part agreed. The Accounting Officer pointed out that where medical assessment is involved, it is extremely difficult to prevent a protracted survey duration in order to allow for initial assessments, reviews of evidence submitted, examinations and appeals.

The Department has been examining the possibility of using continuous reviews. Issues that need to be considered include the resources involved and the fact that such reviews may not always be appropriate, for example, where a high expenditure scheme has a low level of fraud and error.

The Department will examine the use of a cut-off-date. However, operating a strict cut-off-date may distort the survey results as it may lead to difficult cases being excluded.

17.64 Full testing of the sample cases for all eligibility conditions is key in ensuring the reliability of the survey results. In some cases examined, it was difficult to identify evidence that all checks had been carried out. Standard forms to record reviews assist in providing a clear audit trail to demonstrate that a full assessment of each case was carried out.

17.65 The results of each survey as recorded on the survey database provide the basis for the reported results. The audit found a small number of instances where the value of fraud or error identified appeared to have been incorrectly calculated. Currently, the Department only classifies cases as a fraud or error if a termination or reduction in payment arises directly from the survey. The survey process does not include an independent review of a sample of cases.

Recommendation 17.5: The Department should consider

- the use of standard documentation for all cases to demonstrate that all eligibility checks were carried out or the reason why a case could not be reviewed
- the filing of fraud and error documentation and other evidence to support the review in a separate section in claimant files
- its policy for classifying cases
- strengthening existing quality controls in the survey process including introduction of an independent review of a sample of cases.

Accounting Officer's Response: Part agreed. The Department will examine and implement, where appropriate, the process improvements suggested. Notwithstanding the fact that standard documentation was not used in all cases, the Accounting Officer is satisfied that sufficient documentation is held as evidence in all cases. She does not consider that filing survey documentation separately is practical or necessary.

The Accounting Officer stated that she accepted the need for a strengthening of existing quality controls. She pointed out that surveys are conducted by scheme owners and there is oversight by the Department's control division and its statistician. All decisions on cases were taken by experienced officers ensuring consistency and quality in the decision process.

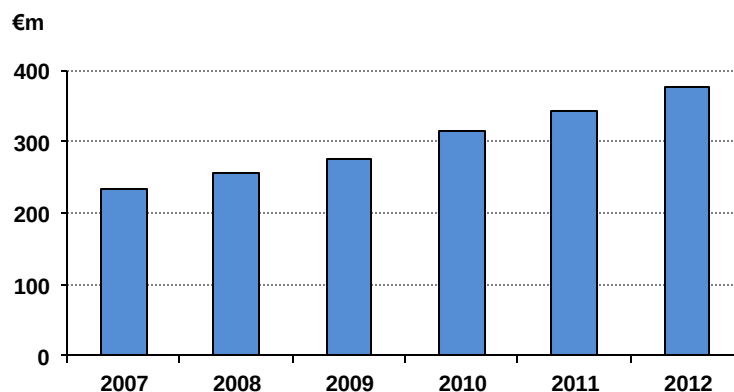
18 Welfare Overpayment Debts

- 18.1** The Department of Social Protection (the Department) makes income support payments to about 1.5 million people each week. Its overall budget for 2013 is approximately €20 billion.
- 18.2** An overpayment of income support arises where a claimant received a payment to which they were not entitled or the level of payment they have received exceeds their entitlement.
- 18.3** Overpayments may occur due to fraud or error. They may come to light where a claimant provides new information voluntarily or as a result of control activity by the Department. When an overpayment is identified, the payment is terminated or reduced to the correct level. A legally enforceable debt may be recorded and the Department will seek to recover that debt. The Department's Fraud Initiative 2011-2013 recognised that effective debt recovery is essential in deterring fraudulent activity.
- 18.4** This report examines overpayment trends in recent years and the progress by the Department in implementing recommendations from previous examinations of its management of overpayments. The legal action taken in cases of fraud or to recover overpayments is also reviewed.

Overpayment Debt

- 18.5** The total overpayment debt outstanding at the end of 2012 was €375 million — an increase of 9% or €32 million over the 2011 debt. Overall, the amount outstanding has increased by 62% since 2007 (Figure 18.1). The debt outstanding is a factor of the level of overpayments identified as well as the extent to which they are recovered and written off or cancelled.¹

Figure 18.1 Overpayment debt, 2007 to 2012



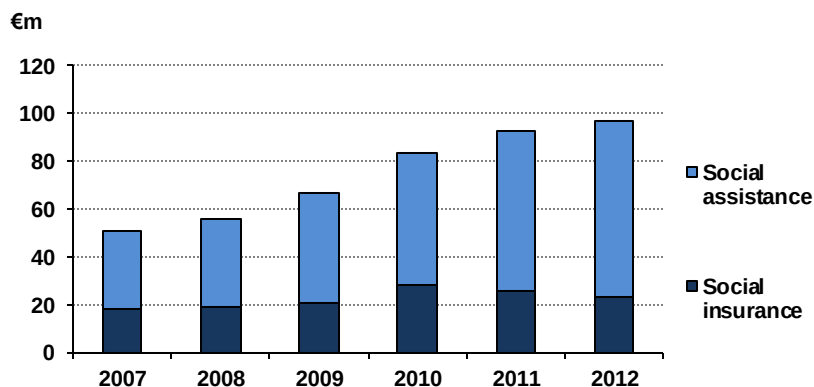
Source: Annex A

¹ Details of overpayments recorded, written off or cancelled, and the debt outstanding for the period 2007 to 2012 are set out in Annex A.

Overpayments Recorded

- 18.6** The value of overpayments recorded increased by 5% in 2012 to €97 million. Since 2007, the level of overpayments recorded annually has increased by 92%. Over the same period, expenditure on welfare schemes increased by 25%. Overpayments arising from Vote funded schemes, which are mainly in the nature of social assistance, represented 76% of all overpayments in 2012 (see Figure 18.2).

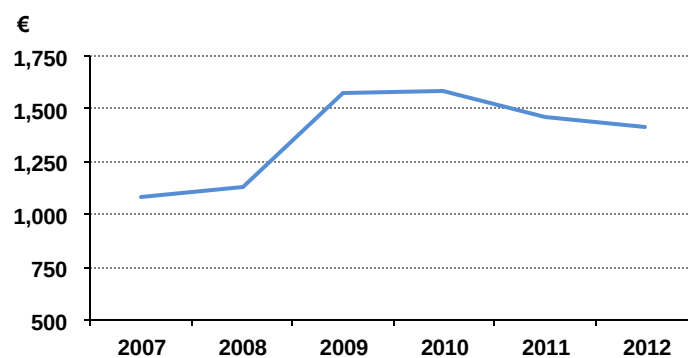
Figure 18.2 Overpayments recorded by scheme type, 2007 to 2012



Source: Annex A

- 18.7** Figure 18.3 shows the average value of overpayments recorded each year from 2007 to 2012. In 2009, the average increased to €1,570 and remained at around that level in 2010. By 2012 the average had fallen to around €1,420.

Figure 18.3 Average value of overpayments, 2007 to 2012



Source: Annex A

Overpayment of Fuel Allowance

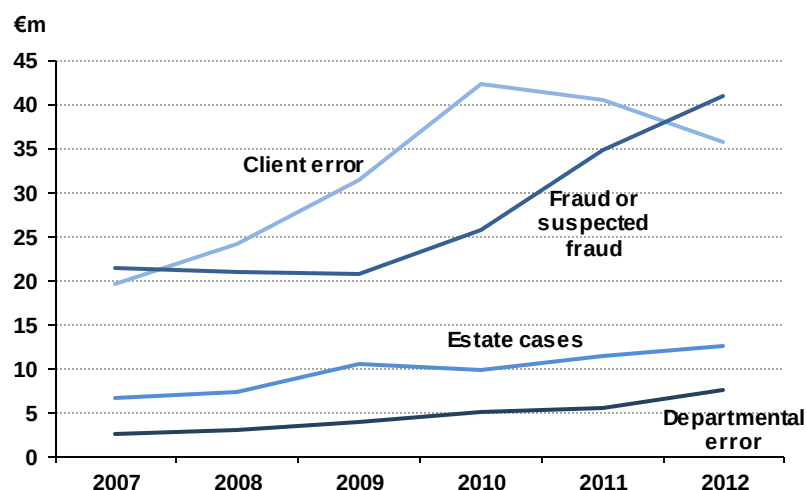
- 18.8** Due to their distorting effect on the trend, some 60,000 overpayments totalling €1.2 million that arose from the payment in error of an additional week's fuel allowance in 2012 have been excluded from the calculation of the 2012 average.¹ Just over €1 million of the fuel allowance overpayment was recovered from some 52,000 cases by deferring by one week the start of the 2012/2013 fuel allowance payment. This was not possible in cases where those overpaid were no longer entitled to the allowance. A further 1,300 cases have since repaid or are currently repaying the debt. The Department has indicated that all remaining debts will continue to be pursued.

¹ See Chapter 23 (paragraphs 23.32 to 23.35) of the 2011 Annual Report.

Reasons for Overpayments

- 18.9** The Department distinguishes between overpayments it attributes to fraud (or suspected fraud), client error, departmental error and those relating to estate cases.¹ The movement in the value of overpayments for each category over the period 2007 to 2012 is shown in Figure 18.4.

Figure 18.4 Value of overpayments, by reason, 2007 to 2012

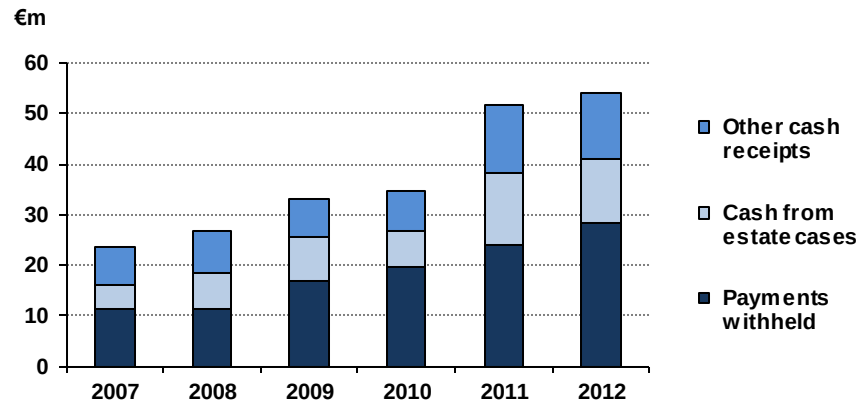


Source: Annex A

Recovery of Overpayments

- 18.10** The Department recovers overpayments in two ways
- withholding some or all of welfare entitlements
 - direct payments (lump sum or instalment) by claimants or their estates
- 18.11** The total amount recovered has more than doubled from €24 million in 2007 to €54 million in 2012 (see Figure 18.5). The amount recovered in 2012 comprises
- €28.3 million (53%) recovered by withholding payments due
 - direct payments from the estates of deceased claimants amounting to €12.5 million (23%)
 - the balance of €13.4 million was recovered by direct payments.

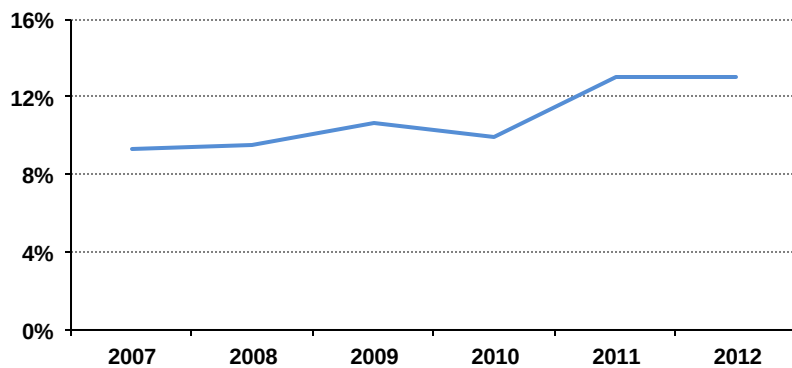
¹ Overpayments in estate cases are identified where mandatory returns to the Department from the estates of deceased claimants indicate that an overpayment has been made.

Figure 18.5 Overpayments recovered, by method of recovery, 2007 to 2012

Source: Annex A

Recovery Rate

- 18.12** One measure of the effectiveness of debt recovery is the amount recovered each year relative to the total amount of recoverable debt. The recoveries in 2012 of €54 million represented 13% of the total recoverable debt (see Figure 18.6).
- 18.13** A potentially better measure of the effectiveness of debt recovery is the proportion of debt for specific periods which has been recovered. However, the Department's system cannot produce a report setting out for each year, the overpayments recorded, written off, cancelled and recovered and the resultant debt still outstanding.

Figure 18.6 Amount recovered as a proportion of recoverable debt, 2007 to 2012

Source: Annex A

- 18.14** The Department has provided details of the current amount of debt outstanding in relation to overpayments raised each year between 2007 and 2012 (see Figure 18.7). The extent to which the debt reductions for each year has been due to recovery, cancellation or write off is not known.

Figure 18.7 Aged analysis of overpayment debt, 2007 to 2012

	Overpayments recorded €m	% outstanding	
		June 2012	July 2013
2007	50.5	39	36
2008	55.6	42	38
2009	66.8	47	43
2010	83.4	51	45
2011	92.4	59	50
2012	96.9	—	59

Source: Department of Social Protection

← % of debt outstanding after 4 years

- 18.15** Some 59% of debt recorded in 2012 was still outstanding at July 2013. The analysis indicates that just over 40% of debt remains outstanding after four years.

Recovery Procedures

- 18.16** Initially, the relevant scheme office or local office, as appropriate, will endeavour to put in place a recovery plan with the individual that has been overpaid. The Department's Central Overpayments and Debt Management Unit (CODMU) may become involved where local efforts fail. The Department's guidelines indicate that overpayment cases should be referred to CODMU if the overpayment is greater than €1,000, there has been recent unsuccessful recovery efforts undertaken by the scheme office or local office, the individual is no longer receiving welfare payments and their whereabouts are known. In 2012, 369 cases with a value of €3.3 million were referred to the CODMU (244 cases in 2011). To July 2013, repayments totalling €107,000 have been made in respect of 129 of these cases. The Department has pointed out that most of these cases repay the debt over a number of years.
- 18.17** Samples of overpayments were reviewed during the course of the 2012 audits of the Social Protection Vote and the Social Insurance Fund. Overall, a sample of 184 overpayment cases was examined across seven welfare schemes. The results of the examination of those cases are summarised in Figure 18.8.

Figure 18.8 Results of examination of sample of overpayments

Status of case at time of audit	Number of cases	% of sample
Fully recovered	47	25%
Appeal or review	12	7%
Cancelled or written off	20	11%
Recovery plan in place	62	34%
No recovery plan in place	43	23%
Total	184	100%

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

- 18.18** Of the 43 cases that did not have a plan in place to recover the overpayment at the time of audit review, 13 met the criteria for referral to CODMU and seven of these had been referred.

Cancellation and Write Off of Overpayments

- 18.19** A recorded overpayment debt may be cancelled where it is established that no overpayment actually occurred or an overpayment was recorded in error. Overpayments can be written off where it is deemed that there is no realistic prospect of repayment. Since February 2013, Departmental guidelines have been revised to provide for the approval and management review of write offs and cancellations.

Management of Overpayments

- 18.20** The Department's Debt Management System, introduced in 2006, has a number of inadequacies. It is not capable of performing analysis or producing management information with an appropriate level of detail, or of recording the recovery actions taken and outstanding at an individual case level. The Department has decided to develop a new debt management system.

Legislative changes

- 18.21** The Social Welfare Act 2012 provided for an increased recovery amount from those who continue to receive a welfare payment. Previously, a deduction from an on-going entitlement to recover an overpayment could not reduce the payment below the Supplementary Welfare Allowance rate appropriate to the claimant. This meant that in most cases the amount recoverable was €2 per week and a higher deduction could only be made with the claimant's written agreement. The new provisions allow for a recovery rate of up to 15% of the claimant's on-going entitlement. The claimant must be informed of the Department's intention to recover the debt in this way and given the opportunity to provide any information they deem relevant in relation to the proposed recovery.
- 18.22** The Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 provides for the use of attachment orders to recover overpayments in certain circumstances. The possibility of recovering overpayments by withholding tax rebates is being considered as well as the application of attachment orders to other State payments.

Legal Enforcement

- 18.23** 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 welfare overpayments or the collection of PRSI arrears.¹

Criminal Prosecution Cases

- 18.24** The Department seeks to ensure that prosecutions are taken in the more serious cases where there is strong evidence of fraud. In considering cases for legal proceedings, the Department uses criteria such as the duration and amount of the fraud and the previous history of the case. Weightings are then applied to each of the criteria to assess cases suitable for prosecution.

¹ Debts to the Department may arise where employers evade payment of PRSI contributions due.

18.25 The number of overpayments on social welfare schemes in 2012 attributed to fraud was 20,720. Just over 1,000 of these fraud overpayments had values above €6,500. In 2012, 274 cases (26%) were considered by the Department's Central Prosecution Unit for criminal proceedings.

18.26 The number of cases sent forward for criminal proceedings in 2012 was 242 (381 in 2011). A total of 158 cases were referred to the Chief State Solicitor and local State solicitors, and 84 were referred to An Garda Síochána under the Criminal Justice (Theft and Fraud Offences) Act 2001.

Outcome of Prosecution Cases

18.27 In 2012, 146 criminal prosecution cases were finalised (209 in 2011). Fines, ranging in value from €100 to €6,000, were imposed in 89 cases. A prison sentence or suspended sentence was the outcome in around 10% of the cases finalised.

18.28 In addition to proceedings against welfare recipients, four employer-related cases were finalised (nine in 2011). Fines were imposed in three of these cases averaging €1,000 each. The final case was struck out because the company had gone into liquidation.

18.29 At the end of 2012, 675 cases were on hand with State solicitors and were at various stages of the prosecution process.

Civil Debt Enforcement Proceedings

18.30 In civil cases, the person's ability to repay the debt is examined. Proceedings are not taken in circumstances where the debt is being repaid or the client is not in a position to repay or does not have any assets. Civil proceedings in such cases would be futile and would result in significant costs to the Department.

18.31 The Department pursues civil proceedings to recover debts only where there is a reasonable expectation that the debtor has sufficient means to discharge the debt. The Department has made limited use of civil proceedings to recover amounts.

18.32 Between 2008 and 2012, the Department finalised a total of 153 civil proceedings. Positive outcomes were achieved in 72 cases which included

- lump sum settlements agreed in six cases resulting in the recovery of debts amounting to €236,000
- the agreement of instalment arrangements in 62 cases
- judgements in favour of the Department in four court cases.¹

18.33 The remaining 81 cases were terminated due to changes in the circumstances of the debtor (57 cases) or because the case had become statute barred. At the end of 2012, the Department had 25 civil cases that had yet to be finalised. The equivalent figure at the end of 2011 was 48.

¹ These included decrees awarded (1 case), instalment orders granted (2 cases) and a judgement mortgage (1 case).

Views of the Accounting Officer

- 18.34** The Accounting Officer is of the view that because of the limits placed on the recovery of debt from those in receipt of welfare payments, the time taken to recover debt and the monetary value of recoveries does not reflect the Department's overall performance in this area. She considers that significant increases in the amounts of debt recorded and recovered reflect the increased efforts by the Department to address overpayments and improve debt management.
- 18.35** The introduction of legislative provisions to increase the recovery amount and to provide for the use of attachment orders will enhance the Department's ability to pursue those who are not making adequate efforts to repay. The provision to increase the recovery amount has only been available since January 2013, and so it is not possible yet to provide definitive figures on its impact. However, there has been an increase in the number of debtors with a higher value deduction in the first six months of 2013 when compared to 2012. The Department considers that the higher recovery rate will have a deterrent effect.
- 18.36** A debt does not become statute barred and can be recovered from all future entitlements, as well as the claimant's estate. The Department continues to recover debt irrespective of the age of that debt. In 2012, for example, €345,000 was collected in respect of debts aged 20 years and older.

Conclusions

- 18.37** Overpayment debt outstanding at the end of 2012 was €375 million — an increase of 62% since 2007. In the same period, overpayments recorded each year have increased by more than 90%. This compares to a welfare expenditure increase of 25%.
- 18.38** In 2012, overpayments recorded totalled €97 million. This represents 0.47%¹ of overall annual departmental expenditure.
- 18.39** Over 40% of recorded overpayments are attributed to fraud. A further 37% arise from client error. The high proportion of fraud cases underlines the importance of ensuring that there is effective recovery of debts arising from overpayments. Increasing the extent to which overpayments are recovered is likely to act as a disincentive to fraudulent behaviour by claimants.
- 18.40** Recoveries of overpayments in 2012 totalled just over €54 million — an increase of over 120% since 2007. In 2011 and 2012, the amount of debt recovered as a proportion of total debt was around 13%. Aged analysis of debt indicates that around 40% of recorded overpayments are recovered or written off in the first year. Incremental collection of debt continues over succeeding years but over one third of debt remains outstanding after five years.
- 18.41** The Department's Overpayments Debt Management system, introduced in 2006, is not effective as a debt management tool and is not capable of producing the information required to enable the Department to monitor the effectiveness of its debt management processes. The Department has decided to develop a new replacement system.

¹ **Correction:** Due to a typographical error, this figure was incorrectly reported in the originally published report. The correct figure is now shown.

- 18.42** The Accounting Officer has stated that she envisages that the new debt management system will support debt management and accounting functions. The Department recognises the need for the system to provide management information to assist in evaluating the effectiveness of debt management. It is expected that the new system will be operational in the second half of 2014.

Annex A

Figure A1 Overpayments and debt, 2007 to 2012

	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Outstanding debts at 1 January	149.5	232.1	256.6	276.6	314.8	343.4
Prior year adjustments	61.6 ^a	1.8	(1.0)	—	—	—
Overpayment recorded	50.5	55.6	66.8	83.4	92.4	96.9
Debts cancelled	(1.4)	(1.1)	(1.3)	(2.2)	(6.7)	(4.6)
Debts written off	(4.3)	(4.9)	(11.6)	(8.5)	(5.6)	(6.2)
Total recoverable debts	255.9	283.5	309.5	349.3	394.9	429.5
Debts recovered ^b	(23.8)	(26.9)	(32.9)	(34.5)	(51.5)	(54.2)
Outstanding debts at 31 December	232.1	256.6	276.6	314.8	343.4	375.3

Source: Department of Social Protection

Notes: a After the introduction of the ODM system in November 2006, adjustments were required for debts that had previously been written off for accounting purposes (€44 million) and overpayments not previously recorded centrally (€17 million).

b Includes cash received and welfare entitlements withheld.

Figure A2 Overpayments recovered 2007 to 2012, by method of recovery

Recovery method	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Welfare payments withheld	11.2	11.3	16.9	19.7	24.2	28.3
Cash from estate cases	4.8	7.1	8.7	7.2	14.1	12.5
Other cash receipts	7.8	8.5	7.3	7.6	13.2	13.4
Total recovered	23.8	26.9	32.9	34.5	51.5	54.2

Source: Department of Social Protection

Figure A3 Number and value of overpayments, 2007 to 2012

	2007	2008	2009	2010	2011	2012 ^a
Value of overpayments recorded	€m	€m	€m	€m	€m	€m
Social insurance	17.7	18.5	20.3	27.7	26.0	22.9
Social assistance	32.8	37.1	46.5	55.7	66.4	72.9
Total	50.5	55.6	66.8	83.4	92.4	95.8
Number of overpayment cases						
Social insurance	26,250	29,490	24,630	26,300	23,750	22,630
Social assistance	20,150	19,610	17,880	26,300	39,560	45,030
Total	46,400	49,100	42,510	52,600	63,310	67,660
Average value of overpayments	€1,088	€1,131	€1,571	€1,585	€1,459	€1,416

Source: Department of Social Protection

Note: a Excludes overpayments of €1.2 million to some 60,000 cases arising from the payment in error in 2012 of an additional week's fuel allowance.

Figure A4 Overpayments 2007 to 2012, by reason

Reason for overpayment	2007	2008	2009	2010	2011	2012	
	€m	€m	€m	€m	€m	€m	%
Client error	19.7	24.1	31.5	42.4	40.5	35.8	37
Fraud or suspected fraud	21.4	21.1	20.7	25.9	34.9	40.9	42
Estate cases	6.7	7.3	10.6	9.9	11.5	12.6	13
Departmental error	2.7	3.1	4.0	5.2	5.5	7.7	8
Total	50.5	55.6	66.8	83.4	92.4	97.0	100

Source: Department of Social Protection

Figure A5 Recovery rate, 2007 to 2012

	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Recoverable debt	255.9	283.5	309.5	349.3	394.9	429.5
Recovered in year	23.8	26.9	32.9	34.5	51.5	54.2
Recovery rate	9%	9%	11%	10%	13%	13%

Source: Department of Social Protection

19 Domiciliary Care Allowance

- 19.1** Domiciliary care allowance is payable to carers in respect of children under 16 who have a severe disability and who require constant care and attention substantially in excess of that required by another child of the same age. Responsibility for administration of the domiciliary care scheme transferred to the Department of Social Protection (the Department) from the Health Service Executive (HSE) in 2009.
- 19.2** Total expenditure on the scheme was €102 million in 2012. Eligibility for the allowance results in automatic entitlement to the respite care grant, resulting in associated expenditure of a further €45 million. In some cases, there may also be entitlement to carer and other supports.
- 19.3** Administration of the scheme was examined as part of the audit of the Social Protection Vote. The audit reviewed the controls in place for the scheme and examined information on departmental systems. A sample of cases was also examined.

Scheme Structure

- 19.4** To qualify for the full domiciliary care allowance, the claimant must provide care for the child and be habitually resident in the State. In addition, the child must
- have a severe disability that is likely to last for at least one year
 - be under the age of 16 and be ordinarily resident in the State
 - live at home with the claimant for five or more days a week
 - fulfil the medical criteria, which are not based on the type of impairment or disease, but on the extra care and attention needed as a result of lack of function of the body or mind.
- 19.5** The rate of payment is €309.50 per month and the scheme is not means tested. There is no restriction on the number of children in respect of whom the allowance may be claimed. Children who are being cared for on a full time basis in residential homes or other institutions are not eligible for the allowance. However, children in residential care who spend two or more days per week at home may receive a half rate payment.
- 19.6** There is a legal obligation on those in receipt of the allowance to inform the Department of any change in relevant circumstances.

Claimant Profile

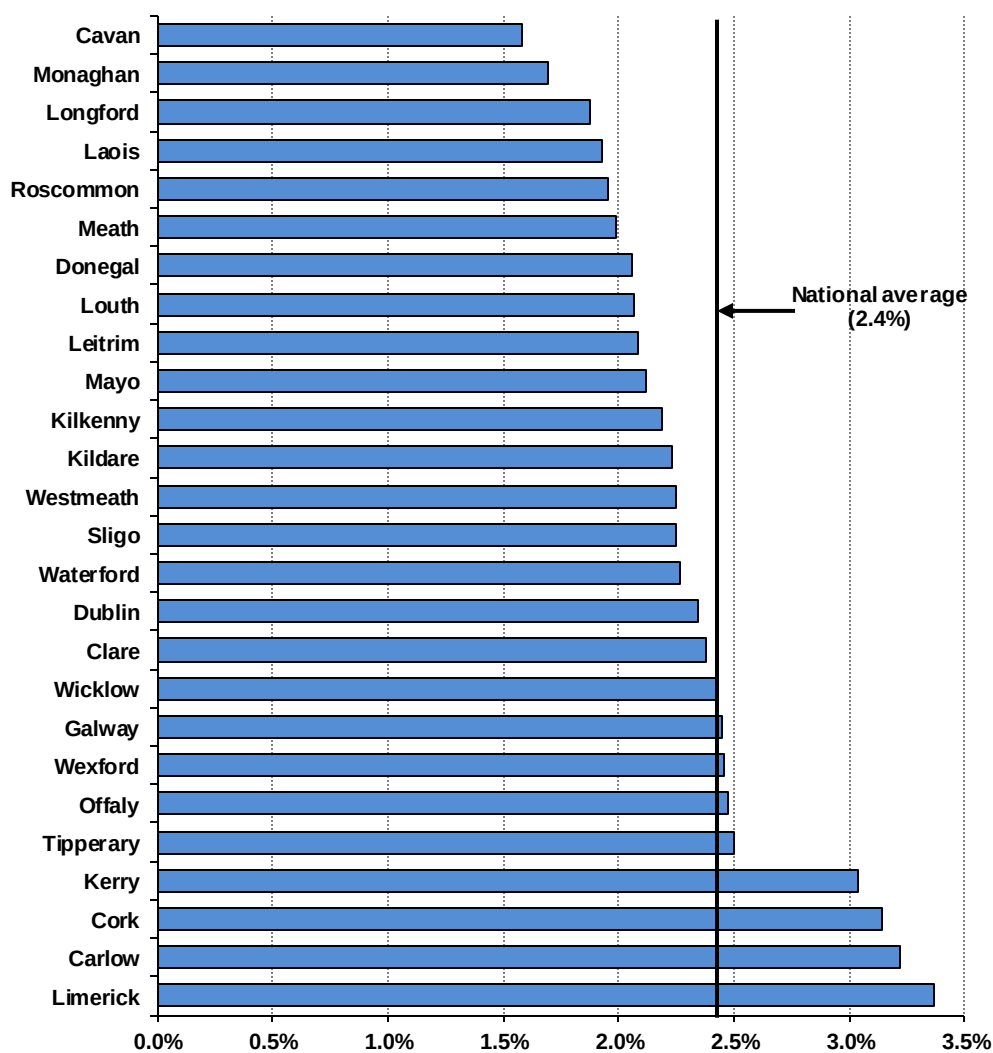
- 19.7** The number of children in respect of whom the allowance was paid in 2012 was 26,500 in 24,700 families (see Figure 19.1). 93% of claimants were receiving payment in respect of one child. A further 6% were receiving payments in respect of two children.

Figure 19.1 Number of families and child beneficiaries, 2009 to 2012

Year	Families	Children
2009	22,945	24,786
2010	23,428	25,234
2011	24,101	25,914
2012	24,699	26,516

Source: Department of Social Protection

19.8 Based on 2011 census data, it is estimated that the allowance is being paid in respect of around 2.4% of children nationally. The percentage exceeds 3% in four counties — Limerick, Carlow, Cork and Kerry (see Figure 19.2).

Figure 19.2 Percentage of children per county in receipt of DCA in 2012

Source: Department of Social Protection and the Central Statistics Office, Census of Population 2011

Scheme Administration

- 19.9** The Department began processing all new applications for the allowance from April 2009. From September 2009, the Department took over responsibility for the 25,000 claims which were in payment with the HSE at that time. The scheme is administered centrally in line with the Department's administration of existing medical based schemes.
- 19.10** An application form is completed by the parent/guardian and by the child's general practitioner. The application together with any additional medical reports or other supporting material is assessed by a departmental medical assessor. This assessment, together with other relevant documentation is examined by a deciding officer, who determines entitlement to payment. The applicant is informed in writing of the decision.
- 19.11** If a claim is refused on medical grounds, a claimant may supply further medical or other evidence and request a review of the decision. There is also provision for the applicant to appeal directly to the Social Welfare Appeals Office and request an oral or summary hearing.

Timeliness of Processing of Claims

- 19.12** At April 2013, the average time taken to process an application was 8 weeks (6 weeks in 2012). Where the claimant appeals a decision, it takes on average 32 weeks to complete all stages of the appeal process.¹
- 19.13** Over the three years to 2012, the average number of applications received each year was 5,000. The first decision in over 60% of cases was to disallow the application. In a number of these disallowed cases, provision of additional information results in the claim being allowed prior to a formal appeal. A high percentage of cases disallowed are appealed with, on average, 2,100 appeals received each year.
- 19.14** In just over 60% of appeals decided in 2012, the original decision was revised either by the Appeals Office, or as a result of a revised decision made by a departmental deciding officer (see Figure 19.3).
- 19.15** At the end of 2012, decisions had yet to be made in 1,113 appeal cases. In the majority of the cases (64%), the Appeals Office was awaiting information from the Department.

¹ Social Welfare Appeals Office Annual Report 2012.

Figure 19.3 Outcome of appeals decided, 2012

Status	Number of cases	
Appeals allowed		
Fully	874	
Partially	29	
Revised decision ^a	625	
	1,528	62%
Appeals disallowed	906	37%
Appeals withdrawn	24	1%
Total	2,458	100%

Source: Annual Report of Social Welfare Appeals Office 2012

Note: a Revised decisions made by deciding officers before the appeals were referred to an appeals officer.

Take On Controls

- 19.16** Entitlement is verified at application stage by means of checks of age, medical criteria, living arrangements and residency. Checks are also carried out to ensure the person claiming the allowance is resident in the State and providing the care.
- 19.17** For a sample of 25 claimants who applied during 2012, the audit found evidence that the required checks were completed in all cases.

Review of Claims in Payment

- 19.18** The review policy for claims put into payment by the Department involves reviewing the case on a date recommended by the medical assessor. In some cases, the medical assessor recommends that the case does not require review. A review process for cases transferred from the HSE has not been put in place.
- 19.19** A claim review involves the completion of a report by the parent/guardian explaining the current care being provided as well as an up to date medical report from the child's general practitioner. A departmental medical assessor reviews the information returned and provides an opinion on the child's continued eligibility. That opinion and a review of the other qualifying conditions are considered by a deciding officer to establish if a revised decision is warranted.
- 19.20** In June 2012, the Minister for Social Protection established a scheme review group comprising representatives from the Department, other relevant Departments, and parent/advocacy groups, as well as relevant experts. The terms of reference for the review included the policy objectives and legal provisions underpinning the scheme, and the administrative, medical assessment and appeals processes. Reviews of cases in payment were suspended pending the outcome of the scheme review. The group reported to the Minister in December 2012 and the report was published in April 2013. The review group's recommendations are set out in Annex A. The recommendations were brought to Government in April 2013 and it was agreed that the Department should implement the administrative changes recommended, with the policy recommendations to be considered in the context of the Budget.

- 19.21** The results of the claim reviews conducted for 2010 to 2012 are set out in Figure 19.4. Just over half of the cases reviewed in 2010 and 2011 were found to be no longer entitled to the allowance. Payments in these cases were ceased. Of the 143 reviews completed in 2012 prior to the decision to suspend reviews, 40% were identified as no longer entitled to the allowance. These cases remained in payment.

Figure 19.4 Results of reviews, 2010 to 2012

	2010	2011	2012 ^a
Continued entitlement	80	176	86
No longer entitled	54	224	57
Total number of reviews completed	134	400	143
Decision pending ^b	-	3	363

Source: Department of Social Protection

Notes: a 1,444 scheduled reviews were not carried out in 2012 due to the decision to suspend all reviews.

b Review carried out but awaiting further additional information.

Cases Transferred from the HSE

- 19.22** In February 2012, the Department reviewed a random sample of 91 cases transferred from the HSE. The purpose of this was to obtain information to assist the Department in developing a review policy for transferred cases. Returns were issued to parents and based on review of the information returned

- 45 were found to have continued eligibility
- 41(45%) were deemed to be ineligible
- 5 (5%) did not complete the returns and payment was ceased.

- 19.23** However, further action on the 41 cases considered ineligible was postponed until a review process was put in place for all transferred cases.

- 19.24** The Department did not receive case files from the HSE for any of the transferred cases. A review as part of this examination of a sample of ten cases found that the Departmental records only contained basic case information. There was little information in relation to eligibility including medical condition and review dates.

Level of Irregular Payment

- 19.25** To date, the Department has not undertaken a fraud and error survey of the scheme and there is no proposal in the medium term to undertake a survey.

Conclusions and Recommendations

19.26 Responsibility for the domiciliary care scheme transferred from the HSE to the Department in 2009. About 70% of the 26,000 cases now in payment were originally processed by the HSE.

19.27 The transfer of responsibility for a welfare scheme from one State body to another presents challenges, particularly in ensuring that sufficient evidence to support continuing payment of individual claims is provided. The Department did not receive case files from the HSE and has little information in relation to medical eligibility for the cases transferred.

Recommendation 19.1: The Department should ensure that it obtains appropriate evidence to support the continued payment of cases originally processed by the HSE.

Accounting Officer's Response: Agreed. The cases transferred came with a certification from the HSE that they were all qualified for the allowance as of August 2009. As there were significant variations in the quality and type of data, and as the HSE needed to retain paper files, only electronic data was transferred. As a result, only approximately 50% of transferred cases have a medical condition recorded on the Department's systems. A similar number have a recommended review date. The HSE needs the original case files as it has a continuing responsibility for any query relating to claims processed and administered prior to April 2009. The review programme currently under development, will ensure that over time, the Department holds up to date evidence to confirm ongoing eligibility in all cases.

19.28 Medical review of cases is a key control in ensuring on-going eligibility of cases in payment and equity of treatment of persons in similar circumstances. The importance of this control is evident from the fact that reviews of cases processed by the Department since the transfer found that around 50% of cases reviewed were no longer eligible. Medical reviews of cases were suspended in May 2012 following the announcement by the Minister of a review of the scheme. Cases reviewed in 2012 and found to be ineligible remained in payment. No programme of medical reviews for cases transferred from the HSE has been put in place since the Department took over responsibility for the scheme. Review by the Department of a random sample of transferred cases identified that up to 50% could be ineligible. These sample cases remained in payment.

Recommendation 19.2: The Department should ensure that a standard medical review process is put in place for all cases as soon as possible.

Accounting Officer's Response: Agreed. The cases found ineligible in 2012 remained in payment as it was considered that to continue to investigate their entitlement when a review of the scheme had been initiated by the Minister would have been inappropriate and potentially unfair. The full review process was not completed for the potentially ineligible cases identified in the review of a random sample of transferred cases, as it was considered that to do so would have been unfair in the absence of a comprehensive review programme for all transferred cases.

While the risk of overpayments to no longer qualified recipients has always been a concern, the development of a robust and sustainable review policy will ultimately be of benefit to all parties. A review programme will be in place as soon as feasible.

A group has been established to oversee the implementation of the administrative changes recommended in the report of the review group. It is planned to have the system and administrative changes in place by the end of 2013 and to commence claim reviews immediately thereafter. The Accounting Officer stated that despite the suspension of medical reviews, the Department has continued to complete reviews of other aspects of eligibility.

Annex A Domiciliary Care Allowance Review — Report of Review Group, December 2012

Summary of Recommendations

In considering the desired policy and process change, along with areas for future work and research, the review group recommends that;

1. The terminology in use to describe the level of care required to qualify for domiciliary care allowance be retained.
2. Definitions for the words 'substantial' and 'severe' as set out in the medical guidelines form a good basis to assist parents/guardians in their understanding of the type and level of additional care required to qualify.
3. Definitions based on those used in the medical guidelines should be made available and included in all information documents and on the web.
4. (a) The retention of a single payment rate for the Domiciliary Care Allowance scheme.
(b) Acknowledges that this implies the retention of a higher level of care as a requirement to qualify for the allowance and the implications of this when defining the terminology used to describe the required care levels.
5. (a) The use of the new application form, designed as part of the review process.
(b) A review of information guidelines to ensure that parents/guardians are aware of the new application form and the benefit of providing succinct information on their child's care needs.
6. (a) The supplementary form to provide additional medical and care detail for children with pervasive developmental disorders is made available for completion by the relevant medical experts.
(b) This form should be completed and submitted with claims for Domiciliary Care Allowance where the child has a pervasive developmental disorder.
(c) The specific form should be made available through Citizens Information Centres and other information providers and should also be available on the web.
(d) Where the form is not submitted, the parent/guardian will be afforded an opportunity to supply this evidence prior to an unfavourable opinion being formed.
7. Additional information on opinions is provided by medical assessors (the newly designed form will assist with this) and that any case which has been subject to a case conference and/or consultation with other professionals should be noted accordingly.
8. That further cross agency work is undertaken, led by the National Disability Authority to research the potential use of care assessment tools, to determine their usefulness in an Irish context.
9. (a) That further research is undertaken in order to establish the suitability of such tools in assisting the decision making process, in an Irish context.
(b) Assuming a suitable tool is found, then a trial might be undertaken to determine the similarity of outcomes when using real cases.
(c) The desirability of implementing a care assessment tool will be informed by the results obtained from testing the new medical forms.
10. That minor changes are required to the medical guidelines and recommends that these are made and that the revised guidelines are published promptly.

11. The lists which detail the conditions that are more or less likely to qualify, are removed from use and not referred to in any guidelines for use in the assessment process.
12. That the Centre for Disease Control (CDC) age of attainment data be used for attainment comparison purposes on children aged 0 to 18.
13. That as much information as possible is provided to parents/guardians along with, or as part of the decision on their claim, including in the case of pervasive developmental disorders the medical report completed by the medical assessors.
14. That the Department explore the feasibility of putting in place a multi-disciplinary panel, comprising professionals working in the area of children's disability that can be consulted by medical assessors to support them in forming their opinions.
15. (a) A review policy is an appropriate and necessary part of the management of the scheme.
- (b) Most claims will have review dates set for a three or five year interval but it is acknowledged that it may be appropriate to review some claims in a shorter/longer time frame.
- (c) Some claims will continue to be classified as 'do not review' due to the severity of the child's condition and its expected duration.
- (d) The improvements implemented in relation to notice of review dates and advance notice of review should continue to operate.
- (e) Parents/guardians receive an additional communication from the deciding officer to give them an opportunity to provide additional information before the review decision is made (21 day notice) in cases where the deciding officer is considering terminating payment.
16. (a) The full reason for a revised decision on appeal, positive or negative, should be provided to parents/guardians and deciding officers to allow for an understanding of how the revised decision was arrived at, as this information will inform the decision process.
- (b) The Social Welfare Appeals Office (SWAO) should be briefed on the changes being introduced to the scheme administration.
- (c) The most helpful way of providing the required information on decisions may be in the form of a template document.
17. A redesign of communications on the domiciliary care allowance scheme to ensure that parents/guardians have timely access to information, clarity on the process and full information on all decisions made on their claims.
- (a) Clear definitions on the level of care required in order to qualify for domiciliary care allowance be included in all information on the scheme.
- (b) Decision letters should be reviewed to include as much information as possible on the decision reason.
- (c) Wording of communications should be reviewed with better use to be made of empathetic language
- (d) Use should be made of the Department internet site to make all relevant information available, including clear definitions on terminology in use.
18. The link between domiciliary care allowance and carer's allowance should be removed, with the required legislative change to be made to decouple the allowances. This will eliminate the automatic medical exemption for carer's allowance for future domiciliary care allowance applicants.

19. Legislation should provide that the withdrawal of domiciliary care allowance on review should not lead to the immediate withdrawal of carer's allowance, with a recommendation that the carer's allowance continues in payment for a maximum defined period (possibly 6 months), subject to continuing to fulfil all other conditions.
20. The payment of domiciliary care allowance continue to age 18 years and change the commencement age for disability allowance should be changed to 18 years, as this would be a positive development for children and their families alike.
21. (a) In the event of increasing the domiciliary care allowance age to 18, it is also recommended that information on all available options should be communicated to the people concerned at age 17, giving them sufficient time to prepare for transition from domiciliary care allowance.
- (b) Over time the range of training and activation measures available for people with disability should be developed and targeted at this customer cohort.
22. A process will be developed and put in place to monitor the implementation of the recommendations from the report, with
 - (a) an implementation plan to be developed following acceptance of the report by the Minister and,
 - (b) a group to be convened (with representatives from the main agencies and representative groups) some 3 months after the Minister approves the report, to receive an update on the implementation plan and progress made.

20 Invalidity Pension

- 20.1** Invalidity pension is payable to those who are incapable of work because of illness and who have sufficient social insurance contributions. In 2012, €603 million was paid to around 50,000 claimants.
- 20.2** The scheme was examined as part of the 2012 audit of the Social Insurance Fund. The audit reviewed the controls in place and analysed information on the Department's system. A sample of cases was also examined.

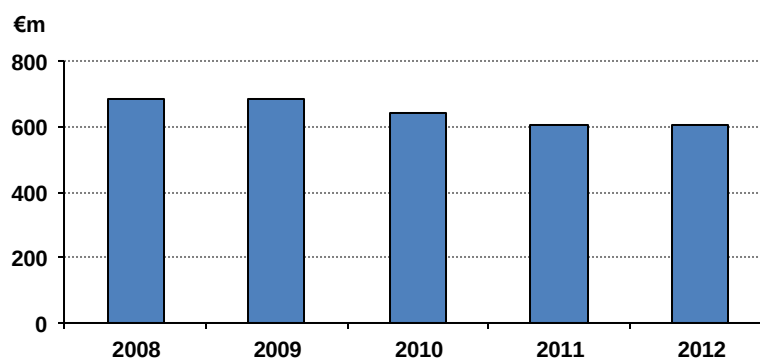
Scheme Structure

- 20.3** To qualify for invalidity pension, an applicant must have been incapable of work for at least 12 months and be likely to be incapable of work for at least another 12 months, or be permanently incapable of work. The Department requires medical evidence of the person's incapacity. There is also a requirement to have at least 260 paid PRSI contributions with at least 48 contributions paid or credited in the last complete tax year before the date of the claim.
- 20.4** The personal rate is €193.50.¹ In addition, the payment increases where there is an adult dependant. That increase is adjusted based on the dependant's means. Payments are also increased for child dependants. The average payment in 2012 was €12,070 (€232 per week).
- 20.5** There is a legal obligation on recipients to inform the Department of any change in relevant circumstances. As the payment is a taxable source of income, there is also an obligation to inform the Revenue Commissioners as soon as payments commence.

Expenditure Profile

- 20.6** Expenditure on invalidity pension has decreased by 12% since 2008 (see Figure 20.1).

Figure 20.1 Trends in invalidity pension expenditure, 2008 to 2012



Source: Department of Social Protection 2012 Annual Statistical Report

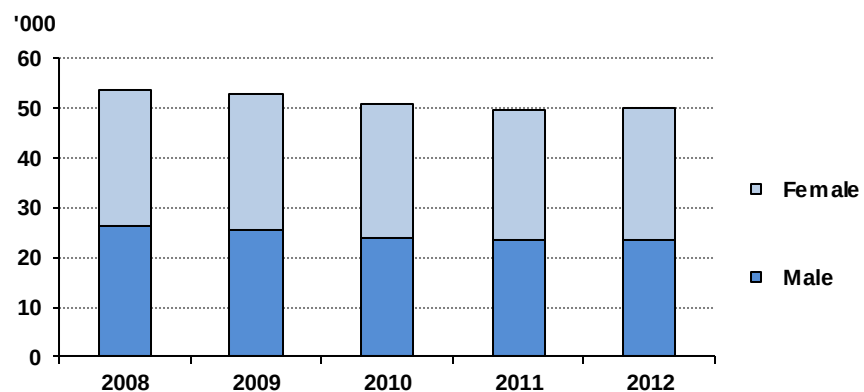
¹ For claimants aged 65, the personal rate increases to €230.30 which is in line with the State Pension (Transition) rate.

Claimant Profile

20.7 The number of recipients has decreased by 7% over the period 2008 to 2012 (see Figure 20.2). Analysis of the profile of 2012 recipients shows that at year end¹

- 53% of recipients were female
- 82% were aged between 50 and 65
- 72% were in receipt of the personal rate only.

Figure 20.2 Invalidity pension, 2008 to 2012



Source: Department of Social Protection Annual Statistical Report 2012

Scheme Administration

20.8 The scheme is administered centrally. Applications are examined and a medical report form is issued to the claimant for completion by their general practitioner or treating physician. A medical report form is not issued if the Department already has sufficient medical evidence from the claimant's entitlement to another medically based welfare scheme. Recipients of illness benefit are notified three months prior to expiry of that payment that they may apply for invalidity pension.²

20.9 All new claims are checked to ensure that the claimant satisfies the social insurance conditions and medical eligibility criteria. Departmental medical assessors carry out a desk review of the medical evidence. An 'in person' assessment may be recommended where it is considered that the evidence provided warrants it.

20.10 A previous medical assessment used to assess entitlement to another scheme can be used provided

- the claimant is not due a medical review under that other scheme prior to the payment of invalidity pension, or
- a 'do not review' status had been assigned under that other scheme.

20.11 If a previous medical assessment is used, procedures require that a new review status is assigned when the invalidity claim is approved.

20.12 Entitlement to payment is determined by a deciding officer. The applicant is informed in writing of the decision.

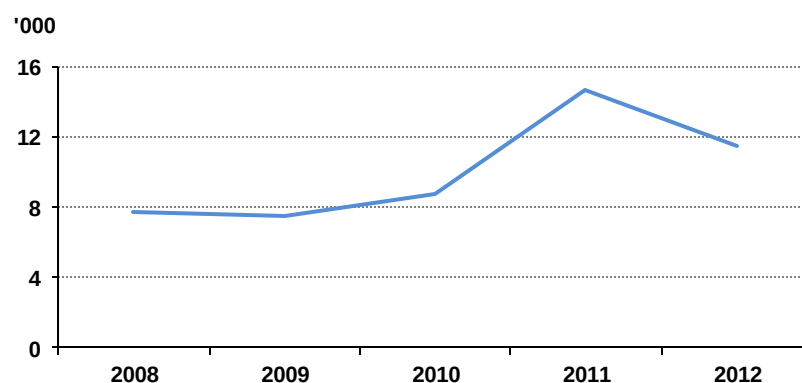
¹ Based on data from the Department's Statistical Report 2012.

² Since January 2009, illness benefit can be claimed for a maximum of two years provided the claimant has 260 weeks paid PRSI contributions. Claimants who have between 104 and 259 weeks paid PRSI contributions can claim for up to one year.

- 20.13** If a claim is refused on medical grounds, a claimant may supply further medical or other evidence and ask for a review of the decision. There is provision for appeal directly to the Social Welfare Appeals Office.

Timeliness of Processing of Claims

Figure 20.3 Applications received, 2008 to 2012



Source: Department of Social Protection Annual Statistical Report 2012

- 20.14** At April 2013, the average time taken to process an application, including review and appeal, was 58 weeks (35 weeks in 2012). Where the claimant appeals a decision, it takes on average 37 weeks to complete all stages of the appeal process.¹ The Department has stated that the reason for the increase in the average number of weeks was the elimination of a claim backlog resulting in an increase in the volume of review requests and appeals.
- 20.15** The Department has indicated that for claims received in the six months to June 2013, it has taken an average of 5.6 weeks to make a first decision.
- 20.16** The number of applications for invalidity pension in 2008 was 7,750, increasing by 89% to 14,620 in 2011. In 2012, there were 11,500 applications (see Figure 20.3).
- 20.17** In 2008, 28% of claims processed were disallowed or withdrawn. This increased to 79% in 2011 and remained at a relatively high level of 64% in 2012 (see Figure 20.4).

Figure 20.4 Outcome of claim decisions, 2008 to 2012

Year	Awarded	Disallowed/withdrawn	Total
2008	5,431	2,165 (29%)	7,596
2009	4,580	2,933 (39%)	7,513
2010	3,597	4,017 (53%)	7,614
2011	2,657	10,172 (79%)	12,829
2012	6,352	11,423 (64%)	17,775

Source: Department of Social Protection Annual Statistical Report 2012

¹ Social Welfare Appeals Office Annual Report 2012.

- 20.18** The number of appeals received by the Appeals Office doubled in 2012 to 4,765 (2,285 in 2011). Of the appeals decided in 2012, the decision was revised in 76% of cases (see Figure 20.5).

Figure 20.5 Outcome of appeals for 2012

Status	Number of cases	
Appeals allowed		
Fully	1,031	
Partially	4	
Revised DO decision ^a	474	
	1,509	76%
Appeals disallowed	430	22%
Appeals withdrawn	52	2%
Total	1,991	100%

Source: Annual Report of Social Welfare Appeals Office 2012

Note: a Revised decisions being made by deciding officers before the appeals were referred to an appeals officer.

- 20.19** At 31 December 2012, 4,365 appeals had not yet been decided (1,582 at end 2011). For the majority of these (76%), the Appeals Office was awaiting information from the Department.

Take on Controls

- 20.20** Audit examination of a random sample of 25 cases put into payment found that
- Eight had been approved for payment based on medical assessment under other schemes for which a 'do not review' status was assigned. However, no invalidity pension review status was set for these cases.
 - One case had been put in payment in error. It had been refused on medical grounds and this decision was upheld on appeal.¹

Review of Claims in Payment

- 20.21** Procedures require that when a claim is approved for payment, a medical review status is assigned. This may be to review the case in one, two or three years, or a 'do not review' status may be assigned.
- 20.22** The review status at April 2013 of cases in payment is set out in Figure 20.6.

¹ The claim had been in payment for less than a month. An overpayment has been raised by the Department and a recovery plan put in place.

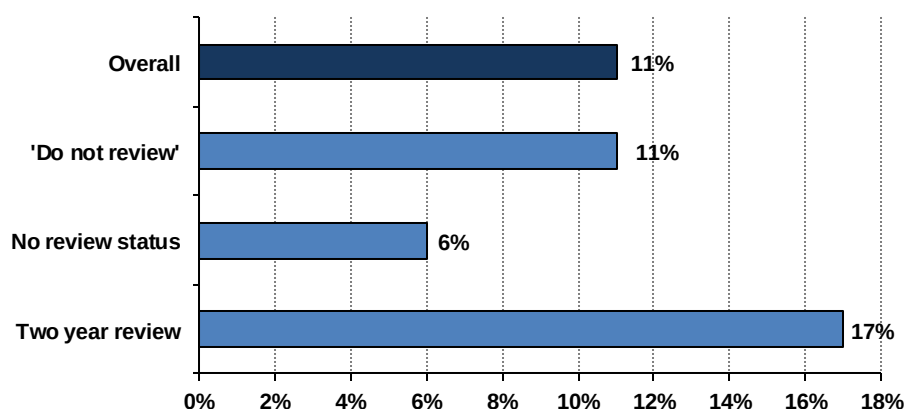
Figure 20.6 Medical review status of invalidity pension cases, at April 2013

Status	Number of cases	
'Do not review'	25,210	51%
Review in one year	8,731	17%
Review in two years	8,034	16%
Review in three years	58	—
Review status from other scheme	2,174	4%
No review status recorded	5,846	12%
Total	50,053	100%

Source: Department of Social Protection

- 20.23** The audit examined a sample of 25 cases in payment. Eight of these had a review status of one or two years but only two had been reviewed as scheduled. The most recent reviews for the other six cases ranged from 1998 to 2010.
- 20.24** The Department has indicated that capacity for conducting medical reviews is limited and therefore, it is not possible to review all cases as scheduled. To address the risk of cases not being reviewed when scheduled, cases are selected for review annually, prioritised in terms of medical review status. The numbers reviewed depend on the resources available. In 2012, just over 1,000 medical reviews were completed (1,200 in 2011).
- 20.25** To assess the risk associated with not reviewing all cases due for review, the Department reviewed a sample of 170 cases in 2012. The sample included 'do not review' and two year review cases as well as cases with no review status. Subject to the results of on-going and possible future appeals in these cases, the results suggest that an overall average of 11% of reviewed cases may no longer be eligible (see Figure 20.7).

Figure 20.7 Department review of cases, % not entitled to payment^a, at June 2013



Source: Department of Social Protection

Note: a Includes cases where claimant has appealed.

Other Eligibility Checks

- 20.26** In addition to medical reviews of cases, claimants may also be asked by 'mailshot' to certify that they continue to be eligible for payment. Between 500 and 600 such checks have been completed each year between 2010 and 2012. Issues were identified with a quarter of the cases checked in that period. The Department has pointed out that as these checks are targeted at cases which are considered to represent a higher risk, the proportion of such cases where issues were identified would be expected to be higher than for the scheme as a whole.
- 20.27** The Department has indicated that the number of reviews of continuing eligibility via mailshot was relatively low for the period 2010 to 2012 when scheme resources were being prioritised for the transfer to a new system and the clearance of a backlog. Due to the progress in those areas, the use of continuing eligibility certificates has now been reinstated and 600 such checks were completed in the first six months of 2013.
- 20.28** Other checks are carried out where relevant information in relation to the claimant comes to the attention of the Department.

Earnings Exemptions

- 20.29** Up to February 2012, claimants could work part-time while retaining their full invalidity pension payment provided the work was for rehabilitative or therapeutic purposes and Departmental approval was obtained. This exemption has since been replaced by the partial capacity scheme.¹ However, those with exemptions at February 2012 will continue to receive invalidity pension until the expiry date of the exemption (currently 540 continue to have an exemption).
- 20.30** Each year, the Department identifies claimants who were also in receipt of earnings. In April 2012, 14,000 such claimants were identified. The 140 cases with earnings in excess of €20,000 were examined and 15 of these were identified for further investigation. Six of these claims were terminated.

Estimate of Level of Irregular Payment

- 20.31** The Department has not undertaken a fraud and error survey of the scheme. Therefore, an estimate of the level of irregular payments is not available. A survey was planned for April 2013 but is not now expected to commence until September 2013.
- 20.32** A fraud and error survey in the UK of a similar scheme (known as Incapacity Benefit) estimated the rate of fraud and error at 2.4% of expenditure in the period October 2009 to September 2010.²

Conclusions and Recommendation

- 20.33** Total expenditure on the invalidity pension scheme was €603 million in 2012 representing a decrease of 12% since 2008. The numbers in receipt of the payment has fallen by 7% to 50,000 over the same period.

¹ At February 2013, there were 800 people in receipt of partial capacity benefit.

² Fraud and Error in the Benefit System: Preliminary 2012/13 Estimates, Department of Work and Pensions, May 2013.

- 20.34** Once a claim has been put in payment, the main change in eligibility conditions that can occur is where a claimant recovers the capacity to work again. Therefore, a medical review of cases is a key control. The Department's procedures require that approved claims are allocated a medical review status indicating whether the claim should be reviewed in the future and, if so, when that review should take place. Around 12% of 50,000 cases in payment do not have a medical review status recorded. Due to resource constraints, the Department has not been able to review all cases as scheduled. Review of a random sample of certain categories of cases by the Department found that 11% of cases reviewed were no longer eligible.

Recommendation 20.1: The Department should ensure that a medical review status is assigned to all cases and that as far as possible medical reviews are carried out as scheduled. The results of the Department's review of a sample of cases should be used to inform its risk rating of categories of claimants pending the results of the planned fraud and error survey of the scheme.

Accounting Officer's Response: Agreed. The Accounting Officer accepts that claimants without any review status should be medically reviewed as soon as possible. The Department considers that a disability allowance or illness benefit medical review status is a valid indicator for invalidity pension claims, as the medical assessor bases the review status on expected duration of the condition rather than the scheme type.

Since August 2010, a medical review status has been assigned to all new claimants and to any cases that have been medically reviewed. The revised control strategy for the scheme, put in place in July 2012, requires that a number of 'do not review' cases are medically reviewed each year.

The Department is conscious of the need to increase its capacity to carry out medical control reviews. In addition to the ongoing efforts to retain current medical assessors and recruit additional capacity, the Department is examining additional options of engaging additional medical professionals on an agency basis and outsourcing of some medical assessment requirements. The Accounting Officer stated that cases are selected for medical review based on risk criteria. Once work on the sample of cases is concluded, consideration will be given to revising the risk criteria.

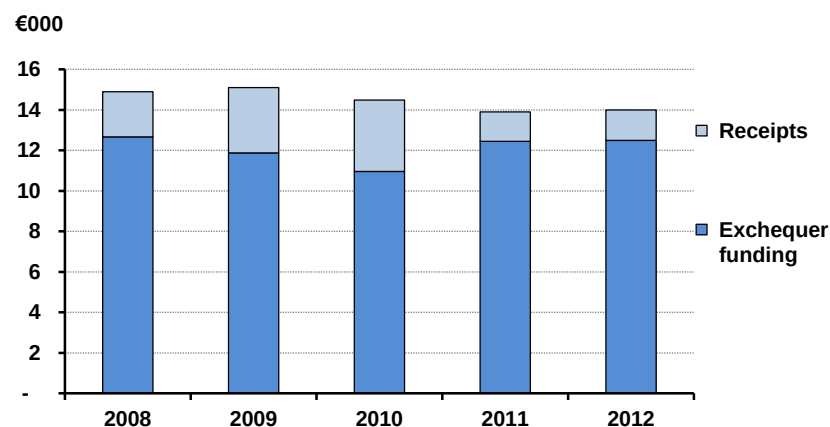
21 Budget Management in the Health Service Executive

- 21.1** Estimates of voted expenditure presented to Dáil Éireann for approval should reasonably accurately represent the amount that it is expected will be spent on each of the related services. In effect, they serve both as budget allocations for the year for individual services, and as cash limits which departments and offices are not permitted to exceed.¹
- 21.2** Spending on healthcare accounts for over one quarter of Government current expenditure. In each of the last five years, the Health Service Executive (HSE) has sought a supplementary estimate as a result of emerging budget overruns. In 2012, an additional €360 million was granted — an increase of 3% on the original voted Exchequer contribution for the year.
- 21.3** The fact that the HSE requires supplementary estimates each year raises concerns about the effectiveness of its budget planning and budget management. This report examines the budget outturn in 2012 by category of expenditure and income, and the main factors that gave rise to the budget overruns.

Trends in Expenditure

- 21.4** Figure 21.1 demonstrates the trends in the level of expenditure by the HSE each year since 2008. Overall, expenditure fell from a peak level of around €15.1 billion in 2009, to around €14 billion in 2012 — a reduction of around 7.3%.
- 21.5** Amounts received from the Exchequer into the HSE vote account in 2012 amounted to just under 90% of the total amount spent. This compares to around three quarters of the total amount spent in 2010. The change reflects the abolition of the 1% health levy (collected through the income tax system) at the beginning of 2011.

Figure 21.1 HSE gross expenditure and funding sources, 2008 to 2012



Source: Health Service Executive Vote 2008—2012

¹ The estimates process is described in more detail in Chapter 5 Vote Budget Management.

- 21.6** The HSE received a total budget allocation of €13.714 billion for 2012. The outturn for the year was €13.987 billion — around 2% more. However, the percentage variation from budget varied across expenditure categories. Additional expenditure in some areas was offset by under-spending relative to budget in other categories. The net requirement was for an additional €273 million in spending. Combined with a net shortfall on the receipts side of €64 million, there was a requirement for provision of an additional €337 million in Exchequer funds.

Variances by Subhead

- 21.7** The most significant variances, in terms of cash impacts on the vote, were overruns on medical card services and other community schemes, and in regional expenditure — particularly hospital expenditure — and a shortfall in the planned collection of patient charges for hospital services (see Figure 21.2).
- 21.8** The appropriation account does not require any explanations of the variances for subheads relative to their original budgeted amounts. In line with the accounting policies set by the Department of Public Expenditure and Reform, explanations are provided for significant variances between the amount appropriated (after supplementary estimate adjustments) and the final outturn.

Figure 21.2 HSE budget outturn analysis, 2012

Expenditure	Budget ^a	Outturn	Variance	
	€m	€m	€m	%
HSE Regions				
Dublin Mid Leinster	1,346.4	1,372.7	26.3	2.0
Dublin North East	1,225.3	1,251.0	25.7	2.1
South	1,912.9	1,946.5	33.6	1.8
West	2,103.4	2,164.5	61.1	2.9
All regions	6,588.0	6,734.7	146.7	2.2
Grants to voluntary hospitals and other health bodies	2,126.7	2,158.9	32.2	1.5
Medical card services and other community schemes	2,518.3	2,756.6	238.3	9.5
Long term residential care payments	994.7	962.6	(32.1)	(3.2)
Children and family services	551.7	569.8	18.1	3.3
Capital programmes for health facilities	341.0	318.7	(22.3)	(6.5)
Pension lump sum payments to HSE staff	207.0	175.5	(31.5)	(15.2)
Other services	184.6	138.3	(46.3)	(25.1)
Administration				
HSE salaries and other administration costs	62.4	64.8	2.4	3.8
ICT systems capital projects	140.0	107.5	(32.5)	(23.2)
Total expenditure	13,714.5	13,987.4	272.9	2.0
Receipts				
Charges for HSE-provided hospital services ^b	455.0	408.8	(46.2)	(10.2)
Recovery of cost of services from EU states	220.0	220.0	—	—
Recoupments from Social Insurance Fund	13.0	—	(13.0)	(100.0)
PCRS rebate receipts	25.0	37.3	12.3	49.2
Tobacco levy receipts	167.6	167.6	—	—
Disposal of mental health and other facilities	8.0	4.5	(3.5)	(43.8)
Pension related deductions from health sector salaries	337.1	352.0	14.9	4.4
Superannuation contributions by HSE staff	200.0	195.6	(4.4)	(2.2)
Miscellaneous receipts	127.8	103.5	(24.3)	(19.0)
Total receipts	1,553.5	1,489.3	(64.2)	(4.1)
Exchequer funding requirement	12,160.9	12,498.1	337.2	2.8

Source: Vote 39 Appropriation Account 2012

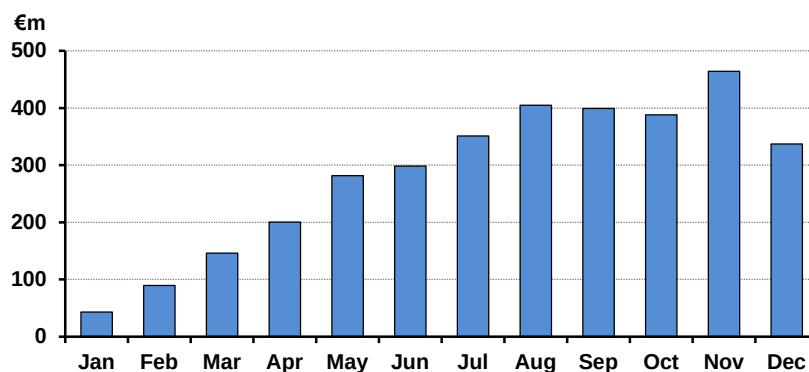
Notes: a The budget relates to the original estimate approved by Dáil Éireann in June 2012.

b Includes charges in respect of maintenance in private and semi-private accommodation in public hospitals, statutory charges in public hospitals and long stay charges.

Budget Monitoring

- 21.9** The HSE monitors its budget position through monthly performance reports. These showed a continuous increase in the 'year to date' budget overrun up to August 2012 (see Figure 21.3).

Figure 21.3 Budget overrun by month, 2012



Source: Health Service Executive Performance Reports January 2012 to December 2012

- 21.10** In July 2012, the HSE implemented a number of measures designed to reduce costs by €130 million in 2012. These included
- cuts to front line services which it expected to result in savings of €57 million — €35 million as a result of a reduction in overtime and in the use of agency staff; €12.8 million due to reduction in expenditure on medical card services; and €9.7 million as a result of reduction in home help hours and home care packages
 - savings of €73 million on non-front line services, as a result of a reduction in expenditure on education and training and travel and subsistence, as well as improvements in procurement and cash and stock management.
- 21.11** The total budget overrun was maintained at about €400 million between August and October 2012 but increased significantly in November to €464 million.
- 21.12** In order to avoid expenditure on the Vote in excess of the amount approved by Dáil Éireann, a supplementary estimate for the amount of €360 million was approved in December 2012. The final outturn for the year was €337 million above the original budget and the balance of €22.8 million became liable for surrender back to the Exchequer at the year end.
- 21.13** The Accounting Officer for the Department of Health has pointed out that the budget overrun in the HSE in 2012 was partly offset by a once-off Exchequer receipt from the Medical Defence Union of €45 million¹ and savings amounting to €70 million which were identified on the Health Vote. These savings comprised approximately €30 million from the National Treatment Purchase Fund, €11.5 million in savings from other agencies funded by the Department, €10 million on legal fees, €7.5 million from the Department's capital vote and various other savings.²

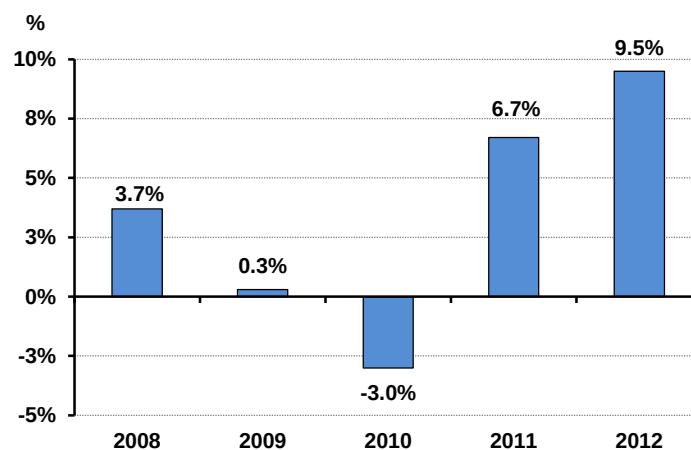
¹ The circumstances around this receipt are explained further in Chapter 29 Clinical Indemnity Scheme.

² See Chapter 5 Vote Budget Management.

Medical Card Services and Community Schemes

- 21.14** Expenditure on medical card and community services — mainly drug re-imbursement schemes — has varied significantly from the budgeted level in four of the past five years (see Figure 21.4). The greatest variances from budget were in 2011 and 2012.

Figure 21.4 Variance of expenditure on primary care reimbursement services



Source: Health Service Executive Vote 2008—2012

- 21.15** The original 2012 estimate in relation to medical card and other community schemes was €2.518 billion. This represented an expected reduction of €65 million (2.5%) on the 2011 outturn of €2.583 billion.
- 21.16** Total expenditure in 2012 was €2.756 billion — a budget overrun of €238 million or 9.5%. A large part of the overrun was due to
- projected savings on drug costs not being achieved
 - a higher number of medical cards issued in 2012 than was projected
 - underestimation of the average cost of medical cards in 2012.

Drug Cost Agreement

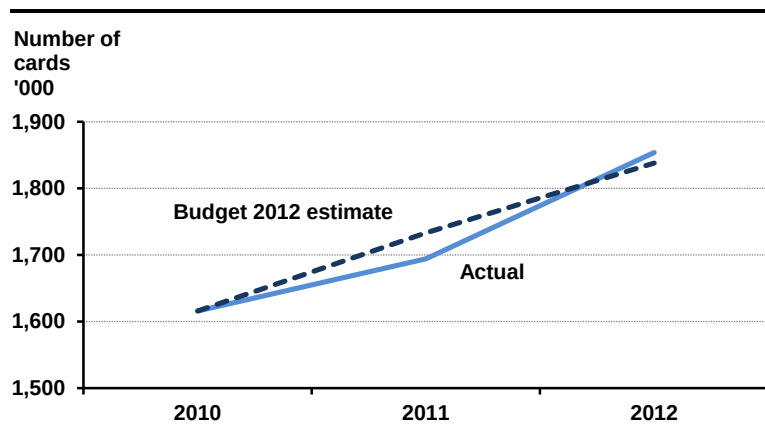
- 21.17** Savings in 2012 due to planned drug pricing changes were projected to be €124 million. Ultimately, savings achieved in 2012 were estimated at just under €15 million.¹ Accordingly, the delay in reaching agreement with pharmaceutical suppliers accounted for about €109 million (46%) of the total budget overrun in medical card services and community schemes.

¹ The full year impact of the savings in 2013 is expected to be greater.

Cost of Medical and GP Visit Cards

- 21.18** In estimating the expected cost of medical cards, the HSE projected that the number of medical cards in issue at the end of 2012 would be 1,838,000, and that the year on year increase in the number of cards would be 105,000. As Figure 21.5 indicates, this over estimated the number of cards in issue at the end of 2011, and under estimated the number at end 2012. The rapid emergence of a significant backlog in the handling of applications for medical cards in the second half of 2011 — around the time that the 2012 budget was being prepared — was a distorting factor.

Figure 21.5 Projected and actual number of medical cards in issue at end year, 2010 to 2012



Source: Health Service Executive

- 21.19** The HSE has estimated that the average cost of services per eligible cardholder in 2011 was around €1,020. This comprises
- payment of an average of €258 per cardholder to GPs
 - payment to pharmacists of €762 per person who availed of drugs.
- 21.20** In practice, this may overstate the average cost incurred for a cardholder, because it does not take account of those cardholders (around 6% in 2011) who do not avail of pharmacy services in a year.¹ When this is factored in, the average cost of a card in 2011 would be around €973 per person.
- 21.21** The HSE has stated that the cost of a medical card is heavily dependent on the age of the cardholder and can range from €200 for a cardholder aged 16 to 44 as compared to €2,000 for a person aged over 70. The average cost of a medical card in any year is dependent on the mix of cardholders. The HSE is currently developing a more sophisticated costing model which will take account of the different costs of cardholders depending on age.
- 21.22** The HSE's 2012 budget provided for additional expenditure of €15 million for a planned extension of eligibility for GP visit cards. Based on the average payments to GPs in 2011 (€258 per cardholder), this would have allowed for an additional 58,000 GP visit cards. However, the planned extension of eligibility did not occur. In fact, the total number of GP visit cards in issue fell marginally in 2012, to around 131,000. Consequently, the provision in the budget for this extension of scope was not required.

¹ See Chapter 22
Eligibility for Medical
Cards.

Conclusion

- 21.23** Delays in implementing drug savings account for €109 million of the €239 million budget overrun for medical card services and other community schemes. Underestimation of the number of full medical cardholders could account for a further €54 million. These overruns were offset by the saving due to the non-extension of eligibility for medical cards.
- 21.24** The reasons for the remaining cost overrun — around €90 million — are unclear.

Hospitals Budget Overruns

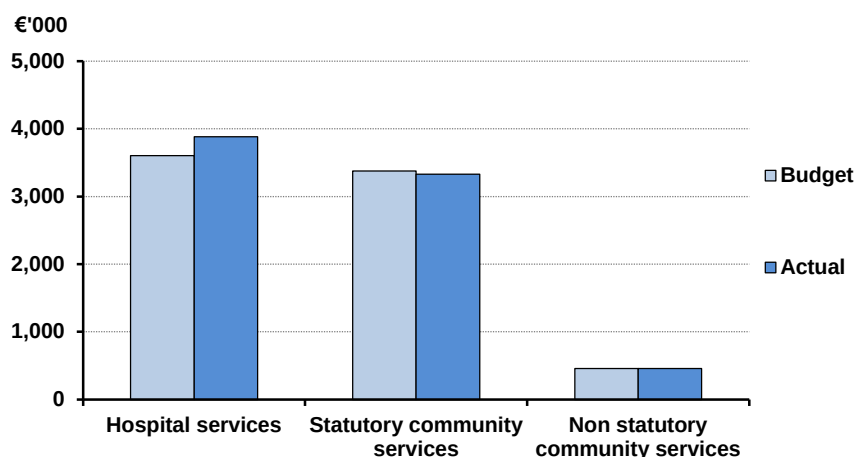
- 21.25** The total budget overrun in the cost of the HSE's regional services — mainly hospital and statutory community services — was €146 million. An additional overrun of €32 million was incurred in relation to grants in respect of health bodies including voluntary and joint board hospitals.
- 21.26** In allocating budgets to individual hospitals and community service providers, the HSE plans and monitors on an accruals (rather than a cash) basis. This should give a more complete picture of income and expenditure for the year's activity.
- 21.27** Monthly performance reports from the hospitals are used to monitor performance against budget. The performance reports for 2012 show a budget overrun in each region amounting to a total of €235 million or 3.2% (see Figure 21.6). The highest percentage overrun was in the services in the Dublin North East Region. The lowest was in Dublin Mid Leinster.

Figure 21.6 Hospital and community service budget variance by region, 2012

	Dublin Mid Leinster	Dublin North East	South	West Region	Total
Budget € million	2,395	1,651	1,634	1,755	7,435
Outturn € million	2,431	1,726	1,681	1,832	7,670
Variance € million	36	75	47	77	235
Percentage overrun	1.5%	4.5%	2.9%	4.4%	3.2%

Source: Health Service Executive Performance Report December 2012.

- 21.28** Most of the overrun occurred in relation to hospital services (see Figure 21.7). Budgets totalling €3.563 billion were allocated to 46 hospitals. The total expenditure incurred by the hospitals was €3.854 billion, representing an average overrun of 8.2%. Five hospitals had budget overruns of 20% or more (see Annex A).

Figure 21.7 Budget overrun in regions by area of service, 2012

Source: Health Service Executive Performance Report December 2012

21.29 The budgets allocated to hospitals in 2012 represented a reduction of 8% in the actual expenditure incurred in 2011. Given the overrun of 8.2% on the 2012 budgets, there was very little change in the overall expenditure.

21.30 During 2012, the HSE made grants of €70 million to nine hospitals to cover budget overruns that had occurred in 2011 (€24 million) and 2012 (€46 million). The HSE noted that the once-off grants were issued with the following conditions.

- Each hospital would be required to sign a service level agreement for 2013 on the understanding that expenditure for 2013 would have to be managed within the available budget.
- Hospitals would be required to manage their cash flow without further recourse to the HSE.

Changes to Hospital Budgeting Process

21.31 The HSE has outlined the following changes to the hospital budgeting process from 2013 onwards.

- Historically, budgets for individual hospitals were derived incrementally with the prior year's budget adjusted for once-off items and new service developments.
- The HSE has adopted a new approach in relation to developing budgets for individual hospitals. Budget allocations are now related to projected spend. Previously, budgets for individual hospitals were developed with only limited reference to past organisational performance or realistic estimates of the potential for cost reductions. As a result, some hospitals were significantly underfunded and budget overruns were inevitable.

- Following a period of consultation, detailed plans outlining the level of services to be provided, the funding and staff available and the quality and access to services were published for individual hospitals in February 2013. The new budgeting process aims to ensure that no hospital plans for a budget overrun in 2013. The process sought to ensure that assistance was provided in respect of those services in greatest need of additional funding while structural deficits were addressed. Hospital managers have now been given tough but achievable budget targets which should allow them to stay within budget while at the same time protecting patient care.
- This rebalancing of budgets is one part of a programme of reform in the hospital sector. The programme includes the establishment of hospital groups by the end of 2013 and the payment to hospitals on the basis of 'money follows the patient' from 2014.

Collecting Patient Charge Income

21.32 The HSE's 2012 service plan provided for an increase of €143 million in hospital receipts in respect of patient charges. This was to be achieved through

- increases in the level of charges
- widening of the scope of the charging regime
- more timely collection of patient income, the majority of which comes from the health insurance companies.

Increases in Patient Charge Rates

21.33 At the direction of the Minister, increases of between 2.7% and 5.3% were applied to in-patient hospital charges from 1 January 2012. It was expected that these increases would generate an additional €18 million in hospital income in 2012 — €9.2 million in relation to HSE hospitals and €8.8 million for voluntary hospitals.

Changes in the Scope of the Charging Regime

21.34 Public hospitals' income from private patients was restricted by the rules around bed designation whereby only private patients occupying a designated private bed could be charged for accommodation costs.

21.35 About 20% of beds in public hospitals are designated for private use and health insurers pay between €200 and €1,000 per day for accommodation depending on the type of hospital. However, if private patients are accommodated in public beds, a standard daily charge of €75 applies.

21.36 It was proposed to introduce legislation in 2012 to allow public hospitals to levy a charge on all private patients regardless of bed designation. It was estimated that this change would result in additional hospital income of around €75 million in 2012. The necessary legislation was enacted in July 2013, with the passage of the Health (Amendment) Act 2013.

21.37 Following discussions with the health insurance companies, the Government decided to defer implementation of the legislation until the beginning of 2014. The deal involves a reduction in the rates charged for overnight inpatient accommodation, but will be due in relation to all private patients treated in public hospitals and not just those in specifically designated beds for fee paying patients.

- 21.38** The HSE expect that the new charging regime will generate additional hospital income in the region of €30 million in 2014.

Timeliness of Collection

- 21.39** In order to improve hospital cash flow in 2012, the HSE planned to improve significantly the timeliness of collection of amounts due from health insurance companies during 2012.

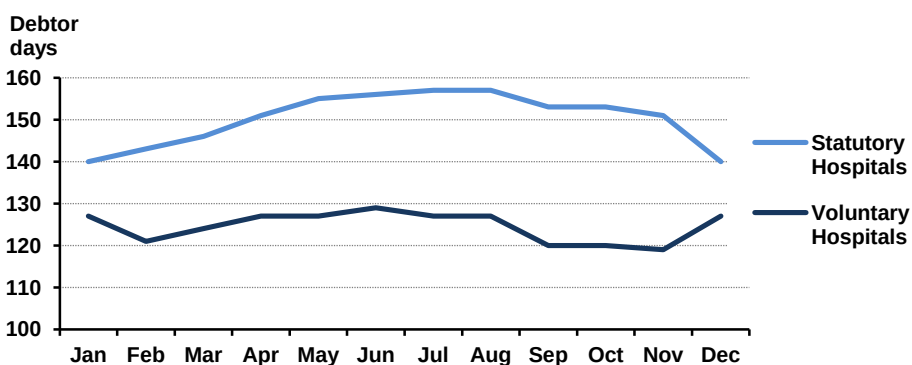
Total Debt Outstanding

- 21.40** At the end of 2012, the total patient charge debt outstanding was €209 million, comprising €128 million in relation to statutory hospitals and €81 million for voluntary hospitals. The HSE stated that about €192 million (92%) of the debt related to amounts owed by private insurers.¹

Measuring Debt Collection Performance

- 21.41** The HSE measures the timeliness of patient charge debt collection in terms of debtor days.² This measure is calculated for all hospitals and reported in the monthly performance reports. However, because only debt less than a year old is included, it does not give a complete picture of the delay in collecting income. It does provide an indication of performance in collecting recent income.
- 21.42** The debtor days at each month end during 2012 for HSE and voluntary hospital sectors are indicated in Figure 21.8. The available data suggests that, on average, HSE statutory hospitals are consistently slower in collecting patient-related debt than are voluntary hospitals. Annex B shows the debtor days at end 2012 for each hospital.
- 21.43** The HSE budgeted for an increase in hospital receipts of €50 million during 2012 as a result of more timely finalisation and payment of amounts due from insurance companies — €28 million for the statutory hospitals and €22 million by the voluntary hospitals. This would have necessitated a reduction of about 45 debtor days during 2012 in both the statutory and voluntary hospitals. In practice, debtor days were little changed in either sector over the year.

Figure 21.8 Age of debt^a for debt that is less than one year old, January to December 2012



Source: Health Service Executive Performance Reports January 2012 to December 2012

Note: a The debt analysed above includes maintenance charges only. It includes amounts due from insurance companies and from individual patients who do not have health insurance or a medical card. As a result, the debtor days shown differ from those included in Figure 21.9 which relate to all amounts due from insurance companies.

1 The other amounts due in respect of patient charges relates to amounts due from private patients who do not have insurance or tourists who have travel insurance.

2 Debtor days is a measure of the age of patient charge debt at a point in time. It is calculated by dividing the debt outstanding by the amount of patient income in the previous 12 months x 365 days.

Stages in the Collection Process

21.44 Amounts of patient income due are recognised when the patient is discharged. Claims to insurance companies are processed in three stages

- hospital administrators prepare the claim once the patient is discharged
- hospital consultants sign off on each claim form
- insurance company validates and processes the claim and pay the hospital or the HSE.

21.45 The HSE provided data in respect of the total amounts due from insurance companies in relation to maintenance and in-patient charges broken down by the stage of the process and showing the average debtor days. This is set out in Figure 21.9.

Figure 21.9 Value and age of debt^a, by stage in process, December 2012

	HSE statutory hospitals		Voluntary hospitals	
	Value of debt €m	Age of debt (debtor days)	Value of debt €m	Age of debt (debtor days)
Administration at hospital level	21.6	30	7.8	11
Awaiting sign off by consultant	38.7	55	25.7	37
With insurance company	55.2	78	43.2	63
Total	115.5	163	76.7	111

Source: Health Service Executive (unaudited)

Note: a Includes maintenance charges and in-patient charges due from insurance companies.

21.46 The HSE set a target that claims would be signed off by consultants within 14 working days of receipt of relevant documentation. At the end of 2012, claims had, on average been with consultants for just under eight weeks in HSE statutory hospitals and just over five weeks in voluntary hospitals.

Advance Payments

21.47 At the end of 2012, claims awaiting payment from insurance companies had on average been submitted for about two months. In late 2012, the health insurance companies provided advances totalling €103 million based on their estimates of private patients who had incurred charges for treatments in acute hospitals but where the claims process had not been finalised. €50 million was allocated to the HSE in respect of its hospitals, and €53 million to voluntary hospitals. While this reduced the amounts owing at the year end, the amounts advanced were deducted from patient charge payments to the HSE and the hospitals in the first six months of 2013.

Initiatives to Improve Collection

21.48 The HSE has outlined the following on-going initiatives to improve the timeliness of collection of patient charge income from insurance companies.

- The HSE is rolling out an electronic claims management system. The HSE stated that in August 2013, 17 of the largest acute hospitals (accounting for 65% of total claims in the acute sector) are using the electronic claims system. It is planned to increase this percentage to 80% by the end of 2013. The HSE noted that, even when supported by software, it remains an onerous process with consultants having to enter detailed medical information and sign forms, albeit electronically.
- The HSE has issued letters to consultants requesting compliance with the commitments set out in Section 5 (vii) (a) of the document "Implementing the Public Service Agreement" issued by the Labour Relations Commission in September 2012. This required a commitment from all consultants to fully complete and sign private insurance forms within 14 working days of receipt of all relevant documentation.
- The HSE has entered into an agreement with one of the main health insurers to clear up claims in excess of one year old.
- The HSE, the Department of Health and St James's Hospital have been working with private health insurers to agree an electronic dataset for the submission and payment of claims. By August 2013, a dataset has been developed and is being tested at St James's Hospital. The HSE plans to roll this system out to all hospitals upon successful implementation at the hospital.

Pension Lump Sums

21.49 The HSE budgeted to incur about €207 million in relation to pension lump sums for retiring employees in 2012. In 2012, expenditure in relation to lump sum payments was €175.5 million — €31.5 million less than expected. The number of people who retired was almost 2,000 less than anticipated.

Views of the Accounting Officer — HSE

21.50 The Accounting Officer noted that the HSE does not set its own Vote allocation and a number of variables affect the final amount allocated. The amount allocated in relation to HSE expenditure is developed against a backdrop of national budgetary objectives. He noted that the final estimate provision, in many cases, is imposed following the conclusion of the budgetary process.

21.51 He stated that the service plan for 2012 represented total cost reductions of €750 million comprising

- just under €500 million in savings which were to be delivered through pay and cost reduction measures, reductions in drug prices and a number of other reductions
- further cost increases of €250 million expected to arise in 2012 which were not provided for in the estimates — these included €130 million relating to expected deficits, mainly in relation to hospital services as well as the additional payroll costs arising from the award of increments and the implementation of an EU Directive in relation to agency staff.

- 21.52** The Accounting Officer noted that the cost reductions set out in the 2012 service plan followed two years in which the HSE had significant budget reductions. He noted that reductions in expenditure in 2010 and 2011 had been achieved through a variety of measures including cuts to pay and staff numbers, reductions in fees paid to GPs and pharmacies, and reductions in drug prices. He stated that the bulk of the cost reductions in 2012 related to reductions in the numbers employed. As a result of the scale of the cost reductions required, and the accumulated reduction in frontline staff, the reductions required in 2012 would impact increasingly on frontline services.
- 21.53** The 2012 service plan noted that the HSE had to deal with the increase in service need associated with demographic changes, disease incidence and other drivers of health and social care needs. The service plan required an expenditure reduction of 7.8% in hospitals but noted that acute hospitals had been under considerable budgetary pressure in recent years and capacity would have to be tailored in line with the available funding to ensure financial sustainability.
- 21.54** He noted that the service plan recognised a number of risks to delivery including the achievement of the large cost reduction targets, risks that services would struggle to meet the targets set and the timing of the legislation to achieve reductions in the cost of community drug schemes and increases in hospital income.

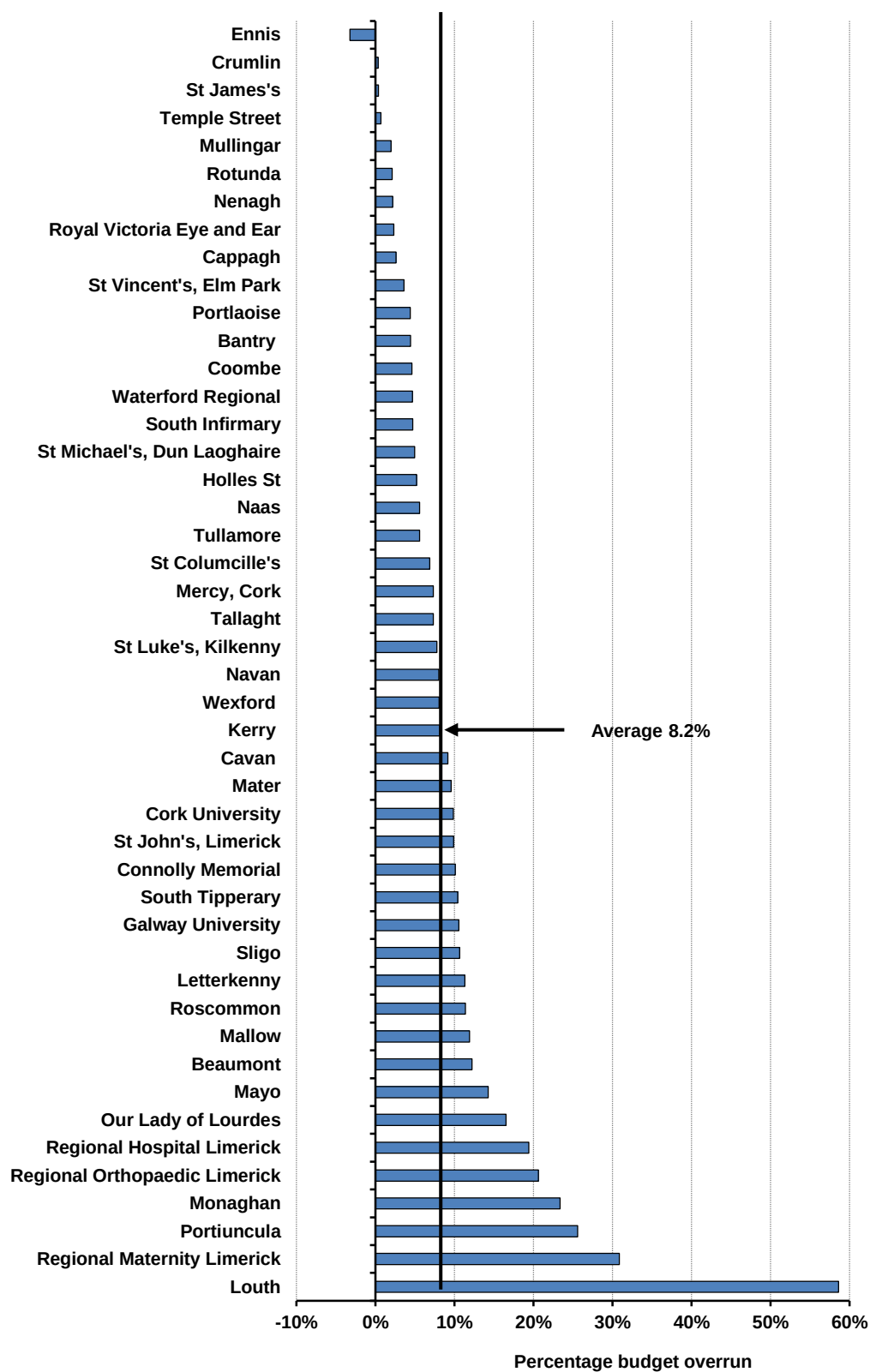
Views of the Accounting Officer — Department of Health

- 21.55** The Accounting Officer acknowledged that there was a significant overrun in the hospital sector in 2012. He noted that the scale of the cost containment measures, coming on top of a number of years of budget reductions proved unachievable. He stated that in developing the budgets for 2013, these issues were taken into account and hospital budgets for 2013 were re-balanced in order to provide hospital managers with more achievable targets.
- 21.56** He noted that following discussions with the health insurers, Government decided to defer the legislation in relation to bed designation with the understanding that the insurers would advance some €100 million to the HSE in 2012 in respect of claims for services incurred where the claim had not been finalised. He acknowledged that this advance had a detrimental effect on receipts from insurance companies in the first half of 2013 but stated that proposals are in place to address this. He noted that the time taken to finalise claims with insurance companies was excessive but the planned roll out of the electronic claims management system would go some way to addressing this delay.

Conclusion

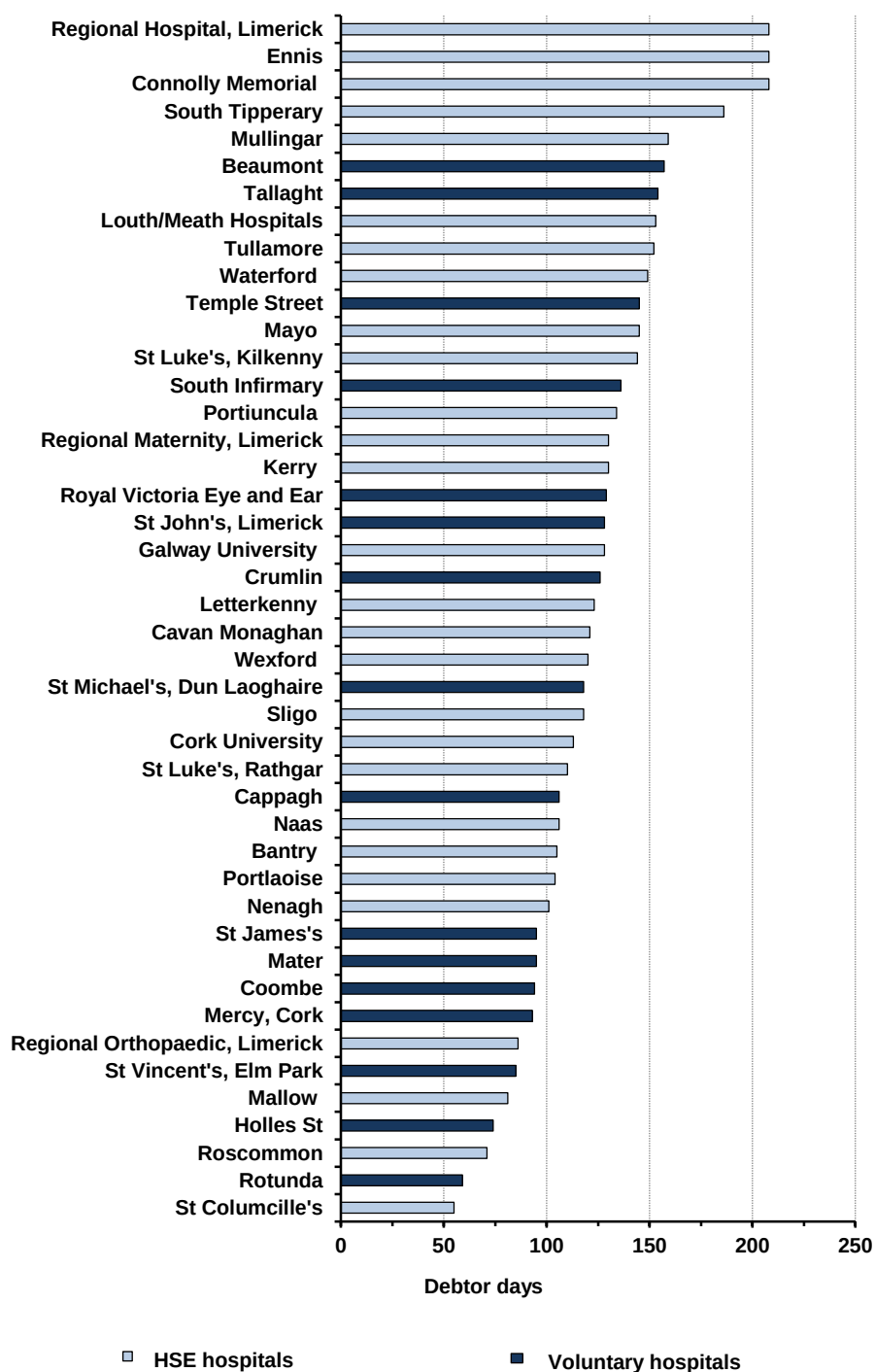
- 21.57** Budgeting for future periods is subject to error because of inherent uncertainty and factors that may be outside the budget holders' control. Nevertheless, as a general rule, estimates presented to Dáil Éireann in respect of voted services should be underpinned by analysis of relevant trends, and realistic assumptions about likely outcomes for the budget period. Key budgeting assumptions should be stated.
- 21.58** The estimates in respect of the HSE for 2012 do not appear to have taken account sufficiently of the underlying cost drivers in some key expenditure areas. There is scope for the HSE to carry out more thorough analysis of the demand for services, and of the associated costs, and of underlying trends.
- 21.59** The HSE has begun to revise its analysis of demand for medical card and other community services, and the associated costs. It has also implemented a revised budget management process in the hospitals sector, where overruns have been an ongoing problem.

Annex A Percentage Budget overrun by Hospital, 2012



Source: Health Service Executive Performance Reports, January 2012 and December 2012

Annex B Age of debt in hospitals for debt that is less than one year old, at December 2012



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

22 Eligibility for Medical Cards

- 22.1** Holders of medical cards issued by the Health Service Executive (HSE) are entitled to receive primary care services without having to make payments to the service providers. The majority of costs related to the service provision are paid directly to the service providers by the HSE. In relation to prescription medicines, a charge per item payable by the cardholder was introduced in October 2010.¹
- 22.2** In most cases, eligibility to receive a medical card depends on an assessment of the cardholder's means. Cardholders are legally obliged to inform the HSE if relevant circumstances change e.g. increased income, change in medical condition. It is an offence to provide false information on a medical card application or not to inform the HSE of a change in circumstances which may affect eligibility.
- 22.3** Two types of cards are issued, with different service coverage.
- A full medical card entitles the cardholder to a range of services free of charge, including all visits to a general practitioner (GP), in-patient and out-patient hospital services, required prescription medicines (subject to the appropriate prescription charge) and certain dental and ophthalmic services.
 - A GP visit card entitles the holder to attend his/her GP free of charge.
- 22.4** The HSE also operates a long term illness scheme. Under this scheme, where an individual suffers from one of 15 listed illnesses, prescription medicines directly related to the treatment of the illness are supplied free of charge. Eligibility to this scheme is not related to income and it operates separately to the medical card/GP visit card scheme. In 2012, 69,500 individuals made claims under this scheme at a total cost of €117 million. The operation of the long term illness scheme is not included in the scope of this report.
- 22.5** Up to June 2011, the issuance of medical cards was administered in approximately 100 local health offices, reflecting the former health board structure. Since 1 July 2011, card issuance has been managed centrally within the HSE, by the Primary Care Reimbursement Service (PCRS). The objective of the centralisation process was to
- provide for a single uniform system for medical card applications and renewals replacing the different systems previously operated in the local health offices
 - streamline work processes and implement process improvements resulting in more efficient processing
 - reduce the number of staff required to process applications and renewals
 - improve customer services
 - over time, to ensure a more accountable and better managed medical card processing service.

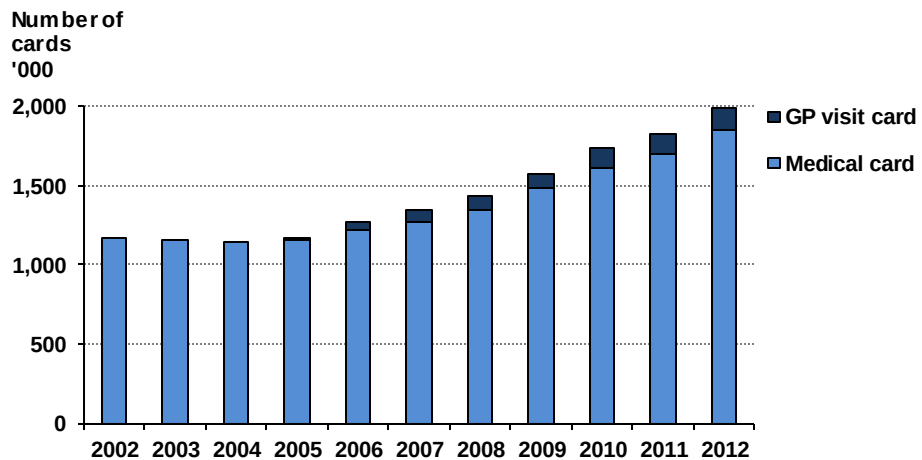
¹ The charge was initially set at 50 cent per item (capped at €10 per month for each individual. It was increased to €1.50 per item from January 2013, capped at €19.50 per month per person or family.

Focus of the Examination

- 22.6** A key risk in a decentralised administration system is inconsistency between regions in the application of eligibility rules. The HSE stated that while the medical card scheme had been the basis for the delivery of the majority of primary care services in Ireland for 40 years, all stakeholders were aware of the issues relating to the administration of the assessment of eligibility and the integrity of the medical cards register.
- 22.7** The HSE recognised that assessment for eligibility for medical cards was not consistent between the 100 offices conducting the reviews and some cardholders were granted medical cards for long periods, in some cases up to 20 years.
- 22.8** In consultation with the Department of Health, HSE management decided that a fundamental change in the administration of the scheme was required. The centralisation of administration of medical card assessment allowed the HSE to introduce a uniform system for assessment of eligibility. However, the HSE recognised that reviews of eligibility in the early stages of the centralisation process were likely to identify a material level of non-renewal. It does not produce an estimate of the number of medical cards in issue where the cardholder is not eligible.
- 22.9** This examination was carried out to examine
- trends in the costs associated with the provision of medical cards in the last ten years
 - the adequacy of the controls over the initial award of cards and over the renewal process
 - the process of review of eligibility for cards in issue
 - the level of card-holding in excess of entitlement, and the value of the related excess payments.

Number of Cardholders

- 22.10** The number of medical cards in issue has increased over the past decade as shown in Figure 22.1. The GP visit card was introduced in 2005. The number of GP visit cards issued in 2005 and 2006 was relatively low. However, since 2007, between 5% and 7% of all cards issued are GP visit cards. At the end of 2012, just under two million individuals, representing 43% of the total population, had medical cards.

Figure 22.1 Number of medical and GP visit cards in issue, 2002 to 2012

Source: Primary Care Reimbursement Service statistical reports

Backlog in Processing Applications

- 22.11** A considerable backlog developed in processing applications in the first six months following centralisation. The backlog stood at 58,000 at January 2012. The HSE undertook to clear this backlog by April 2012 and to process all fully completed applications within 15 working days.
- 22.12** The HSE implemented a number of initiatives in order to address the backlog and some of the issues arising as a result of delays in processing applications and renewal. These included
- extending renewal of medical cards by way of cardholder self-assessment to cardholders aged under 70 years of age
 - allowing GPs to extend the period of eligibility in certain cases (e.g. vulnerable persons) or to add new-born babies to the medical card database.
- 22.13** The HSE stated that the backlog was cleared by the end of April 2012. In April 2013, the HSE stated that 96% of fully completed applications are processed within the target turnaround time.¹

Cost of Medical Cards

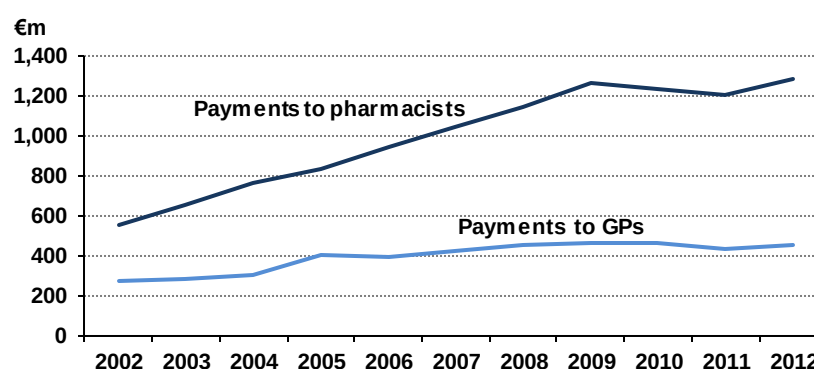
- 22.14** The main components of medical cards costs are payments to GPs and payments to pharmacists
- Payments to GPs are categorised as fees and/or allowances. Fees are payable in relation to individual medical card patients registered on a per capita basis. GPs are also entitled to claim out of hours payments (where patients are seen outside normal practice hours) or where special services (excisions, suturing, vaccinations, catheterization, family planning, etc.) are delivered. Allowances are also paid to GPs in relation to annual and study leave, locum, nursing and other practice support.

¹ The HSE stated that about 78% of the applications received during 2012 had been fully completed by the applicant. The remainder would have required some follow up by HSE staff.

- Drugs, medicines and appliances approved under the General Medical Service (GMS) Scheme are provided through retail pharmacies. The pharmacist claims the cost of the medicine provided together with a dispensing fee. The costs of the medicine provided comprises about three quarters of the total amount paid to pharmacists.

22.15 The cost of providing GP services and medicines under the medical card scheme has increased significantly in the last decade as shown in Figure 22.2. In 2002, the HSE paid a total of €823 million to GPs and pharmacists in respect of services provided to medical card users. By 2012, this had increased to just over €1.7 billion. There was a significant increase in payments to GPs in 2005. Since then, total payments have ranged from €400 million to €450 million. In contrast, payments to pharmacists increased from €551 million in 2002 to €1.3 billion in 2012.

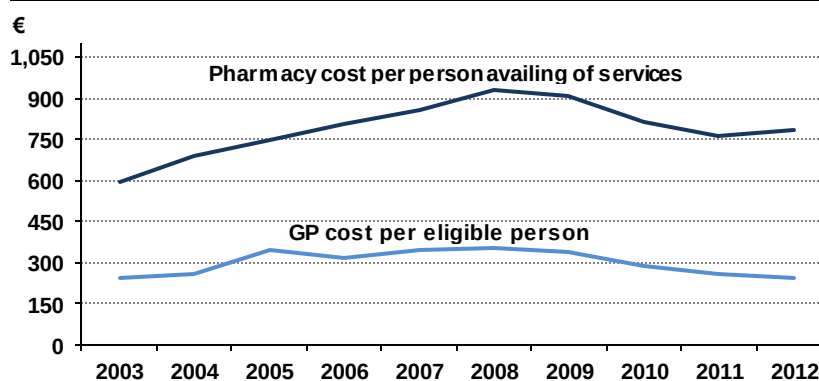
Figure 22.2 HSE expenditure in relation to medical cards, 2002 to 2012



Source: Primary Care Reimbursement Service statistical reports

22.16 The average cost peaked in 2008 when the HSE paid service providers an average of €1,285 in respect of individuals in possession of a medical card. This had fallen to just over €1,000 per person in 2012. The average payment to GPs decreased by 31% between 2008 and 2012 and the average payment to pharmacists in relation to people who availed of the service decreased by 16% over the same period (see Figure 22.3).

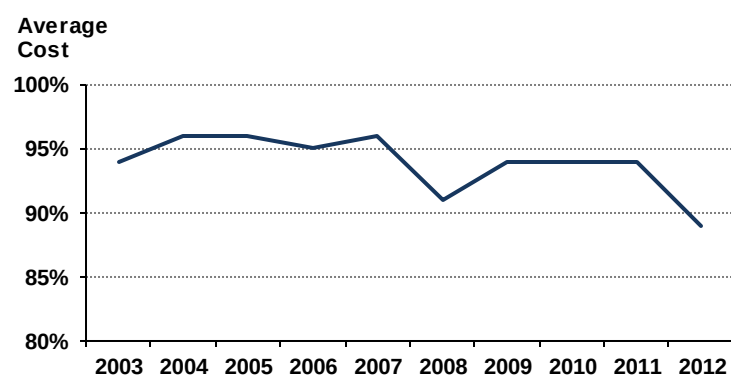
Figure 22.3 Average medical card cost per person, 2003 to 2012



Source: Primary Care Reimbursement Service statistical reports

- 22.17** The average pharmacy cost per person is calculated on the basis of the number of cardholders who availed of services in the year. Between 2003 and 2011, in general, 94% to 96% of eligible persons availed of pharmacy services during the year. This decreased to 89% in 2012 (see Figure 22.4).

Figure 22.4 Proportion of eligible persons availing of pharmacy services



Source: Health Service Executive

- 22.18** A review conducted by the HSE in October 2012 examined medical card costs arising in the first four months of 2012, as compared with the same period in 2011. This found that
- Over half of the additional pharmaceutical costs were due to more people availing of services while the remainder was, in the main, explained by changes in prescribing practices. Both the average number of prescriptions per claimant and the average drugs per prescription increased over the period.
 - Almost a quarter of doctors prescribed more for their patients in the first four months of 2012 as compared to 2011.
- 22.19** The HSE stated that it has introduced a number of initiatives to achieve cost savings in relation to prescribed medicines
- The introduction of reference pricing and generic substitution, commencing in November 2013, means that the HSE will set the price it will pay for a group of interchangeable medicines. The list of interchangeable medicines will be developed by the Irish Medicines Board. Irrespective of the drug prescribed, the HSE will only pay the agreed reference price for that group of products. If the patient chooses a more expensive product, the patient will pay the difference.
 - It has recently established a Medicines Management Programme which aims to encourage cost effective prescribing by GPs. Under this programme, doctors are asked to prescribe particular drugs for stated illnesses. Drugs prescribed for high cholesterol and peptic ulcer disease/reflux account for about 15% of the HSE's expenditure on medicines. The programme has commenced by identifying particular drugs that doctors should prescribe for these illnesses. It is planned to extend the programme to other illnesses over time.

- It has also established a prescribing feedback module which gives GPs information needed to achieve cost savings by prescribing better value products. At present, the module provides information to GPs indicating the patients and products to focus on in order to achieve maximum savings. The HSE plans to further develop this module, as reference pricing and generic substitution are implemented later in 2013. It also plans to upgrade the feedback so that it provides benchmarks for individual GPs which shows how their prescribing practice compares with that of other GPs.

22.20 The HSE stated that the medical card scheme is demand led and the proportion of people who avail of services can fluctuate. For example, in 2008 and 2012, the number of eligible persons availing of pharmacy services dropped significantly. There was no change to the medical card scheme which could account for the fluctuations (as shown in Figure 22.4). The HSE has not reached any conclusions on the reasons for such fluctuations and stated that further research may be beneficial. The HSE noted that the Medicines Management Programme will allow it to monitor and analyse changes in prescribing behaviour.

Award of Medical Cards

22.21 Medical cards are usually awarded on the basis that applicants' means are less than specified limits. In addition, the HSE has discretion to issue cards in cases where medical needs would result in hardship.

Means Tested Applications

22.22 Different means thresholds apply for certain groups and card classes, depending on weekly income, marital status and age (see Figure 22.5).

Figure 22.5 Income thresholds for medical cards/GP visit cards, June 2013

Applicant's status	Weekly income limits for:	
	Medical card	GP visit card
Under 70		
Single	€164 — €201	€246 — €302
Married/ cohabiting couple/ single parent families with dependent children	€266 — €298	€400 — €447
Over 70		
Single	€600	€700
Married/ cohabiting couple	€1,200	€1,400

Source: Health Service Executive

22.23 The assessment of income also takes account of the number of children who are financially dependent on the applicant, rent and mortgage payments, childcare costs and the cost of travelling to work.

22.24 In addition, persons who had been in receipt of payments due to unemployment or illness benefit from the Department of Social Protection for a year or more are entitled to retain their medical card for three years after taking up employment, without the application of means test. Adult and child dependents of the individual covered by the retention will also be granted a medical card.

Assessment of Applications

- 22.25** Applicants must provide evidence in relation to income and any outgoings being claimed in the means test.
- Where applicants are in receipt of payments from the Department of Social Protection, this evidence can take the form of a letter from the Department or an individual payment slip.
 - Where applicants are not in receipt of payments from the Department of Social Protection, income can be evidenced by payslip, P60, notice of assessment from the Revenue Commissioners or a letter from the employer confirming the applicant's salary.
- 22.26** The HSE has access to the Department of Social Protection's Infosys database which provides information on payments made by the Department to individuals. It also shows summary income information in relation to individuals not claiming payments from the Department. The income data is the latest recorded income data the Revenue Commissioners received. This may be the P35 filed by the employer in relation to the previous tax year or the tax return submitted by the individual, so it may not accurately reflect the applicant's current salary.
- 22.27** The HSE has stated that, irrespective of the evidence supplied by the applicant, all income noted in the application is checked to Infosys.
- 22.28** Control over the approval process for means tested cards was examined as part of this examination. A sample of 50 approvals for medical cards awarded in 2012 in instances where the applicant satisfied the means criteria was examined. Over 90% of the cases examined had appropriate evidence of means, and had been correctly awarded the cards in line with scheme provisions. However, the examination identified weaknesses in relation to four of the cases examined (8% of the sample).
- In two cases, the evidence on file suggests that the card had been approved in error.
 - In one case, a payslip provided by the applicant had not been taken into account in assessing income.
 - In one case, the monthly earnings were calculated incorrectly prior to input.
 - In two further cases, the documentary evidence was not on file or was inadequate. In these cases, the costs claimed could have impacted on the award of the medical card.
 - In one case, no documentary evidence was provided in relation to rental outgoings allowed as deductions in calculating net income.
 - In the other case, an outgoing for home improvement loan repayments was allowed without clear evidence to support the purpose of the loan.
- 22.29** The HSE has indicated that eligibility will be reviewed in relation to the four cases where the audit identified weaknesses in relation to the controls over the assessment of eligibility.

- 22.30** In addition, three out of the 50 cases examined had discretionary costs taken into consideration in their assessment. These are medical costs for on-going prescription costs and GP or hospital visits. PCRS primarily accepts GP (or hospital) reports outlining the applicant's illness and medication requirements. It was found that GP reports were accepted as the main form of evidence but they did not always specify the number of visits by the applicant or the cost of the medication to be taken and the frequency of purchase.
- 22.31** In 2013, the HSE introduced a template report for completion by GPs which requires the GP to provide information on the frequency of patient attendance and the type of medication required.

Changes in controls

- 22.32** In order to deal with the backlog that had emerged at the beginning of 2012, the HSE and the Department of Health agreed that
- Where essential information to allow assessment of eligibility was available, a medical card /GP visit card was issued for a period of one year, with any follow up required being conducted during that period.
 - Where sufficient information had not been provided to enable an assessment of eligibility, the applicant was contacted to capture the additional information required.
 - Where the HSE had misfiled applications, the applicant was contacted by phone so that sufficient details could be captured to assess eligibility. This comprised about 700 cases.
 - Cases requiring a decision from a supervisor would be escalated.
 - Letters would issue to all applicants deemed ineligible.
- 22.33** In order to prevent further backlogs from developing, the HSE also
- introduced renewal by self-assessment in relation to cardholders aged under 70 years of age, based on risk criteria
 - automatically extended eligibility for a further year where individuals whose card was due for renewal in the second half of 2012 had accessed medical services in the previous twelve months, in order to reduce the number of cases due for renewal in 2012.

Cards awarded on Discretionary Grounds

- 22.34** Where an applicant's means exceed the limits set, the HSE has discretion to award a medical card if not doing so would result in undue hardship, or to award a GP visit card where not doing so would result in it being unduly burdensome to that person to provide GP services to him/herself and his/her family. Medical cards awarded using this discretion take account of the individual's circumstances and the level of illness and related costs.
- 22.35** About 5.5% of cards were awarded on this discretionary basis in 2012. In exercising this discretion, the HSE has stated that it considers whether meeting medical costs would compromise the applicant's ability to continue in employment or provide reasonable housing and care for dependents or exceptional costs arising as a result of medical or social circumstances.

- 22.36** In making the decision, the HSE seeks to take account of medical costs, poor money management skills and the impacts of addictions such as alcohol, drugs and gambling. In this regard, HSE staff will, in general, liaise with the applicant's doctor, HSE medical officers, public health nurse or social workers, Community Welfare Officers or the Money Advice and Budgeting Service.
- 22.37** A sample of 25 medical cards approved on discretionary grounds was examined as part of the audit. In the majority of cases, the cards were awarded on the basis of significant expenditure in relation to medical costs.¹
- 22.38** The HSE stated that where an applicant's income levels exceed relevant thresholds, and there is evidence of circumstances (medical or social) which may result in undue hardship to the applicant in arranging medical services, a medical card or GP visit card may be awarded. It does not record separately cards awarded on the basis of medical or social circumstances.
- 22.39** In general, the audit found that while letters from the GP provided details of the illness of the individual, there was no attempt to quantify the medical costs involved and therefore provide evidence that these costs would cause financial hardship to the individual. As outlined above, in 2013, the HSE introduced a new form for completion by GPs which requires the GP to specify the normal number of GP visits and the type of medication required.

Medical Card Amendments by GPs

- 22.40** In February 2012, the HSE entered an agreement with the Irish Medical Organisation (IMO) whereby GPs, in certain circumstances, can make amendments to the medical card database by temporarily extending card eligibility for four months, or restoring eligibility where a patient presents who has had their eligibility removed due to not responding to renewal notices from the HSE. They can also add new-born babies to their GMS list where the parents of the babies hold a medical card and amend the database in relation to patients who are deceased. This procedure became effective on 1 September 2012. In most cases where a GP amends the medical card database, third party verification is sought from the family or a nursing home, or the HSE initiates a review of eligibility.
- 22.41** In 2012, GPs made a total of 14,000 amendments to the database. Over 90% of the amendments related to births and deaths. In 800 cases, GPs re-instated eligibility where they were of the opinion that eligibility had been removed in circumstances where the applicant had not responded to renewal notices and eligibility should be restored. The database was amended in 200 cases where GPs were of the opinion that it was a sensitive case.²
- 22.42** When new-born babies are added to the system by GPs, both the date of birth and also the date of addition are recorded. The baby is deemed to have a medical card from the date of birth and capitation is payable to the GP from the first day of the month following birth. Arrears payments issue to GPs in respect of these cases.

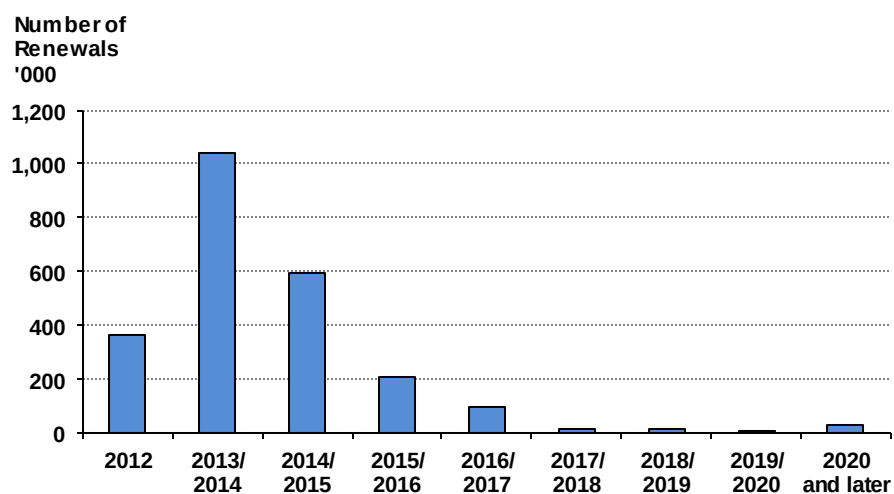
¹ In one case, no evidence had been provided in relation to significant expenditure by the individual on medical costs. However, the applicant's income levels only marginally exceeded the relevant thresholds.

² In such cases, eligibility is extended for a year. No third party verification is completed routinely since by definition the purpose of this action is to prevent correspondence being issued to individuals not in a position to deal with such administration.

Renewal of Cards

- 22.43** Under revised rules issued in 2011, standard medical cards are normally valid for three years in the case of people aged under 66, and for four years for persons aged 66 or over. Dependents of medical cardholders on reaching the age of 16 are automatically issued with a card in their own right.
- 22.44** The medical card database contains a card renewal date in respect of each cardholder. Three months in advance of that date, a notification is sent to the cardholder advising that a completed card renewal application is required to maintain entitlement to services. This is a relatively straightforward exercise in most cases as it involves the applicant confirming that relevant circumstances have not changed. About 70% of renewals operate on this self-assessment basis.
- 22.45** Where a cardholder does not respond to a renewal notice and a subsequent reminder, the medical card lapses when the expiry date on the medical card is reached.
- 22.46** The medical card database at May 2013 was reviewed to identify the number of cards due for renewal in each succeeding period of 12 months. The results are shown in Figure 22.6. The numbers of cards renewed in 2012 is included for comparative purposes.

Figure 22.6 Medical card renewal dates, at May 2013



Source: Analysis of medical card database by the Office of the Comptroller and Auditor General

Note: The renewal period in each year is from May to the following 30 April

- 22.47** Analysis of the renewal dates on the medical card database shows that over one million cards are due for renewal between May 2013 and 30 April 2014. Given that a standard eligibility period of between three and four years is applied, the number of cards due for review would be expected to be reasonably constant when compared year on year.
- 22.48** The large increase in renewals in 2013 is affected by
- the extension of eligibility for one year in relation to medical cards due for renewal in the second half of 2012 where cardholders had been actively using their cards - these cards fall to be renewed in 2013
 - the HSE's plan to standardise eligibility periods and conduct reviews in relation to cardholders who had eligibility periods in excess of the standard three or four years.

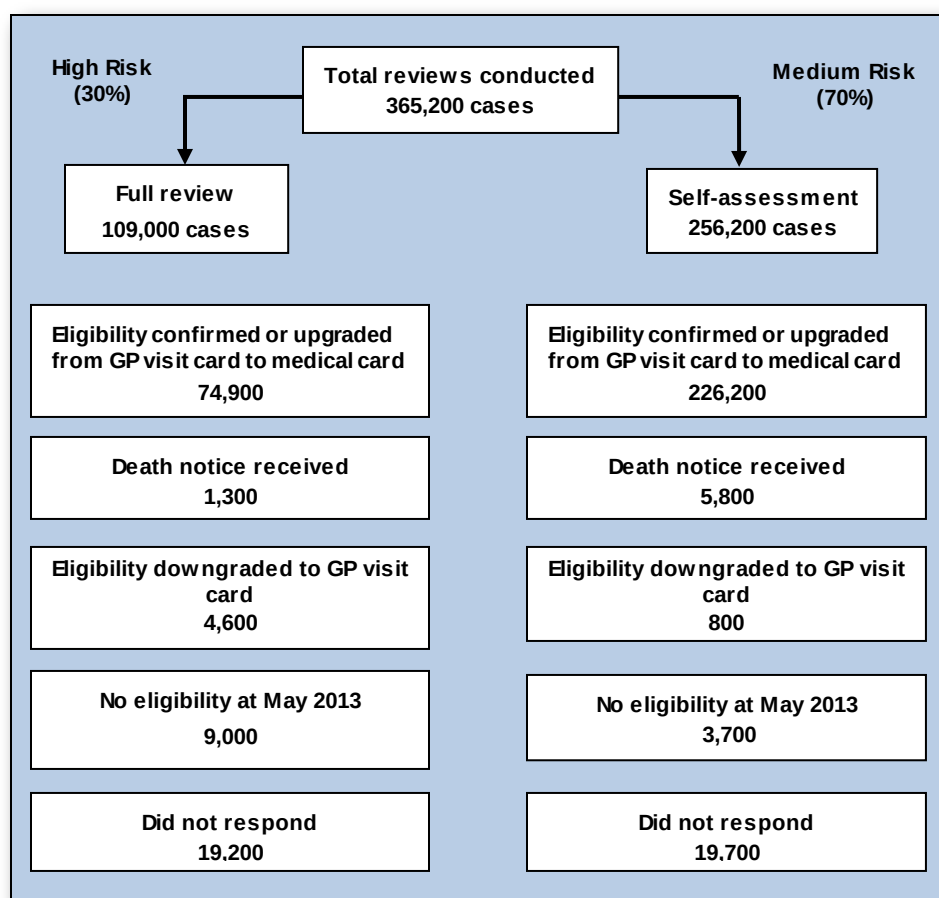
- 22.49** In relation to cardholders with expiry dates more than four years from the current date, the HSE noted that when administration of medical card processing was centralised, some cardholders had long eligibility periods, some in excess of 20 years. As part of the centralisation project the HSE initiated a programme of work to standardise the periods of eligibility commencing with cards with the longest eligibility periods. The HSE is currently working on those cardholders with eligibility of five years.
- 22.50** The HSE also stated that it is working towards implementing a system whereby risk assessment rather than expiry of the term of the card will be the primary driver of review activity.
- 22.51** The HSE uses two methods to review eligibility. These are set out in Figure 22.7.

Figure 22.7 Types of review on expiry of medical cards

Category	Assessed risk level	Format of review
Full review	High	Full review of eligibility comparable with initial application
Self-assessment	Medium	The cardholder ticks a box on the renewal form confirming that his/her circumstances have not changed since the original application and signs the form

Source: Health Service Executive

- 22.52** Senior management in PCRS decide which renewals will be subject to full review or cardholder self-assessment based on the capacity of the organisation to process renewals and how many cardholders fall into particular risk categories. In general, the process seeks to select cardholders for full review who may have a higher risk of being ineligible and include
- medical cards originally awarded on a discretionary basis
 - family income declared at the time of the original approval was close to the thresholds allowed
 - cardholders aged over 70, where the income declared on the original application would not meet eligibility criteria under the revised thresholds introduced in April 2013.
- 22.53** In 2012, the HSE issued renewal notices to 365,200 cardholders. In May 2013, the HSE reviewed the current status of cardholders reviewed during 2012 in circumstances where the medical card was expiring. This was done in order to get a more accurate reflection of eligibility for these cardholders since it takes account of late responses, new applications and/or appeal procedures. The results are outlined in Figure 22.8.

Figure 22.8 Results of 2012 card renewal process, as at May 2013

Source: Health Service Executive

22.54 The results of the review of eligibility on expiry of medical cards varies considerably in line with the type of review conducted.

22.55 Overall, there is a high non-response rate. 10.7% of cardholders had not responded to renewal and the medical card had lapsed as a result.¹ The non-response rate was higher when the HSE signals that it intends conducting a full review (17.7%) as compared to where the assessment of eligibility is conducted by cardholder self-assessment (7.7%).

22.56 When cardholders who had not responded to the renewal process by May 2013 or where death notices have been received are excluded

- 94.3% of cardholders had their eligibility confirmed or upgraded from a GP visit card to a medical card. Where eligibility was confirmed by cardholder self-assessment, 98% were renewed, compared to 85% of renewals where the HSE conducted a full review.
- 1.7% of cardholders renewed had previously had a medical card but were eligible only for a GP visit card when eligibility was reviewed – 5.2% were downgraded in the case of full reviews, and 0.4% in self-assessed cases.
- Overall, 4% of cardholders who received renewal notices were found not to have eligibility to a medical card in May 2013. The ineligibility rate was 10.2% where the HSE conducted a full review, compared to 1.6% where the review was conducted by way of cardholder self-assessment.

¹ Status as at May 2013.

- 22.57** The HSE stated that it is aware that certain categories of cardholders do not engage with the renewal process but subsequently reapply when medical services are required. The HSE also noted that it expects a higher response rate where the review is conducted by way of self-assessment as opposed to where a full review is conducted, as the process is much easier to complete.

Targeted Reviews

- 22.58** During 2012, for the first time, the HSE reviewed eligibility in relation to individuals who had not accessed medical services for periods of twelve months or more. Just under 40,000 medical cardholders were contacted to confirm their residence. 61% of cardholders confirmed residence. The remainder (15,515 individuals) did not reply and had eligibility removed. The majority of these individuals had not reapplied or been granted a medical card as at May 2013.¹
- 22.59** In relation to the results of the assessment of eligibility, the HSE stated that since the type of review conducted – self-assessment or full review – is decided on the basis of risk criteria, it would expect those cases assessed as higher risk, where a full review is conducted, to have a higher proportion of cases deemed ineligible. The HSE indicated that its risk assessment process is being refined and will be significantly enhanced as data obtained from the Revenue Commissioners is used to identify high risk cases.

Review of Cards in Issue

- 22.60** Heretofore, PCRS was unable to validate client information through routine access to other government sources. While PCRS staff have access to Infosys (the Department of Social Protection database), it does not have the capacity to electronically match its own data on medical cards with data held by other government departments such as the Revenue Commissioners and the Department of Social Protection.
- 22.61** Legislation enacted in March 2013 provides for the furnishing of data by the Department of Social Protection and the Revenue Commissioners to the HSE.² Enhanced analytical capability is also required to allow for data matching, to check eligibility both at the time of the application and on an on-going basis to detect changes in circumstances.

Data Sharing with the Revenue Commissioners

- 22.62** The data sharing legislation allows the HSE to forward a file of current medical cardholders to the Revenue Commissioners. In relation to each record, the file includes the PPSN number of the cardholder and of the cardholder's spouse, where relevant. The Revenue Commissioners will then supply data in relation to each PPSN listed showing details of employment and the latest reported income figures (PAYE and Income Tax).
- 22.63** Considerable progress has been made in integrating data provided by the Revenue Commissioners with HSE systems. Some sample data has been matched and the HSE expects that data matching will be fully operational in September 2013.

¹ These reviews are outside of the normal reviews of eligibility at the end of the term of the card and are not included in the reviews outlined in Figure 22.8.

² Section 8 Health (Alteration of criteria for eligibility) Act 2013.

- 22.64** The examination of sample data has identified a particular data protection issue. A review of eligibility for medical card requires information in relation to a family's income. The Revenue Commissioners are of the view that it cannot, under the current legislative arrangements supply Revenue information to the HSE in relation to spouses. Therefore it can only provide Revenue data in relation to those PPSN numbers provided by the HSE. It cannot provide additional information to inform the HSE of spouses income where the HSE is unable to provide the relevant PPSN number. This issue reduces the usefulness of Revenue data in detecting ineligibility. The data protection issues are currently being considered by the HSE and the Revenue Commissioners.

Data Sharing with the Department of Social Protection

- 22.65** The HSE currently has access to the Department of Social Protection's systems on an individual case basis. Under the new legislative provisions, the HSE plans to obtain electronic downloads of data from the Department of Social Protection in relation to welfare payments made by that Department. This will allow the HSE to identify cardholders who are no longer in receipt of welfare payments and may no longer be eligible for a medical card.
- 22.66** Progress has not yet been made in relation to the actual data transfer process.

Deceased Cardholders

- 22.67** In 2012, the HSE introduced data sharing with the Death Events Publication Service (DEPS) operated by the General Register Office. The HSE obtains a file of deaths each week. This is uploaded to the medical card database. While there may be a delay in recording a death with the General Register Office, any amounts paid to GPs after the date of death are recouped from the GP. In 2012, some 10,000 records were updated as a result of information from DEPS. In addition, GPs can update the database to reflect the death of patients on their GP list. In 2012, GPs made 4,400 such amendments.

Penalties for False Disclosure

- 22.68** The legal basis for the system of eligibility originates in the Health Act 1970 and it is the responsibility of the HSE to determine eligibility. The Act also provided that the HSE may require a person to make a declaration in such form as it thinks appropriate in relation to his/her means. Where an individual makes a false declaration, the penalty on summary conviction is a fine and/or imprisonment for a term not exceeding three months. Furthermore, the Act provides that a person with entitlement to services shall notify the HSE of any change in those circumstances which disentitles him/her to the service and shall be liable to a fine on summary conviction for knowingly contravening this requirement.
- 22.69** The HSE stated that, in the last five years, it has not initiated legal proceedings in relation to false declarations or failure to notify a change in circumstances in relation to medical cards.
- 22.70** Where a cardholder is found to be ineligible, the HSE removes eligibility from the date of discovery. There is currently no legislative basis for recovering irregular payments made by the HSE on behalf of the cardholder.

Excess Expenditure

- 22.71** The HSE has stated that it was aware prior to centralisation of the service, that eligibility criteria were not being applied in a uniform way in the numerous locations where medical cards were awarded and reviewed. It stated that the centralisation of processing and the application of standard assessment guidelines identified significant numbers of medical cards where the cardholder did not satisfy the eligibility criteria.
- 22.72** The results of the 2012 card renewal process would suggest a significant level of excess payment in the medical card system as a result of changes in the cardholder's circumstances since the medical card was initially granted or eligibility was reviewed.
- 22.73** The HSE stated that it may not be feasible to establish when a cardholder became ineligible. Until recently, it did not have a legal basis for reviewing client income data in order to establish when the cardholder exceeded the income threshold. It stated that since medical cardholders can claim a range of allowable expenses, it would be almost impossible to establish when the client became ineligible.
- 22.74** The HSE commissioned a review conducted in 2012 by PWC to assess the level of excess expenditure under the medical card scheme. The assessment estimated the potential exposure arising from ineligible beneficiaries at between €65 million and €210 million. However, the assessment was limited in scope as it was conducted on the basis of a review of reports rather than a detailed analysis of the database and expenditure. The report concluded that a more reliable estimate would involve a detailed review of the PCRS database.
- 22.75** The HSE subsequently employed Accenture to conduct a review of PCRS expenditure. The agreed terms of reference of the review of excess medical card expenditure was to identify cost drivers, risk areas and associated controls. The review did not develop a baseline estimate of the level of excess expenditure under the medical card scheme.
- 22.76** An estimate of the overall level of excess payments in relation to medical cards could be derived from analysis of current eligibility in relation to a random sample of cardholders. By repeating the exercise on an annual basis, the HSE could track the effectiveness of its control and management of the medical card system.
- 22.77** In order to calculate a reliable estimate of the level of ineligible cardholding and the relevant costs, it is important that
- all cases for inclusion in the process are selected randomly from the population of medical cardholders at a specific time
 - the sample size is sufficiently large to yield reasonably reliable estimates
 - the reviews are carried out promptly following sample selection
 - a full review of eligibility is conducted
 - assessment of the cost associated with ineligibility
 - the results are capable of being audited.

Conclusion and Recommendations

- 22.78** The centralisation of medical card administration and processing will assist the HSE in ensuring that a uniform assessment process is applied. It will also facilitate data sharing with other State agencies which will allow the HSE to target reviews of cardholder eligibility in a more informed way.
- 22.79** The centralisation project resulted in significant backlogs in processing application and renewal notices at the end of 2011 and early in 2012. The HSE introduced a number of initiatives to deal with the backlog and to prevent further backlogs from developing. This included extending the self-assessment basis for renewal of medical cards, allowing GPs to amend the medical card database in certain circumstances and extending eligibility in relation to some categories of medical cardholders due for renewal in 2012.
- 22.80** As part of this examination, the application of controls for the approval of medical cards was examined in relation to a sample of 50 medical cards approved during 2012. The review identified shortcomings in relation to 8% of the sample examined. Some of the shortcomings resulted in the approval of medical card applications in circumstances where the evidence would suggest that the applicant had not satisfied the eligibility criteria. In other cases, where outgoings had been assessed, no documentation or inadequate documentation was supplied by the applicant.

Recommendation 22.1: The HSE should

- review the controls in place in relation to approval of medical cards and provide more specific guidelines to staff involved in the approval process
- clarify how the information on payslips is used in order to ensure an applicant's salary is accurately calculated — in particular, the use of information on a single week's pay should not, in general, be used to calculate an individual's annual salary
- conduct more internal reviews of medical card approvals to ensure prescribed controls are being applied.

Accounting Officer's Response: Agreed. Procedures for processing medical card applications and renewals have been enhanced during the course of 2013. Specifically, the enhanced procedures and associated training ensures that a consistent process is used for the purpose of capturing an applicant's salary. The HSE also plans to conduct additional internal reviews to ensure that prescribed controls are being applied.

- 22.81** In 2012, the HSE reviewed eligibility in relation to 365,000 cards which were due to expire. 30% of the reviews involved a full review with the eligibility in the remaining cases confirmed by the applicants through a self-assessment process.
- 22.82** Between May 2013 and April 2014, over one million cards fall to be reviewed. This, together with a planned review of 61,000 medical cards with eligibility periods in excess of the standard three/four years will present a challenge to the HSE.

Recommendation 22.2: The HSE should examine the resources required to conduct the required reviews while taking account of the risk criteria attaching to individual cardholders.

Accounting Officer's Response: Agreed. Additional processing review capacity is being provided in 2013 to perform the required number of reviews. Data received from the Revenue Commissioners will be incorporated into its risk assessment model.

Recommendation 22.3: In light of the large proportion of medical cards that are renewed on the basis of self-assessment by the medical cardholder, the HSE should institute processes which serve as a check on the accuracy of declarations made. This could include a review of eligibility in relation to a random sample of renewals where the cardholder has declared that there has been no change in circumstances.

Accounting Officer's Response: Agreed. The HSE plans to conduct a full review of a sample of cases who have confirmed eligibility by way of cardholder self-assessment. This will serve as a control on the self-assessment process.

- 22.83** The available evidence suggests there is a significant level of excess payment in the medical card system. In the main, this arises as a result of changes in the cardholder's circumstances over the validity period of the card.
- 22.84** Cardholders are legally obliged to inform the HSE of a change in circumstances which may affect eligibility. The HSE does not routinely monitor the number of cards surrendered voluntarily but identified just 22 such instances in 2012.
- 22.85** A significant proportion of medical cards lapsed as a result of non-response to renewal notices issued during 2012. Some non responses may be attributed to medical cardholders failing to understand what they are required to do. They may subsequently be issued with new cards. However, some of those receiving the request may not respond because they are aware they do not satisfy the eligibility criteria.

Recommendation 22.4: The HSE should investigate further the reasons for the high level of non-response to renewal notices. Such a review might involve closer examination of a sample of cases to look at information held by the Revenue Commissioners (such as employment and income data), details of payments from the Department of Social Protection, and follow up after six months to establish the proportion of individuals who had reapplied and established eligibility. Evaluation of these results would allow the HSE to estimate the proportion of non-responders who were ineligible.

Accounting Officer's Response: Agreed. The HSE intends to use data records from the Department of Social Protection (when data matching is operational) and the Revenue Commissioners to ascertain when cardholders' circumstances change. It expects the rate of non-response to reduce as a result of targeted review of cases where the cardholder has not received medical services for a significant period of time and cases where the HSE has evidence that the cardholder's circumstances have changed (using data from the Revenue Commissioners and the Department of Social Protection).

- 22.86** Historically the HSE has not developed an estimate of the level of excess payment in the medical card system. Such an estimate would allow it to measure the effectiveness of its control systems.

Recommendation 22.5: The HSE should analyse the reasons for cardholders becoming ineligible in order to identify the key drivers of excess payments. Such an exercise would inform its overall control strategy and point towards areas where additional controls may be required at the initial application stage and would allow for an identification of the main risk criteria which should be used to select cases for review during the eligibility period.

Accounting Officer's Response: Agreed. The HSE agrees that enhanced intelligence in relation to the reasons for loss of eligibility could be used to inform additional controls which may be of benefit.

Recommendation 22.6: The HSE should conduct reviews of random samples of cardholders on an annual basis. This would allow the HSE to develop an estimate of the level of excess payment in the system as a whole. Tracking changes in this estimate of excess payment would allow the HSE to evaluate the effectiveness of its overall control strategy.

Accounting Officer's Response: Agreed. The HSE has conducted a random review in 2013 and intends completing random reviews on an annual basis.

Revenue

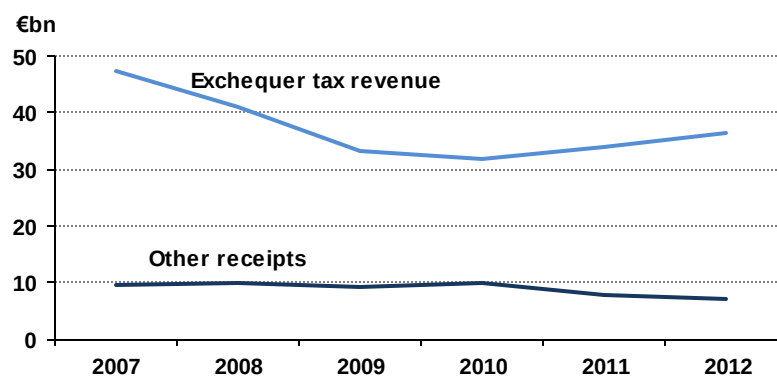
23 Revenue Collection

- 23.1** The Revenue Commissioners' (Revenue) primary function is the assessment and collection of taxes and duties that account for around 93% of the Exchequer's total annual receipts. It is also responsible for collecting a number of other charges on behalf of government departments and agencies including Pay Related Social Insurance (PRSI) which is payable into the Social Insurance Fund.
- 23.2** The Revenue Account on Receipt of the Revenue of the State for 2012 was presented to Dáil Éireann in April 2013. This report reviews the key trends in the amounts collected between 2007 and 2012, and the accuracy of forecasting of receipts.

Revenue Collected

- 23.3** Exchequer tax revenue increased in 2012 by around €2.4 billion or 7% to €36.5 billion (see Figure 23.1). This increase was, however, partially offset by a reduction of €0.7 billion or 9% in receipts from other charges which fell to €7.3 billion in 2012. Overall, Revenue collected a net €1.7 billion more in 2012 than in 2011.

Figure 23.1 Exchequer tax revenue and other receipts, 2007 to 2012



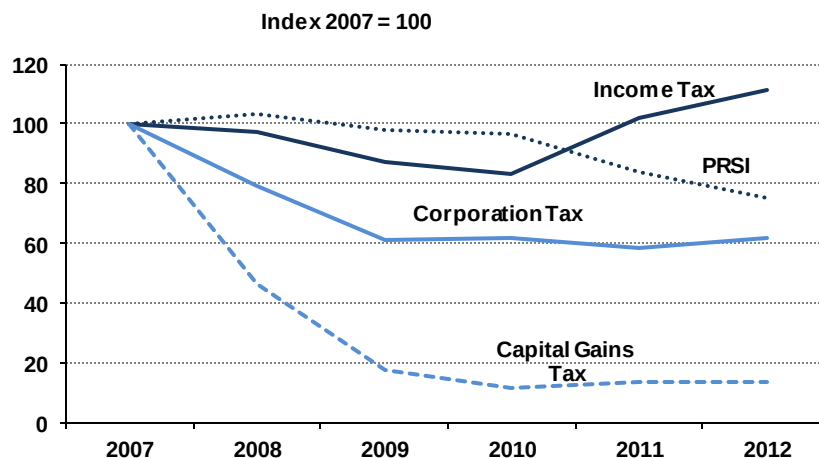
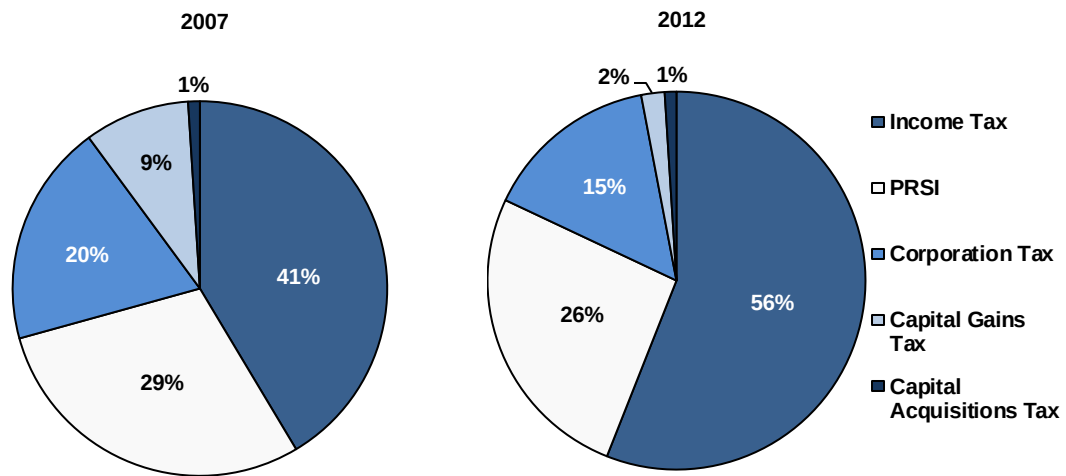
Source: Accounts of the Receipt of the Revenue of the State 2007 to 2012

- 23.4** Direct taxes are taxes on personal income, the profits earned by companies and capital gains. Indirect taxes principally comprise transaction taxes and taxes on certain imports.

Direct Taxes and PRSI

- 23.5** Direct taxes comprise mainly Income Tax, Corporation Tax, Capital Gains Tax and Capital Acquisitions Tax.¹ While not an Exchequer tax, PRSI is also a direct charge on income and is included in this analysis as a direct tax. Trends in the amounts collected under these headings are shown in Figure 23.2.

¹ The OECD defines direct taxes as those taxes imposed on income, capital gains and net worth. Gift tax, death duties and property tax are also considered direct taxes.

Figure 23.2 Direct Exchequer tax and PRSI revenue, 2007 to 2012

Source: Accounts of the Receipt of Revenue of the State 2007 to 2012

Income Tax and PRSI

23.6 In 2012, Income Tax and PRSI accounted for 82% of all direct taxes and PRSI, up from 70% in 2007.

Income Tax

23.7 In 2012, Income Tax accounted for just over half of all direct taxes and PRSI collected. Receipts declined steadily between 2008 and 2010 before increasing in 2011 following the introduction of the Universal Social Charge (USC). Receipts increased by a further net €1.3 billion between 2011 and 2012. The change was mainly attributable to

- An increase of €676 million to €3.8 billion in the amount collected for the USC. This accounted for almost 25% of all income tax receipts in 2012. In 2011, the first €4,004 of income was exempt from USC. From 2012, USC at the rate of 2% was applied to this income. Another cause of the increase was that in 2011, just 11 months of USC was collected while in 2012 a full year's revenue was collected.

- PAYE receipts increased by €562 million, or 7%, to €9.1 billion - 60% of all income tax receipts.
- An additional €108 million, or 23%, was collected in respect of Deposit Interest Retention Tax. An increase of 3% in the rates applied, from 27% to 30%, accounted for just under half the additional amount collected.
- The amount collected in respect of Dividend Withholding Tax increased by €81.6 million, or 71%, to €196 million.
- The amount collected in respect of some taxes fell. The most significant of these was a drop of €139 million in respect of the Income Levy to €45 million. The levy was abolished in January 2011 and the amounts collected in 2012 were attributable to the non-PAYE sector making payments in respect of earlier years.

Pay Related Social Insurance

- 23.8** In 2012, there was a continuing decline in the amount of PRSI collected which decreased by €776 million, or almost 10%, to €7.1 billion. This followed a decrease of €1.3 billion in 2011.
- 23.9** The fall in the amount of PRSI collected in 2011 arose mainly from the abolition of the health levy. This had previously been collected by Revenue as part of PRSI and paid over to the Social Insurance Fund and then on to the Health Service Executive. The Social Insurance Fund received €1.9 billion in respect of the health levy in 2010 falling to €115 million in 2011. The effect of the abolition of the levy was partially offset by increases arising from changes in the PRSI rates and rules introduced in the 2011 budget.

Corporation Tax

- 23.10** In 2012, the State collected €4.2 billion in Corporation Tax, an increase of 20% from the 2011 figure. €251 million in Corporation Tax payments received at the end of December 2011 were not transferred to the Exchequer until early January 2012. When this receipt is attributed to 2011, the underlying increase in Corporation Tax receipts from 2011 to 2012 is just under 6% (the data in Figure 23.2 have been adjusted to reflect the re-allocation of this payment to 2011).
- 23.11** Corporation Tax accounted for 21% of direct tax receipts in 2012. Receipts have remained relatively stable since 2009 following an overall decline of around 40% between 2007 and 2009.

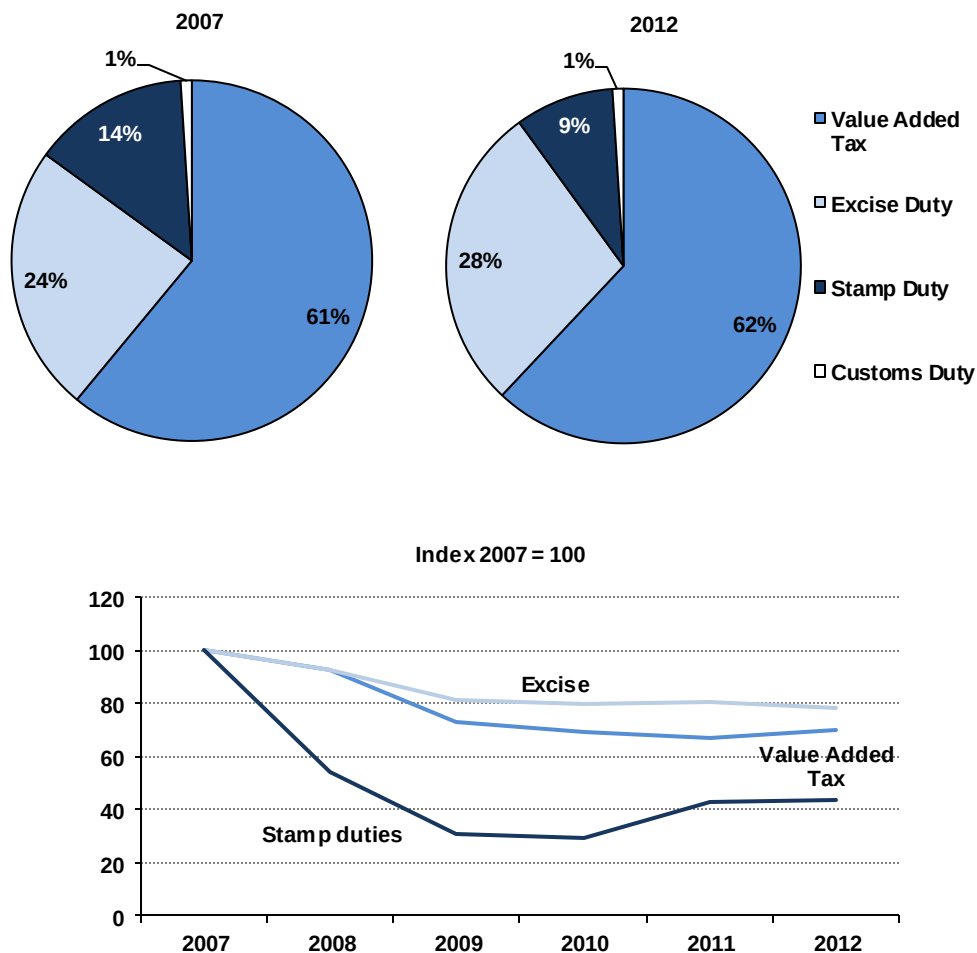
Capital Taxes

- 23.12** Capital Gains Tax (€413 million) and Capital Acquisitions Tax (€283 million) accounted for the balance (around 4%) of direct taxes collected in 2012. The rate for both taxes was increased from 25% to 30% in Budget 2012.
- 23.13** In 2007, receipts from Capital Gains Tax represented 9% of all direct taxes collected. By 2012, this had fallen to just over 2%. Notwithstanding the increase in the tax rate in 2012, the amount collected in 2012 was marginally lower than in 2011.
- 23.14** The amount collected in Capital Acquisitions Tax has represented around 1.5% of all direct taxes each year since 2008. The amount collected increased by €39 million, or 16%, to €283 million in 2012 when compared to 2011.

Indirect Taxes

23.15 The three principal indirect taxes are Value Added Tax (VAT), Stamp Duty and Excise Duties.¹ In 2012, these taxes accounted for over 98% of indirect taxes collected. Customs Duty represented the balance. Trends in the amounts collected over the period 2007 to 2012 are set out in Figure 23.3.

Figure 23.3 Indirect Exchequer tax revenue, 2007 to 2012



Source: Accounts of the Receipt of the Revenue of the State 2007 to 2012

23.16 The largest element of indirect taxes is VAT which accounted for 62% of indirect taxes in 2012. There were a number of changes to VAT rates in the 2012 budget, the most significant of which was an increase of 2% in the standard rate. The amount of VAT collected in 2012 increased by €414 million to €10.2 billion when compared to 2011.

23.17 Excise duties amounted to €4.6 billion in 2012 - around 28% of indirect taxes. The amount collected in 2012 was around 2% lower than in 2011.

¹ The OECD defines indirect tax as tax imposed on certain transactions, goods or events. Examples include VAT, excise duties and stamp duty.

23.18 Stamp duty receipts increased by 3% in 2012 to just over €1.4 billion. The main changes in 2012 were

- An increase of €90 million, or 26%, in the health insurance levy to €437 million. The levy, which is applicable to health insurance contracts, was increased in 2012 by 39% to €285 for each insured person aged 18 or over and by 44% to €95 for each insured person aged under 18.
- The amount collected through the levy of 0.6% of the value of assets under the management of pension schemes increased by €20 million to €483 million.

Insurance Fund Compensation Levy

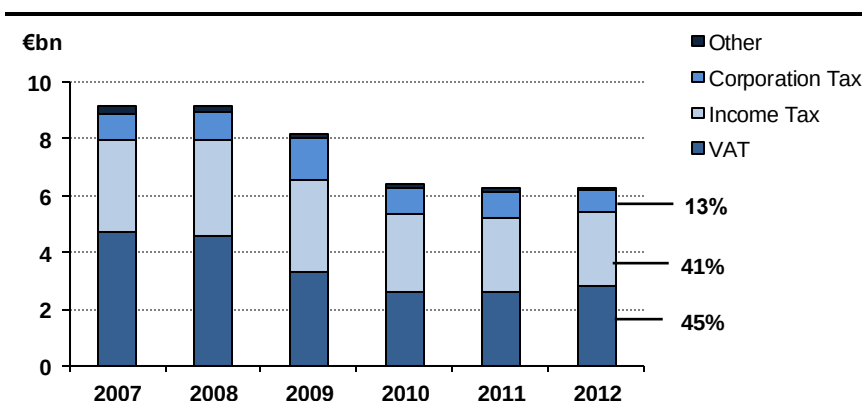
23.19 In 2012, €46 million was collected in respect of the Insurance Fund Compensation Levy on behalf of the Insurance Compensation Fund. The Central Bank has responsibility under the Insurance Act, 1964 (as amended) for determining whether the Insurance Compensation Fund requires financial support and the level of contribution to be paid to the Fund by insurers. It set the levy, which applies to the gross premiums paid to insurers for policies issued in respect of risks in the State at the maximum level of 2% permitted under the Insurance Act. The levy was introduced in January 2012. The levy is collected quarterly in arrears, therefore the amount collected represents receipts for nine months.

Tax Refunds and Repayments

23.20 Entitlement to tax refunds and repayments is statutorily underpinned.¹ 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.

23.21 A total of €6.3 billion was repaid to taxpayers in 2012 — the same as in 2011. Tax repayments for the years from 2007 to 2012 are set out in Figure 23.4.

Figure 23.4 Repayments by Revenue, 2007 to 2012



Source: Accounts of the Receipt of Revenue of the State 2007 to 2012

Note: Other includes Stamp Duty, Capital Gains Tax, Capital Acquisitions Tax and Customs Duties

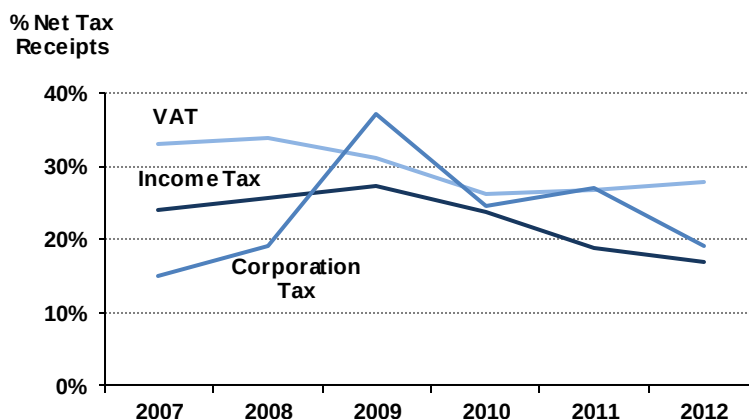
23.22 Three taxes accounted for 99% of repayments in 2012

- repayments in respect of VAT of €2.8 billion
- €2.6 billion of Income Tax repayments
- €800 million of Corporation Tax repayments.

¹ Section 865, Taxes Consolidation Act 1997.

- 23.23** Overall, repayments in 2012 amounted to 17% of net taxes and duties collected (2011: 18%). The trends in repayments for VAT, Income Tax and Corporation Tax are shown in Figure 23.5. The trend, since 2009, of a fall in repayments as a proportion of net receipts continued for both Income Tax and Corporation Tax.

Figure 23.5 Repayments by Revenue as proportion of net tax yields, 2007 to 2012



Source: Accounts of the Receipt of Revenue of the State 2007 to 2012

Tax and National Output

- 23.24** In 2012, net receipts collected by Revenue as a proportion of Gross Domestic Product (GDP)¹ was 26.7%, an increase of around 0.8% when compared with 2011 (see Figure 23.6). This reversed the trend from 2008 to 2011 when net receipts as a proportion of GDP fell each year.

Figure 23.6 Amounts collected by Revenue and GDP, 2008 – 2012

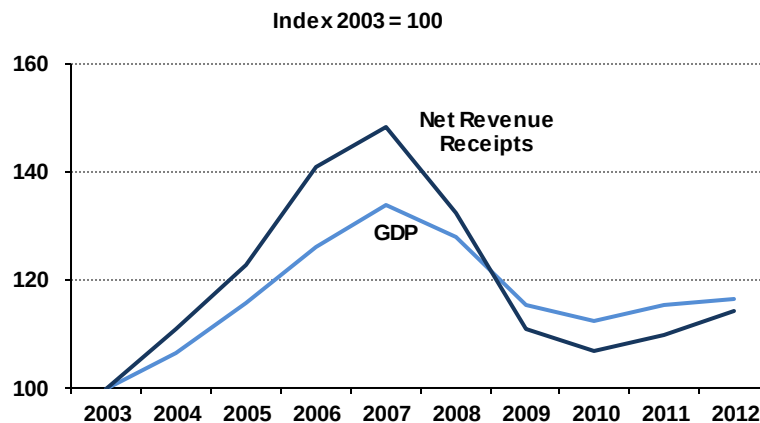
	Gross Domestic Product (current prices)	Net receipts collected by Revenue ^a	Receipts as a % of GDP
	€m	€m	
2008	180,249	50,812	28.2%
2009	162,284	42,514	26.2%
2010	158,097	41,053	26.0%
2011	162,600	42,100	25.9%
2012	163,938	43,806	26.7%

Source: Central Statistics Office Quarterly National Accounts, Quarter 1 2013. Accounts of the Receipt of Revenue of the State 2008 to 2012.

Note: a Includes net tax receipts, PRSI and other charges.

- 23.25** Figure 23.7 shows the trends in net receipts and GDP from for the years from 2003 to 2012.

¹ 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.

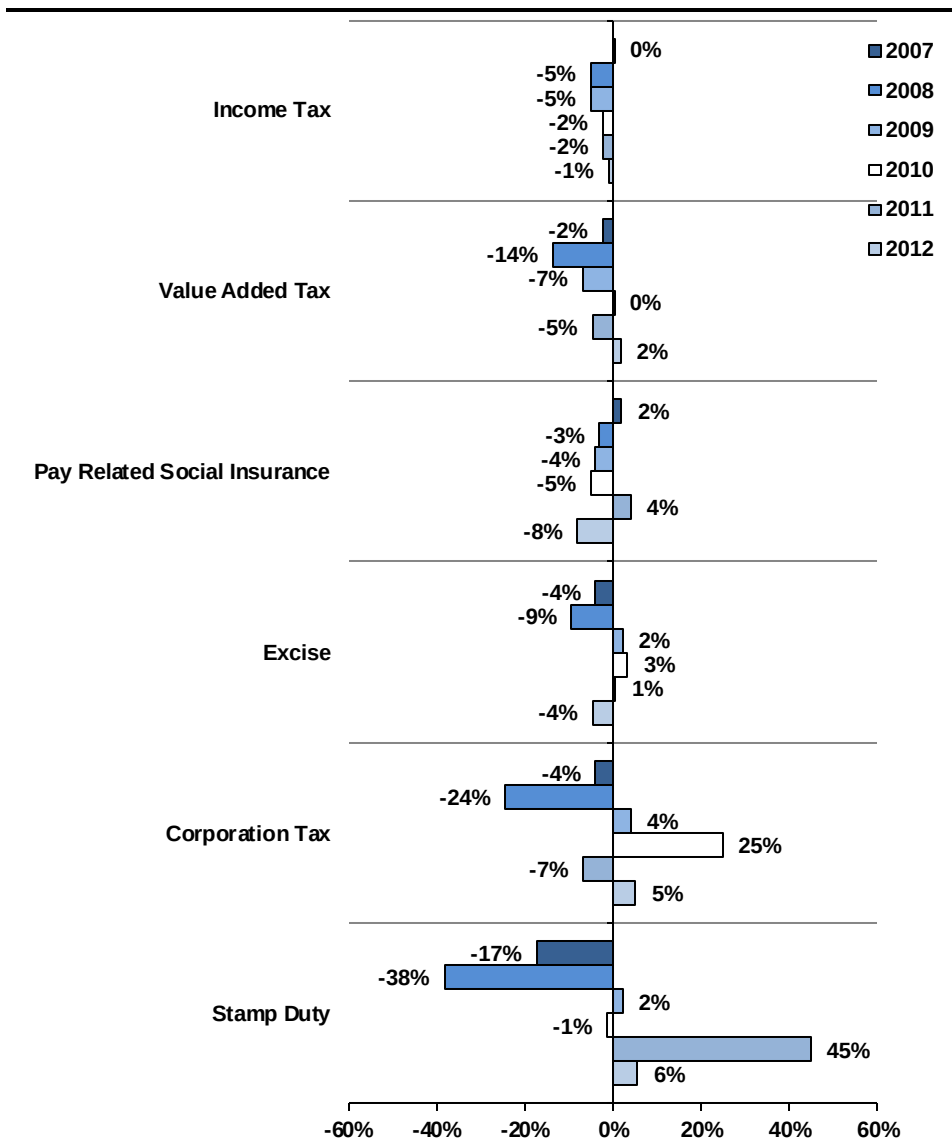
Figure 23.7 Index change in net tax receipts and GDP, 2003 to 2012

Analysis: Office of the Comptroller and Auditor General

- 23.26** In the period between 2003 and 2007, net tax receipts grew at a faster rate than GDP while between 2008 and 2010 the decline in tax receipts exceeded the fall in GDP. Over those three years, GDP fell by 12% while net tax receipts fell by 19%. Since 2011, that trend has reversed - in the two years to the end of 2012, GDP increased by around 3.7% while net tax receipts increased by 6.7%.
- 23.27** The Accounting Officer has previously pointed out that the tax yield from the construction and property sectors, which contribute to the investment component of GDP, is higher than in other sectors and the decline in these sectors largely contributed to the sharper decline in tax revenues when compared with the fall in GDP over the period 2008 to 2010.

Tax Forecasting

- 23.28** For Budget purposes, Exchequer tax receipt forecasts are prepared by the Department of Finance with the assistance of Revenue. Forecasting of tax receipts includes taking into account changes to tax rates, adjusting prior year receipts for once-off factors and estimating the growth in individual tax heads by reference to macroeconomic projections. Forecasts of PRSI receipts are prepared by the Department of Social Protection.
- 23.29** Overall, tax revenues in 2012 were 0.4% ahead of the levels forecast, while receipts from PRSI were around 8% below forecast. The differences between actual and forecast receipts each year from 2007 to 2012 are set out in Figure 23.8.

Figure 23.8 Exchequer tax revenue and PRSI compared to forecast, 2007 to 2012

Source: Accounts of the Receipt of Revenue of the State, Department of Finance Cumulative Profile of Expected Tax Revenue Profiles, Revised Estimates of Public Expenditure and Social Insurance Fund Accounts.

23.30 For the two largest taxheads, Income Tax and VAT, outturn was below forecast for most years in the period 2007 to 2012.

PRSI Receipts

23.31 The outturn for PRSI has varied significantly from forecast for all years from 2007 to 2012. It might be expected that there would be a correlation between the outturn when compared with forecast for Income Tax and PRSI. However, as Figure 23.8 shows, there has been a difference in the outturn against forecast for these two revenue sources over that period. In 2011, PRSI receipts were 4% above the forecast. By contrast, in 2012, PRSI receipts were 8% below the levels forecast. I asked the Accounting Officer for the Department of Social Protection (DSP) what had given rise to that variation.

Views of the Accounting Officer of the Department of Social Protection

- 23.32** The Accounting Officer has pointed out that there were a total of 17 changes affecting PRSI receipts in Budget 2011, the 2011 Jobs Initiative and Budget 2012. These included the introduction of the Universal Social Charge (which is part of Income Tax) and the abolition of the Health Levy.
- 23.33** The Department prepared its projections of 2012 PRSI receipts on an 'existing level of service basis', and taking account of the emerging receipts outturn in 2011. This was adjusted to take account of the expected impact of Budget 2012 changes.
- 23.34** In early 2012, Revenue brought to the Department's attention an issue with the classification of PRSI and Income Tax in 2011. This came to light from the 2011 P35 forms, due for filing by end February 2012. Revenue's examination found that some employers had misclassified the 2011 Universal Social Charge deductions as PRSI. In addition, direct debit receipts in 2011 had been apportioned based on employers' last available P35 returns (for 2010 or earlier).
- 23.35** Following the Revenue analysis, the Department reduced its estimate of PRSI receipts for 2012 by €300 million. This was reflected in a revised estimate published in April 2012.
- 23.36** The Accounting Officer stated that the outturn for 2012 was 4.5% below forecast when compared to the revised estimate. She also noted that the PRSI measures introduced in the 2011 and 2012 budgets along with PRSI measures introduced in the Jobs initiative in 2011 were complex and interact with one another. She stated that it was not possible based on PRSI data contained in the P35 returns, to disaggregate the individual impact of these measures.

Conclusions and Recommendation

- 23.37** The net amount collected by Revenue in 2012 was 4% higher than in 2011. This followed a 2% increase in 2011. The overall increase masks a significant shift between PRSI and Income Tax receipts, following the introduction of the Universal Social Charge in 2011.
- 23.38** Net tax receipts in 2012 were 26.7% of Gross Domestic Product. This was 0.8% higher than in 2011. This increase reverses the trend from 2008 to 2011 when net receipts, as a proportion of GDP, were falling.
- 23.39** The accuracy of forecasting receipts from Income Tax, which is the highest yielding tax, has improved steadily since 2008. However, despite the expectation that there would be correlation between PRSI and Income Tax, PRSI receipts have been significantly different from the amount forecast. The Accounting Officer for the Department of Social Protection stated that the Department would continue to review its forecasting methodology and liaise with the Departments of Finance and Public Expenditure and Reform on the interpretation of relevant macro-economic information in order to ensure greater consistency in the approach to forecasting Income Tax and PRSI receipts.

Annex A Collection and Repayment of Revenue, 2008 to 2012

	2008	2009	2010	2011	2012	Change 2011 to 2012	
	€m	€m	€m	€m	€m	€m	
Gross amount collected	60,061	50,744	47,559	48,427	50,175	1,748	3.6%
Repayments of taxes and duties	(9,178)	(8,148)	(6,420)	(6,269)	(6,302)	33	0.5%
Repayments of other charges	(71)	(82)	(86)	(58)	(67)	9	15.5%
Net amount collected	50,812	42,514	41,053	42,100	43,806	1,706	4.1%
Of which							
Income Tax	13,195	11,839	11,265	13,814	15,151	1,337	9.7%
Corporation Tax	5,071	3,890	3,944	3,500	4,215	715	20.4%
Capital Gains Tax	1,424	544	345	416	413	(3)	(0.7%)
Capital Acquisitions Tax	343	256	237	244	283	39	16.0%
Total direct taxes	20,033	16,529	15,791	17,974	20,062		
Value Added Tax	13,432	10,638	10,102	9,752	10,166	414	4.2%
Excise	5,432	4,734	4,667	4,704	4,592	(112)	(2.4%)
Stamp duties	1,763	1,001	962	1,383	1,426	43	3.1%
Customs duties	245	208	229	240	242	2	0.8%
Total indirect taxes	20,872	16,581	15,960	16,079	16,426		
Exchequer Revenue	40,905	33,110	31,751	34,053	36,488	2,435	7.2%
Pay Related Social Insurance	9,707	9,207	9,110	7,857	7,081	(776)	(9.9%)
Tobacco Levy	168	168	168	168	168	0	0.0%
Insurance Compensation Fund Levy	—	—	—	—	46	46	100.0%
Environmental Levy	26	24	19	16	14	(2)	(12.5%)
Other	6	5	5	6	9	3	50.0%
Non Exchequer Revenue	9,907	9,404	9,302	8,047	7,318	(729)	(9.1%)

Source: Accounts of the Receipt of the Revenue of the State, 2008 to 2012

24 Management of Revenue Debt

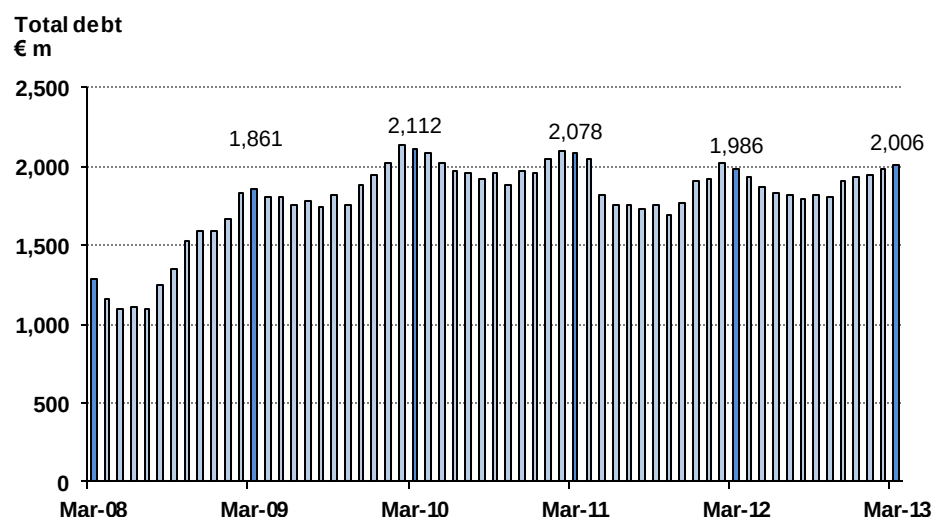
- 24.1** Within Revenue, primary responsibility for debt management rests with the Collector General's Office which has responsibility for the collection of taxes and duties and their allocation to the appropriate taxpayer account. The purpose of its debt management function is to ensure the timely collection of most of the business and personal taxes for which Revenue has responsibility.
- 24.2** In 2012, debt collection work was conducted in 24 debt management units that managed case loads categorised into five tiers to take account of the average size of the cases being managed.¹ Four of these were additional units established in 2012.
- 24.3** About 700 Revenue staff were employed in debt collection and compliance activities in 2012 of whom around 63% were engaged in debt collection activity and the remainder were involved in compliance work. Staff were allocated to the various debt management units based on the value of the tax at risk. Large cases (i.e. those with the highest value payments) have the highest ratio of staff to taxpayers. In addition, five specialist units manage particular higher-risk 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 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 insolvent cases i.e. liquidation, receivership, examinership and bankruptcy cases.
- 24.4** This report 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.

¹ Case size is computed for each tax head that a taxpayer is registered for. It is based on the average tax liability and/or collection posted in a 24 month period prior to the current period for that tax.

Outstanding Tax Debt

- 24.5** The estimated value of tax outstanding increased by 64% from March 2008 to March 2010, since when it has remained relatively stable. Debt comprises outstanding liabilities less the total value of repayment claims made by taxpayers. Details are set out in Figure 24.1.

Figure 24.1 Estimated debt outstanding at month end, March 2008 to March 2013



Source: Estimates by Office of the Revenue Commissioners

- 24.6** The value of tax outstanding varies on a yearly cyclical basis. Peak debt outstanding occurs in February/March each year, largely reflecting the impact of filing deadlines in respect of employer's fiduciary taxes (PAYE and PRSI). The lowest debt in the period from March 2012 to March 2013 was in August 2012 when debt stood at just under €1.8 billion.
- 24.7** Figure 24.2 shows the estimated 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 2013. The two largest categories of debt outstanding at that date were Income Tax (estimated at €647 million excluding PAYE) and VAT (an estimated €434 million). Direct taxes outstanding — mainly Income Tax, Capital Gains Tax and Corporation Tax — account for 59% of the total debt (March 2012: 56%), while fiduciary taxes — mainly VAT, PAYE and PRSI account for 41% of the total (March 2012: 44%).
- 24.8** The estimated total debt outstanding at end March 2013 was equivalent to 5.6% of the net charges raised in the year 2012/2013.¹ This represented a small increase from the level of around 5.3% of net charges raised in 2011/2012. In 2007, debt outstanding was 2.7% of the net charges raised.
- 24.9** Two taxes, Income Tax and Capital Gains Tax, accounted for 6.3% of the net charges raised in 2012 but accounted for 45% of the debt outstanding at March 2013.

¹ The debt outstanding and net charges exclude those taxes which are not the subject of deferred collection including Customs, Excise, Stamp Duty and that element of VAT associated with Customs and Excise.

Figure 24.2 Movement in estimated outstanding taxes and PRSI, 2012/2013^a

Tax or Levy	Balance at 31 March 2012	Net charges raised ^b	Paid	Written off	Adjustment ^c	Balance at 31 March 2013	Balance as % of charges raised
	€m	€m	€m	€m	€m	€m	
VAT	514	8,535	(8,494)	(130)	9	434	5%
PAYE	164	13,767	(13,748)	(32)	15	166	1%
PRSI	178	7,041	(7,033)	(37)	10	159	2%
Income Tax	627	2,069	(2,018)	(30)	(1)	647	31%
DIRT	—	488	(488)	—	—	—	—
Corporation Tax	177	3,326	(3,251)	(12)	1	241	7%
Capital Gains Tax	297	187	(205)	(19)	—	260	139%
Capital Acquisitions Tax	3	281	(274)	—	20	30	11%
Relevant Contracts Tax	26	81	(82)	(11)	13	27	33%
Environmental Levy	—	50	(14)	—	5	41	82%
Air Travel Tax	—	35	(34)	—	—	1	3%
Total	1,986	35,860	(35,641)	(271)	72	2,006	6%

Source: Estimates by Office of the Revenue Commissioners

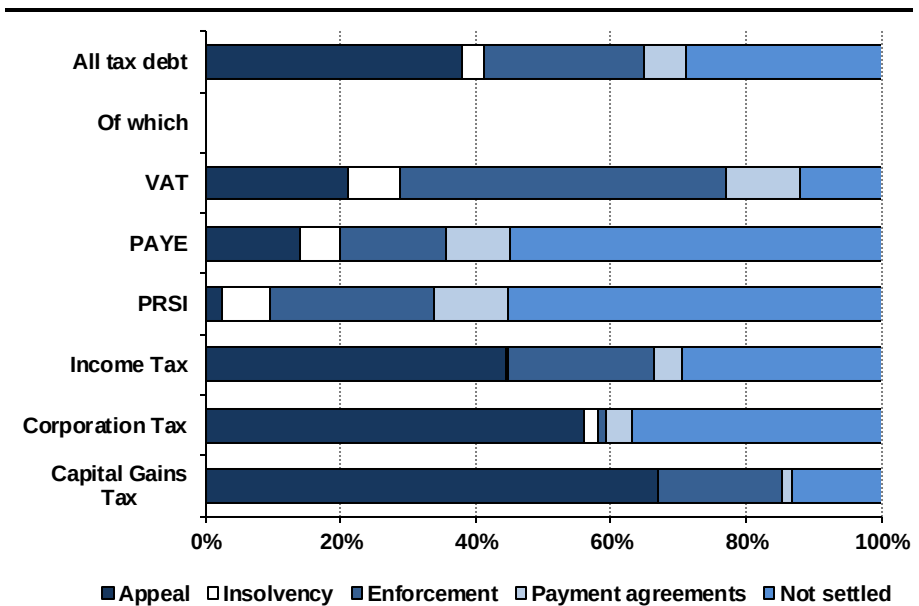
- Notes:
- a Tax is regarded as outstanding from the date the liability is placed on the taxpayer's record – usually, as a result of the receipt of a return or the raising of an estimate.
 - b Net charges raised include estimates in cases of non-filing. The corresponding charges in the year to March 2012 were reported by Revenue at €37.2 billion.
 - c Outstanding debt at the end of March 2013 was calculated using a new Revenue computer system. The balances at end March 2012 were calculated using the previous system. The adjustment reflects the unreconciled difference between the opening and closing balances.

24.10 The closing debt is debt of €2 billion comprising outstanding taxpayer liabilities of €2.2 billion less repayment claims of €206 million that had been submitted by taxpayers.

Status of Outstanding Debt

24.11 Outstanding debt is classified as

- Debt under appeal and unavailable for collection — where a taxpayer has appealed the value of the tax assessment, Revenue is precluded from collecting the debt.
- Debt that is effectively not available for collection — the debt of taxpayers who are in liquidation, examinership or certain receiverships is regarded by Revenue as being effectively not available for collection
- 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.

Figure 24.3 Collection status of tax debt, by tax type, March 2013^a

Source: Office of the Revenue Commissioners

Note: a The taxes shown account for 95% of all tax debt. Capital Acquisitions Tax, Relevant Contracts Tax, the Environmental Levy and Air Travel Tax have been excluded.

24.12 Overall, 38% of the debt at March 2013 was under appeal and a further 3% was involved in insolvency proceedings (see Figure 24.3). Therefore, €826 million was regarded as unavailable for collection at the end of March 2013. Most of the debt under appeal (around 80%) relates to direct taxes. Over 93% of the value of debt in appeal related to 2009 or earlier years of assessment while almost half related to 2005 or earlier.

24.13 Just under €1.2 billion or 59% of the debt at end March 2013 was classified as available for collection.

- About 24% of the outstanding debt was subject to enforcement action (2012: 20%), mainly in relation to VAT and Income Tax debts.
- Payment agreements were in place in respect of only 6%.
- About 29% of the outstanding debt (around €580 million) was deemed to be collectible, but at end March 2013 was neither subject to payment agreement nor to any enforcement proceedings.

24.14 When debt is under appeal, interest where due continues to accumulate from the date when the tax liability fell due. During an appeal period, Revenue continues to engage with taxpayers and settlements may be reached prior to an appeal being determined by the Appeal Commissioners or the courts.

Debt Collection Targets

Targets for 2012 and 2013

- 24.15** Revenue set itself a 'stretch' target, to reduce the level of its outstanding collectible debt (i.e. excluding debt under appeal and debt at insolvency) from just under €1.3 billion at end November 2011 to €1 billion by end November 2012 — a target decrease of around 22%. At the end of November 2012, the level of collectible debt outstanding had reduced by €24 million - a reduction of just under 2% from November 2011.
- 24.16** Revenue pointed out that the ongoing extremely challenging economic and financial environment in which it is operating impacted negatively on its debt recovery programmes and resulted in the target not being achieved.
- 24.17** The target for November 2013 is to reduce the debt available for collection to €1.2 billion, which represents a target reduction of 4% from the collectible debt at November 2012.

Measures of Debt Collection Performance

- 24.18** In my 2011 Report on the Accounts of the Public Service, I recommended that 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. The Accounting Officer agreed with the recommendation and stated that in relation to collectible debt, Revenue was developing additional performance measures. She also noted that an IT development then being tested would facilitate enhanced reporting on debt management performance.
- 24.19** In response to my enquires about progress made in respect of this recommendation, Revenue stated that targets have been set at individual debt management unit level, and by tax type, for the first time. Revenue also pointed out that it has introduced a new debt analysis tool — an Arrears Case Analysis Tool (ACAT) — to provide detailed analysis of debt and to facilitate progression towards the achievement of the targets.
- 24.20** Since October 2012, the ACAT system has been fully operational across all debt management units operating in the Collector General's Division. Revenue stated that the system allows for more focused risk-based assessment of cases and that there is a management focus on evaluating the impact of interventions taken. Revenue noted that it is too early yet to evaluate the impact of the ACAT system but stated that the results from testing of the tool in 2012 were positive. Revenue pointed out that two newly commissioned debt management units had collected €75 million in tax yield by using the ACAT system as the primary driver in the selection of over 12,000 cases for intervention and that accurate case coverage and yield of this scale would not have been possible without the analysis using the ACAT system.

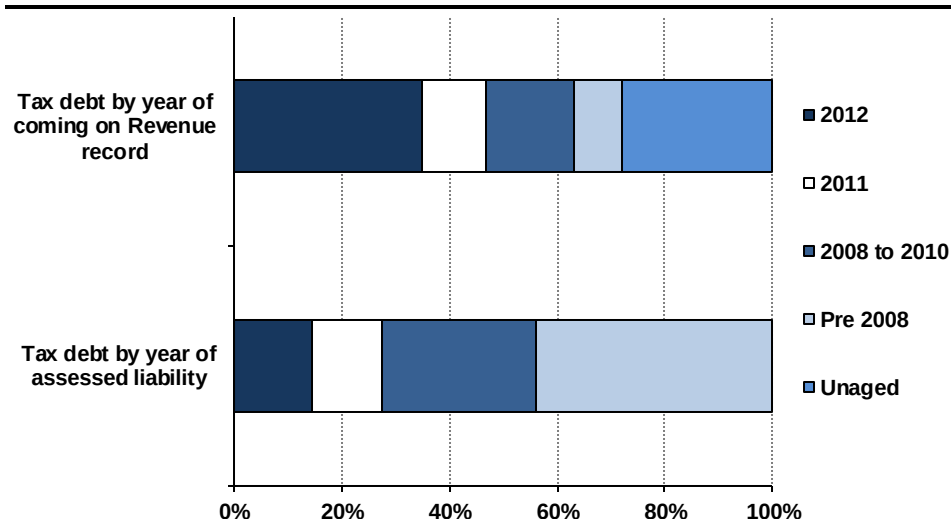
Age of Debt

- 24.21** For age analysis purposes, Revenue defines the debt start date as the latest of one of the following: (a) the date the charge giving rise to the debt came on the taxpayer's record (b) the due date for the tax or (c) the release date of an appeal stop. At the end of March 2013, using this basis, 35% of debt was less than one year old while 9% was more than five years old. Details are set out in Figure 24.4.

24.22 28% of the debt is classified as unaged.¹ When the unaged debt is excluded, almost half of the debt is less than one year old.

24.23 By way of comparison, Figure 24.4 also shows Revenue's aged analyses of tax balances outstanding at March 2013 based on the debt start date with an analysis based on the year of the assessed liability of the tax debt.

Figure 24.4 Tax debt outstanding, March 2013



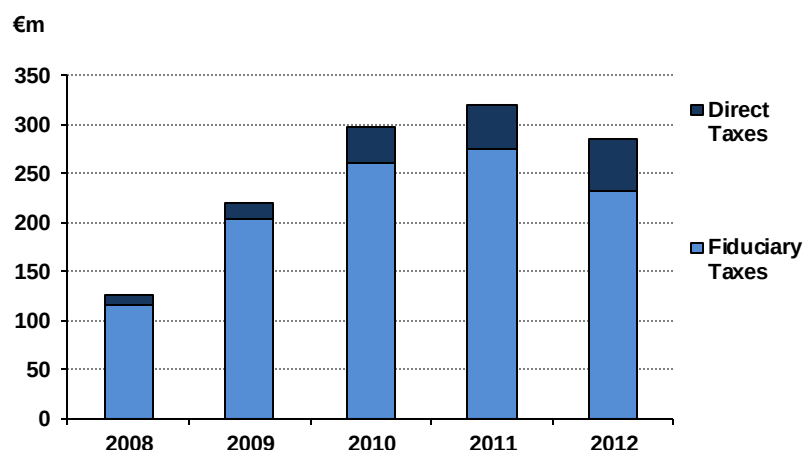
Source: Estimates by Office of the Revenue Commissioners

24.24 When tax debt is aged by the year of assessed liability, almost three-quarters of the debt is three years or more old. Debt aged by the date it came on the Revenue record shows that a quarter of the debt is regarded as three or more years old.

Write-Offs of Tax Debts

24.25 Tax debts are written off by Revenue in situations where the debts are found to be unenforceable e.g. where a business is liquidated. A total of €287 million of taxes and PRSI was written off during 2012 — a decrease of 11% compared to write offs in 2011. 81% of the taxes written off in 2012 were fiduciary taxes and the balance was in respect of direct taxes. Trends in fiduciary and direct taxes written off for the years 2008 to 2012 are set out in Figure 24.5 (see also Annex A).

1. The debt which Revenue classifies as unaged is debt at appeal (€762 million) less claims awaiting repayment (€206 million) and balances under €100.

Figure 24.5 Taxes written off, 2008 to 2012

Source: Office of the Revenue Commissioners

- 24.26** Almost all of the write-offs are assessed on a case-by-case basis. Small debts due from 115,119 taxpayers, totalling around €1.5 million (an average of €13 each), were considered uneconomic to pursue and were written off in 2012 on an automated basis.

Write-Offs by Sector

- 24.27** The most common causes of tax write-off were company liquidations and cessation of trade with insufficient liquid assets which together accounted for 65% of the debt written off, affecting mainly fiduciary taxes. Three economic sectors accounted for 56% of the total tax written off in 2012

- construction sector — €68 million (24%)
- wholesale and retail trade sector — €55 million (19%)
- accommodation and food services sector — €38 million (13%).

- 24.28** There were 51 cases in 2012 where the amount written off was greater than €0.5 million. These cases accounted for 16% of the total debt written off, or €44.8 million. The average write off was €878,400. The largest single amount written off in 2012 was €4.46 million in respect of VAT, PAYE, PRSI and Relevant Contracts Tax.

Conclusions and Recommendation

- 24.29** The estimated amount of debt owed to Revenue has remained stable at end March over the last four years, at around €2 billion.
- 24.30** Over 40% of debt was regarded by Revenue as currently being non-collectible, mainly due to the debt being under appeal. An estimated 93% of the value of debt in appeal related to 2009 or earlier years of assessment while almost half related to 2005 or earlier.
- 24.31** Revenue has improved its debt management system, which provides it with better information on the level and composition of tax debt. This should allow Revenue to refine its strategy, resulting in a more targeted approach. Revenue set itself an overly ambitious target for reducing the level of collectible debt by November 2012 by 22% year on year. The target reduction for the 12 months to November 2013 is 4%.

- 24.32** The definition of the debt start date used by Revenue is appropriate for performance management purposes. It should be noted that this approach results in much younger debt than if debt was aged by the assessed year of liabilities and the aged analysis is affected by the exclusion of debt under appeal.

Recommendation 24.1: Revenue should use its improved management information to inform its target setting for the reduction of collectible debt. Targets should be realistic but challenging and should not be distorted by factors outside Revenue's control e.g. the proportion of debt under appeal.

Accounting Officer's Response: Agreed. Revenue utilised the Arrears Case Analysis Tool to assist in formulating and reporting on the debt targets for 2013. Targets set relate to debt available for collection, which excludes debt under appeal and debt at insolvency. However, wider factors outside Revenue's control, such as available resources and the general economic environment continue to influence target setting.

Annex A**Taxes written off, 2008 to 2012**

	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m
Fiduciary taxes					
VAT	58	102	134	149	130
PAYE	20	37	44	46	39
PRSI	25	47	61	60	50
Relevant Contracts Tax	13	17	22	20	14
	116	203	261	275	233
Direct taxes written off					
Income Tax	5	10	25	27	32
Corporation tax	3	4	8	10	5
Capital Gains Tax	1	3	4	8	16
	9	17	37	45	53
Automatic write-offs	4	2	1	1	1
Total tax written off	129	222	299	321	287

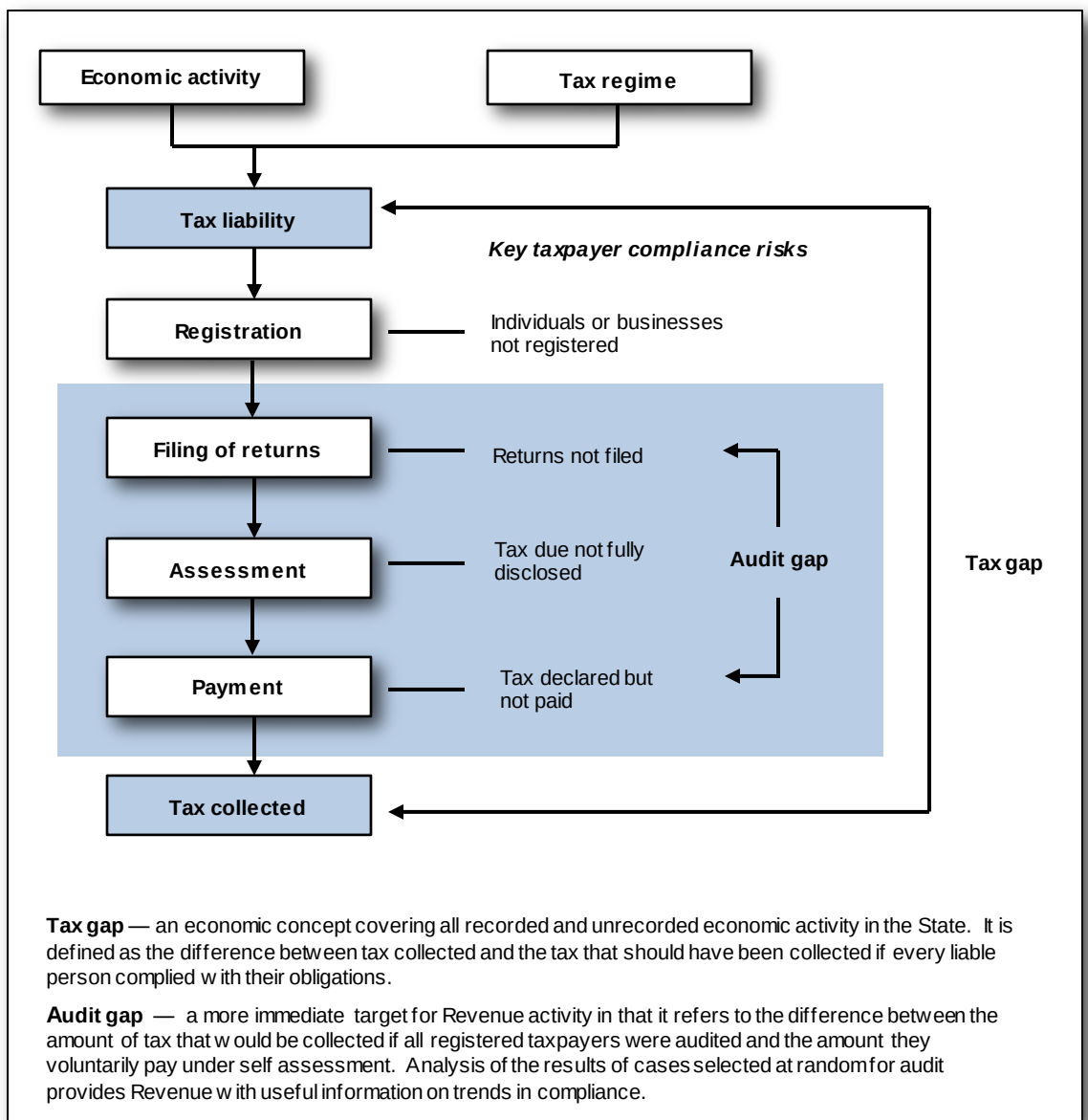
Source: Office of the Revenue Commissioners

25 Taxpayer Compliance

25.1 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 25.1). 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 25.1 Tax compliance framework – self assessment



- 25.2** 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 on those who are non-compliant, so that there is a clear deterrent effect.
- 25.3** This report reviews Revenue's approach to monitoring and managing taxpayer compliance in those key areas.
- 25.4** The examination included a review of Revenue's performance information in relation to its audit 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.

Assessing Taxpayer Compliance

- 25.5** The primary measures of taxpayer compliance are the tax gap and the audit gap. Revenue does not currently estimate the tax gap due to issues around accurate estimation of the gap and concerns about its usefulness at an operational level. Revenue does some work in relation to the links between relevant economic indicators and tax collected but this does not provide reliable indications of tax non-compliance levels.
- 25.6** The Accounting Officer pointed out that Revenue economists undertake analysis of the economic environment and investigation of the potential effects of changes on tax collection. Recent examples include analysis of the links between indebtedness of businesses and their tax compliance. Twice yearly outlook reports are also produced for senior management. The research focuses on the links between relevant economic indicators and tax collected. It is aimed at understanding Revenue's operating environment and is not intended to generate indications of non-compliance levels.

Random Audit Yield

- 25.7** The audit gap relates to tax liabilities unpaid by persons who are duly registered for tax purposes. Revenue operates a random audit programme with around 400 audits of randomly selected individual taxpayers and businesses commenced annually.¹ Certain complex audits may take a number of years to complete.
- 25.8** The outcome of the random audit programmes for 2008 to 2012 is shown in Figure 25.2. Additional taxes were levied as a result of random audits in about one third of cases over the period under review. This rate has remained largely unchanged over that period.

¹ In general, pay as you earn (PAYE) taxpayers are excluded from selection for audit under the random audit programme.

Figure 25.2 Proportion of random audits resulting in additional yield, 2008 to 2012 (up to March 2013)

	2008	2009	2010	2011	2012
Number of audits completed	399	398	390	380	294
Number of audits that yielded additional tax	120	139	139	126	84
Yielding cases as % of completed cases	30%	35%	36%	33%	29%

Source: Office of the Revenue Commissioners

- 25.9** Random audits focus initially on a particular tax year termed the base year.¹ However, where non-compliance is discovered, Revenue may also review tax returns for earlier years and audit yield may also arise in respect of these. The reported results distinguish between audit yield in the base year and in other years (see Figure 25.3). The base year yield averaged at around 42% of the total yield for audits initiated in 2008 to 2011.

Figure 25.3 Audit yield^a from random audits, 2008 to 2012 (up to March 2013)

	2008	2009	2010	2011	2012
Base year yield (€000)	1,173	1,155	923	579	321
Yield for other years (€000)	1,451	1,461	1,443	845	225
Total yield (€000)	2,624	2,616	2,366	1,424	546
Average yield for all audits completed	€6,600	€6,600	€6,100	€3,700	€1,900
Average yield in yielding audits	€22,000	€18,800	€17,000	€11,300	€6,500

Source: Office of the Revenue Commissioners

Note: a Yield includes tax, interest, penalties and surcharges.

- 25.10** At end March 2013, the random audit programme for 2012 was just under 75% complete. The experience in previous years has shown that the average yield from random audits increases as more audits are completed, because higher value cases generally take longer to complete. The results of the 2008 to 2010 programme show that
- the average yield from all audits completed was between €6,100 and €6,600
 - when non-yielding cases are excluded, the average yield varied between €17,000 and €22,000.
- 25.11** Figure 25.3 compares the state of completion of audits for all years at March 2013. Figure 25.4 shows the outcome for the 2008 to 2011 random audit programmes at the same stage in the cycle i.e. 15 months after the end of the programme year.

¹ The audits completed as part of the 2011 programme focused on a review of 2009 tax returns.

Figure 25.4 Random audit programme, 2008 to 2011 (audit yield^a at 15 months after programme year)

	2008	2009	2010	2011
	At March 2010	At March 2011	At March 2012	At March 2013
Number of audits completed	383	361	370	380
Base year yield (€000)	1,145	868	818	579
Yield for other years (€000)	1,330	1,086	1,228	845
Total yield (€000)	2,475	1,954	2,046	1,424
Average yield for all audits completed	€6,500	€5,400	€5,500	€3,700
Average yield in yielding audits	€21,500	€16,200	€16,000	€11,300

Source: Office of the Revenue Commissioners

Note: a Yield includes tax, interest, penalties and surcharges.

- 25.12** Figure 25.4 shows that the average yield per case for the 2011 programme was around a third lower than the 2009 and 2010 programmes at the same point in the audit programme cycle and 43% lower than the 2008 programme. This suggests that the more recent programmes are lower yielding.

Estimating the Audit Gap

- 25.13** Analysis of the outcome of a well designed random audit programme can provide Revenue with a sound basis for valuation of the overall audit gap. In order to estimate the gap, the additional tax yield from random audits needs to be compared with the original liability declared by the taxpayer. However, this information was not collated by Revenue prior to July 2012. 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.
- 25.14** In order to estimate the audit gap, the examination compared the original declared liability with the audit tax yield for the 380 completed audits from the 2011 random audit programme (see Figure 25.5). The main results of the analysis are that
- More than one third of taxpayers selected randomly had underpaid their taxes.
 - The audit gap for the base year (2009) was an estimated 3.1% liability.

Figure 25.5 Taxpayer compliance rates based on 2011 random audit programme

	Total
Number of cases completed	380
Total liability in base year	€14,935,144
Of which tax in base year as a result of audit ^a	€464,819
Proportion of undeclared tax in 2009	3.1%

Source: Analysis of the Office of Comptroller and Auditor General

Note: a Additional tax in the base year excludes interest and penalties.

- 25.15** The audit gap has been estimated using the 380 cases where audits had been completed. This estimate may change upon completion of the audits in the remaining 20 cases in the programme, as experience in previous years has shown that those cases settled later tend to be more complex and often result in high yield amounts. Regular estimation of the audit gap would indicate whether the level of undeclared income is changing over time.

Detecting Non-Compliant Taxpayers

- 25.16** Revenue uses a number of procedures to identify registered taxpayers at risk of under-declaration of liability. These include
- screening of tax returns against sectoral and business norms
 - data matching of information held on Revenue's own records to identify apparent inconsistencies
 - use of third party data
 - use of local or sectoral knowledge
 - a suspicious transactions report.¹
- 25.17** Cases at higher risk of under-declaration are investigated either by way of non-audit checks, through to a more intensive audit of the taxpayers records by reference to the tax returns submitted or by way of a special investigation.² Any of these may result in additional tax and interest on late payment being levied and in some cases the imposition of civil or criminal sanctions.

Non-Audit Interventions

- 25.18** Rather than proceeding immediately to costly audit processes in all cases where it has identified a risk of undeclared liabilities, Revenue first seeks assurance that a customer is broadly compliant through the use of non-audit interventions. Non-audit interventions involve verifying documentation and requesting additional information in order to address a specific risk identified by Revenue. They can include
- the examination of customs declarations
 - verifying the accuracy of VAT repayment claims
 - following up on issues arising from suspicious transaction reports
 - verifying PAYE tax credit and repayment claims and checks on potential non-declaration of additional income sources
 - eligibility checks for disclosure schemes.
- 25.19** Non-audit interventions can result in the levying of additional tax as a result of enquiries, or in escalation of the case to a full audit. The numbers of non-audit interventions conducted in 2012 and the proportion of those resulting in additional yield is shown in Figure 25.6.

¹ 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.

² DIRT and off-shore funds investigations are two examples of special investigations.

Figure 25.6 Revenue non-audit interventions and outcomes, 2012

	Total
Number of interventions carried out	528,755
Proportion of interventions with yield	7%
Total yield (€m)	133
Average yield per yield case	€3,585

Source: Office of the Revenue Commissioners

Risk-Based Audits

- 25.20** A Revenue audit involves examining tax returns, declarations of liability, repayment claims and the compliance of a taxpayer with tax legislation.
- 25.21** In addition to its random audit programme, Revenue targets cases for audit in a number of ways including the use of its Risk Evaluation Analysis Profiling system (REAP) which ranks taxpayers relative to one another, based on a number of specified risk factors.¹ Cases may also be selected for other reasons including, for example, information provided by third parties or when a particular sector or scheme has been targeted for examination.
- 25.22** Revenue carried out 8,573 risk-based audits in 2012 yielding a total of €355 million (see Figure 25.7).

Figure 25.7 Revenue audit activity and outturn, 2012

	Revenue districts	Large Cases Division	Special investigations^a	All audits
Audits carried out ^b	8,116	202	255	8,573
Proportion of audits with yield	69%	62%	95%	70%
Total yield (€m)	270	56	29	355
Average yield per yield case	€48,153	€446,328	€121,745	€59,440
Highest case yield (€m)	15.0	7.4	3.3	

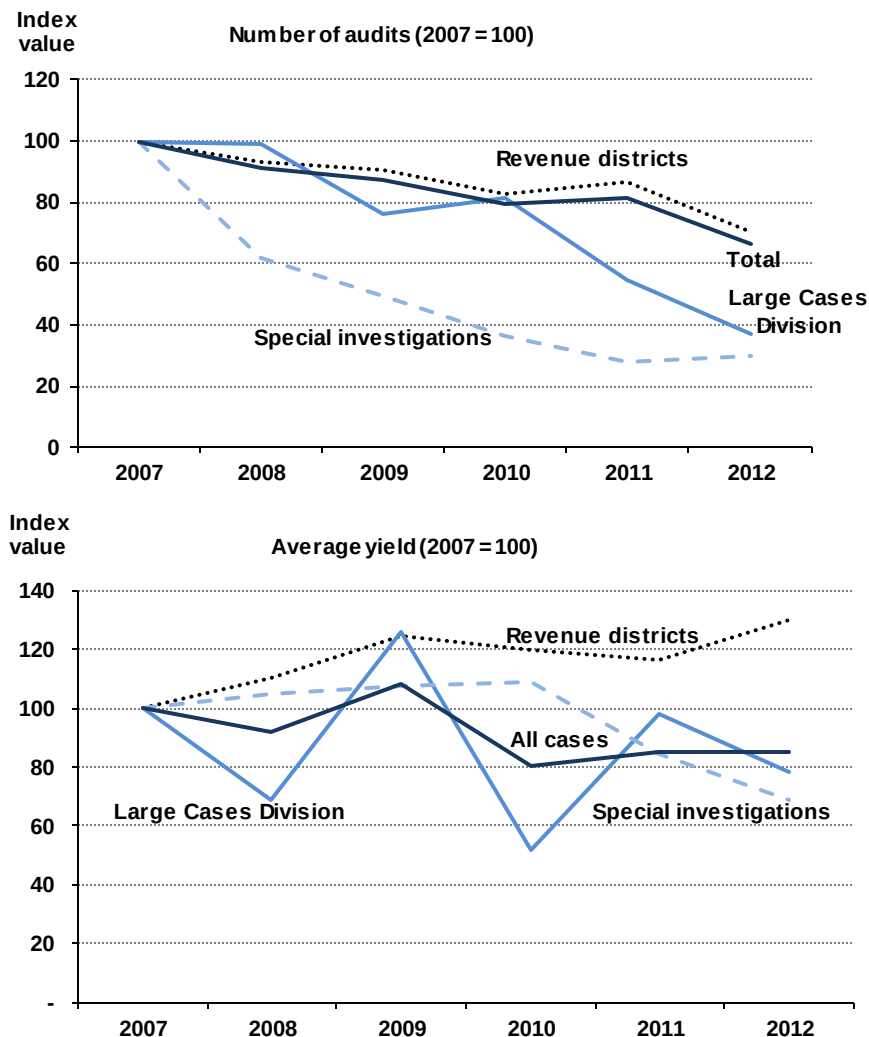
Source: Office of the Revenue Commissioners

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.

- 25.23** There has been a downward trend in the number of risk based audits carried out, which declined by 34% over the period 2007 to 2012 (see Figure 25.8). Average yield per case has declined by about 18% over that period. An increase in the average for Revenue districts has been offset by falls in the averages for special investigations and large cases in 2012.

¹ REAP 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.

Figure 25.8 Risk-based audits, 2007 to 2012

Source: Office of the Revenue Commissioners.

Analysis: Office of the Comptroller and Auditor General.

Classification of Revenue Interventions

- 25.24** Chapter 27, Tax Audit Settlements, notes that 20% of a sample of cases reviewed had been incorrectly classified as audits when it appeared that the correct classification was a non-audit intervention. The reported audit yield for those cases was also around 20% of the total yield for the sample.
- 25.25** This indicates that the reported yield from interventions in 2012 of €492 million may be incorrectly classified between audit and non-audit interventions. The number of audits and the yield from them may be overstated with corresponding understatements in the non-audit intervention data.

- 25.26** The Accounting Officer stated that the current Revenue operational instructions state that unprompted disclosures submitted in the absence of a compliance intervention, and accepted as submitted should be recorded as non-audit interventions. As this instruction only issued in July 2012, there is a degree of inconsistency in the recording of various categories of compliance interventions but this will not have distorted overall yield from compliance interventions. Prior to the issue of this operating instruction, unprompted disclosures would have been classified as audits.

Deterring Non-Compliance

- 25.27** Those 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. 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

- 25.28** 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 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 or tax settlement amounts.

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.
- 25.29** Chapter 27 reviews payment of tax audit settlements for audits completed in the period 2007 to 2012. It found, that of the yield of €512 million for the 167 cases reviewed, around 84% of the settlement amounts were paid by September 2013, around 1.6% had been written off while 3.5% was outstanding. The status of the remaining 11% is not evident from Revenue records and is currently under review by Revenue (September 2013).
- 25.30** The chapter also examines the negotiation of audit settlements and found that in most cases the settlement was the same as the Revenue calculated liability. However, in two cases there was a significant difference between the liability calculated by Revenue and the settlement amount. In both cases, the settlement was significantly lower than the original assessed liability.

Civil Penalties

- 25.31** 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 and 2012 is shown in Figure 25.9. Penalties applied as a result of audit in 2012 represented 10% of the total tax audit yield. This proportion was consistent with the average for the years 2008 to 2011.
- 25.32** In 2012, penalties were imposed in almost 60% of the cases where audits resulted in yield liabilities being determined.

Figure 25.9 Civil penalties imposed in non-compliance cases, 2011 and 2012

			2012	2011
	Non-filing of P35 and VAT returns	Penalties applied as a result of audit	Total	Total
Number of cases	717	3,438	4,155	4,728
Value of civil penalties imposed (€ m)	2.8	26.1	28.9	35.9
Average civil penalty imposed	€4,000	€7,590	€6,950	€7,590

Source: Office of the Revenue Commissioners

Publication of Defaulters' Details

- 25.33** 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 disclosure either prompted or unprompted is accepted or the settlement is less than €33,000 or the penalty does not exceed 15% of the tax ultimately due.
- 25.34** As shown in Figure 25.10, there was a large increase (32%) in 2012 in the number of published cases, mirrored by an increase in the related yield.

Figure 25.10 Cases of non-compliance published, 2008 to 2012

	2008	2009	2010	2011	2012
Number of cases	401	356	305	366	483
Total yield (€ m)	75	97	68	76	98

Source: Office of the Revenue Commissioners

Note: Yield amounts are based on settlements, and do not represent amounts collected.

Summary Criminal Proceedings

- 25.35** Summary criminal proceedings arise in relation to the non-filing of returns, and other tax, Excise and Customs offences. The total number of summary prosecutions finalised and the associated fines are shown in Figure 25.11.
- 25.36** In addition to the imposition of fines, custodial sentences are also imposed in some cases. For example, in 2012, custodial sentences were imposed in 25 of the 509 Excise and Customs cases where summary convictions were obtained. Seven (28%) of these sentences were suspended.

Figure 25.11 Summary prosecutions for tax offences, 2008 to 2011

	2008	2009	2010	2011	2012
Number of prosecution cases for:					
Failure to file returns	1,052	1,199	1,380	1,217	1,045
Excise and Customs offences	455	535	509	497	509
Tax offences	11	9	10	16	29
	1,518	1,743	1,899	1,730	1,583
Value of fines imposed in Court for:					
	€m				
Failure to file returns	2.3	3.0	4.0	2.8	3.1
Excise and Customs offences	0.6	0.8	1.1	1.1	1.0
Tax offences ^a	—	—	—	—	0.1
	2.9	3.8	5.1	3.9	4.2

Source: Office of the Revenue Commissioners

Note: a Aggregate value of fines imposed was less than €50,000 for each year 2008 to 2011.

Prosecutions for Tax Evasion

- 25.37** 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. These cases are further evaluated by an Admissions Committee before commencement of resource-intensive investigation work.
- 25.38** It can take several years before a case is presented to Court. As a result, at any point in time, Revenue has a number of serious evasion cases at various stages of the investigation and prosecution process (see Figure 25.12).

Figure 25.12 Status of prosecution cases on hand, 2009 to 2013 (April each year)

Status of prosecution cases on hand:	2009	2010	2011	2012	2013
Under investigation	61	50	69	87	101
With the Revenue Solicitor's office	11	14	12	23	41
Submitted to DPP	10	9	3	1	2
Directions issued by DPP to prosecute	15	26	33	23	17
Before the court	13	17	34	48	39
Bench w arrants/European arrest warrants	—	—	—	—	1
Total open cases	110	116	151	182	201

Source: Office of the Revenue Commissioners

- 25.39** The number of convictions obtained in cases found to be suitable for prosecution between 2008 and 2012 and the associated penalties are shown in Figure 25.13. The total number of convictions in 2012 rose sharply and the proportion of convictions where a custodial sentence was imposed (38%) was considerably higher than other years.

Figure 25.13 Prosecution for serious tax evasion, 2008 to 2012

	2008	2009	2010	2011	2012
Convictions obtained:					
Tax evasion cases	15	6	7	16	25
Customs and Excise evasion cases	5	9	6	14	25
Total convictions	20	15	13	30	50
Penalties:					
Value of fines (€m)	1.2	0.5	0.02	0.1	0.5
Suspended sentence	6 ^a	2	7	15	21
Imprisonment	1	4 ^b	1	8	19

Source: Office of the Revenue Commissioners

Notes: a Seven suspended sentences were imposed in 2008, but one of these was successfully appealed.

b Prison sentences were imposed in five cases in 2009. One of these was successfully appealed, with a €250 fine was imposed after a judicial review.

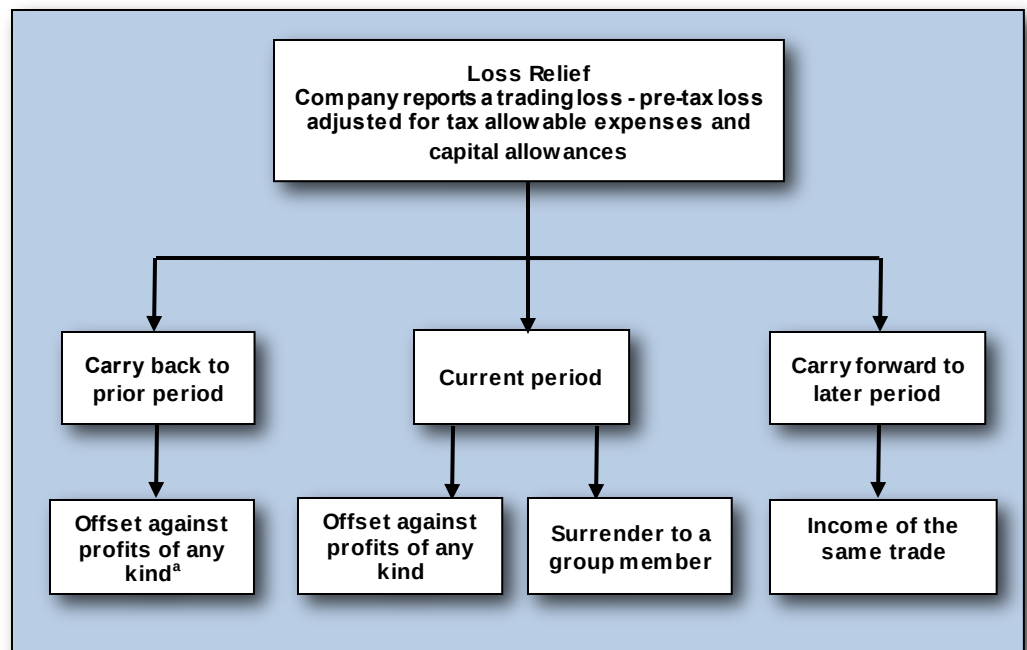
Conclusions

- 25.40** The Revenue random audit programme has consistently shown over the period 2008 to 2012 that around one third of the taxpayers examined had under-paid their tax.
- 25.41** The audit gap measures revenue losses in a tax year as a result of non-compliance by individuals and businesses that are registered with Revenue. Revenue does not produce estimates of the scale of the audit gap. However, the outcome of Revenue's random audit programmes indicates that the audit gap was around 3.1% in 2009.
- 25.42** The results of Revenue's targeted audits indicate that its detection work is well targeted. Over twice the proportion of risk-based audits result in audit yield compared with random audits while the average yield from risk-based audits is also considerably higher than for random audits. It was noted that the level of risk based audits undertaken by Revenue fell in 2012 by around 20% when compared to 2011.
- 25.43** Although the proportion of non-compliant taxpayers detected in 2012 was similar to recent years for both random and targeted interventions, Revenue reported a number of increases in sanctions arising from taxpayer non-compliance. These included an increase in number of cases published where audit settlements were made, an increase in the proportion of audit cases where penalties were applied and in the number of prosecutions undertaken for serious tax evasion.
- 25.44** Revenue's approach to the negotiation and collection of audit settlements also has an impact on the overall deterrent effect.
- 25.45** A significantly higher proportion of convictions for serious tax evasion in 2012 resulted in a custodial sentence compared to previous years. It is too early to say whether the effect of increased sanctions will be to reduce non-compliance.

26 Corporation Tax Losses

- 26.1** Companies are liable for Corporation Tax in respect of all profits arising from income or gains. Where a company reports a trading loss in an accounting period, that loss can be used to obtain relief from the payment of Corporation Tax in a variety of ways as set out in Figure 26.1.
- 26.2** For years prior to 2011, Corporation Tax returns did not include the cumulative value of losses available for offset against future profits. Up to and including 2010, companies were only obliged to declare a loss on their return in the year the loss was generated. They were not required to restate any unused losses in subsequent years except to the extent that they wished to offset any of the earlier losses against profits in that year. Notwithstanding that Revenue had been provided annually with details of losses incurred by companies, it did not have a record of the cumulative value of losses available to companies for future offset. It calculated the amount of unused losses available for carry forward to future years using available information and estimates of the level of losses utilised in relation to group relief.¹

Figure 26.1 Corporation Tax loss relief



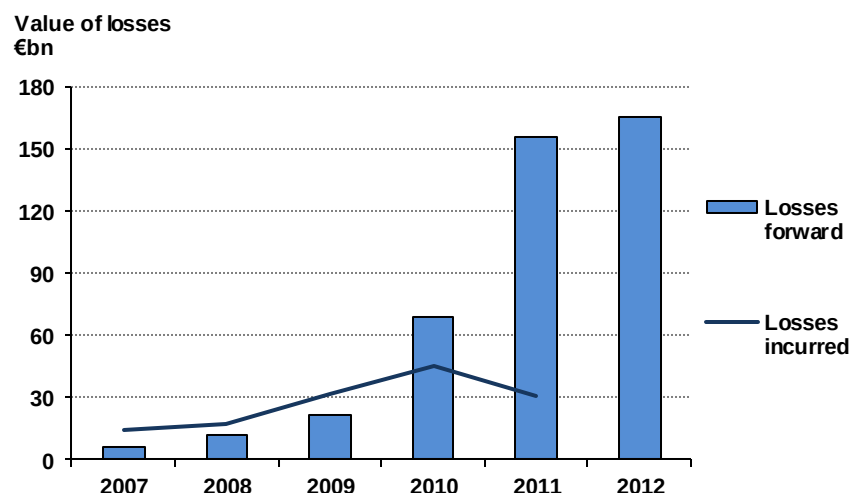
Note: a Where a company ceases to trade and reports a loss in the last twelve months of trade, this loss can be carried back and used to reduce trading income of the same trade in the preceding three years.

¹ Section 411 of the Taxes Consolidation Act 1997 provides for a system of relief for trading losses under which the loss of one member of a group may be set off against the profits of another member of the group.

Trend in Losses Available for Offset

26.3 The trend in estimated losses brought forward from earlier accounting periods and declared losses incurred in the accounting periods 2007 to 2011 are set out in Figure 26.2.

Figure 26.2 Trend in losses forward and losses incurred, 2007 to 2012^{a,b}



Source: Corporation Tax returns for accounting periods ending between 2007 and 2011.

Notes: a Losses only, capital allowances are not included.

b 2012 losses forward are the estimated losses unused at end-2011.

26.4 Losses incurred in 2011 were around 30% lower than in 2010 at just over €31 billion. The main factor contributing to this was a sharp fall in losses incurred in the financial and insurance sector. However, losses in that sector still accounted for over 75% of all losses reported in 2011.

26.5 At the end of 2010, Revenue had estimated that around €119 billion of losses remained unused. However, reported losses brought forward on the Corporation Tax returns for 2011 was €37 billion higher at €156 billion. A significant part of the increase in losses brought forward is due to steps taken by Revenue to improve the quality of its information about losses. 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. In addition, for 2011 and future years, the format of the Corporation Tax return has been amended to require all companies to include their cumulative losses.

26.6 In 2011, a total of €205 billion was available for offset against profit (2010: €141 billion). This comprised

- losses brought forward of €156 billion
- losses incurred in 2011 of €31 billion
- capital allowances amounting to €18 billion.

26.7 Using information derived from the 2011 Corporation Tax returns, Revenue estimates that around €22.7 billion of losses and capital allowances were used to reduce the amount of Corporation Tax payable for 2011 or earlier periods.¹ This resulted in a reduction of an estimated €2.8 billion in Corporation Tax receipts.

¹ Almost €0.6 billion of losses was offset against prior years' tax.

- 26.8** Revenue estimates that €165 billion of losses and €18 billion of capital allowances remained unused at the end of 2011 and are available to carry forward in future years. The extent to which the losses will have an effect on future Corporation Tax receipts depends on the future profits made by the companies carrying the losses.

Sectoral Losses and Capital Allowances

- 26.9** Three sectors of the economy account for 77% of the losses and capital allowances available for carry forward at the end of 2011 while four sectors account for a further 16%. Details of the losses and capital allowances available and utilised in 2011 and unused at the end of 2011 are set out by sector in Figure 26.3.

Figure 26.3 Estimate of losses and capital allowances available, utilised and unused at year-end, 2011

Sector	Losses available 2011 ^a	Utilised in 2011		Losses forward 2012
		€ bn	%	
Financial and insurance activities	116.3	4.5	4%	111.8
Administrative and support service activities	23.1	5.7	25%	17.4
Construction	12.0	0.9	8%	11.1
Information and communication	9.8	1.3	13%	8.5
Manufacturing	13.2	5.1	39%	8.1
Transportation and storage	8.0	1.1	14%	6.9
Wholesale and retail trade	8.1	1.5	19%	6.6
Other ^b	14.7	2.6	18%	12.1
Total	205.2	22.7	11%	182.5

Source: Corporation Tax returns 2011

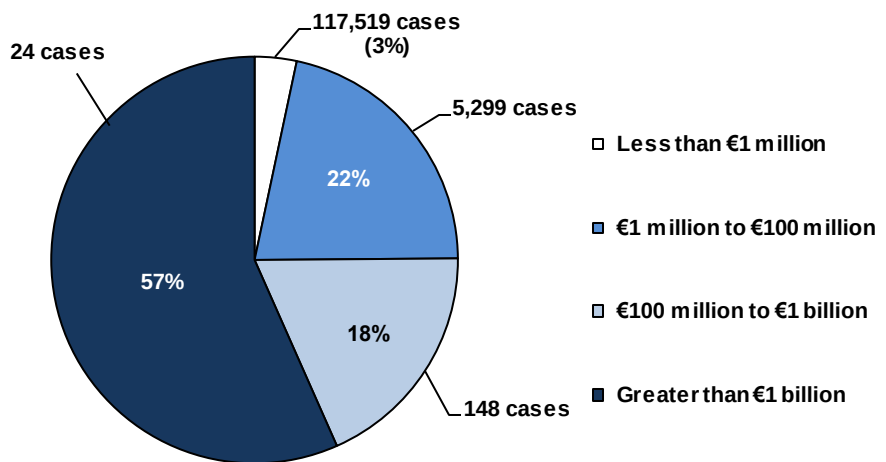
- Notes:
- a Includes losses brought forward, current year losses and capital allowances.
 - b Six sectors in the 'other' category account for around €12 billion of the losses available for offset in 2011 - professional services, real estate, accommodation, electricity and gas, agri-business and mining.

- 26.10** A large proportion of the €205 billion losses and capital allowances available for offset in 2011 against Corporation Tax is accounted for by a relatively small number of taxpayers, as shown in Figure 26.4. Analysis of these balances shows that 24 cases account for €116 billion or 57% of the total.

- Five institutions participating in the National Asset Management Agency (NAMA) had combined losses and capital allowances accounting for almost a third of the total available in 2011 (€67 billion).¹ The rate at which the losses for the institutions participating in NAMA can be used is restricted.²
- 19 other companies had combined losses and capital allowances available in 2011 amounting to €49 billion. €31 billion of these were in seven companies in the financial and insurance sector.

1 Two of the NAMA institutions merged into Irish Bank Resolution Corporation Limited which went into liquidation in February 2013. When the liquidation is completed, any losses remaining unused will cease to be available.

2 The National Asset Management Agency Act (NAMA 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 that can be used in each period is half of the excess 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.

Figure 26.4 Losses and capital allowances available for offset, 2011

Source: 2011 Corporation Tax returns

Conclusions

- 26.11** Losses and allowances used in 2011 resulted in reductions in Corporation Tax receipts estimated at €2.8 billion.
- 26.12** Revenue had been provided with details of losses incurred by companies in their annual Corporation Tax returns prior to 2011, but it did not have a record of the cumulative value of losses available to companies for future offset. This was addressed by a change in the 2011 Corporation Tax return form which required companies to provide more complete information on the losses carried forward from earlier accounting periods. Arising from the change in the format, Revenue now has better information to use in tax forecasting and planning.
- 26.13** The amount of losses and capital allowances available to companies for relief against payment of Corporation Tax in 2012 and later periods was estimated by Revenue at around €183 billion. The losses and allowances available for offset are highly concentrated in a small number of companies. Detailed review of these cases should also assist Revenue and the Department of Finance in estimating the likely impact of the losses on future tax receipts.

27 Tax Audit Settlements

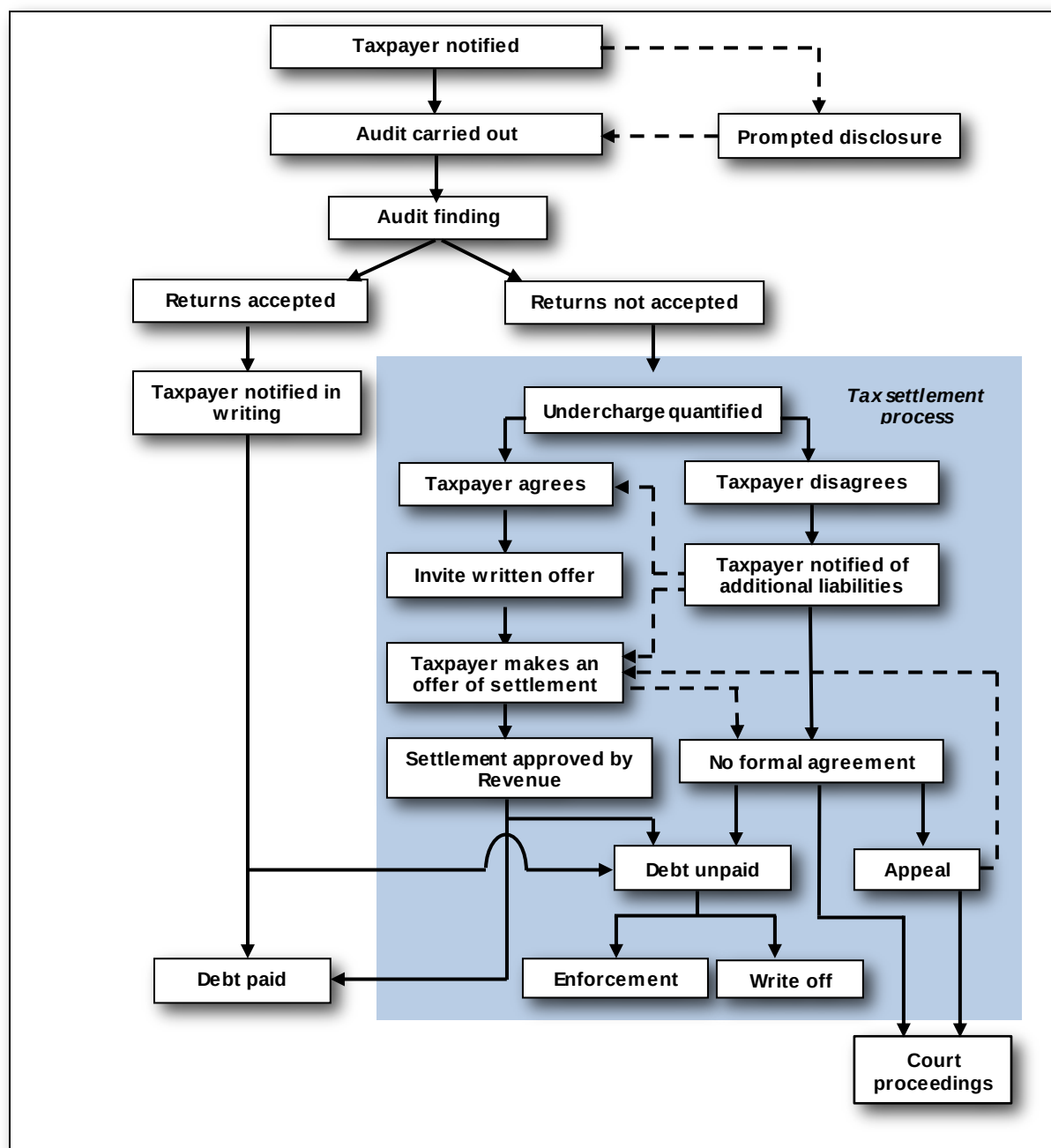
- 27.1** Self assessment of tax liabilities by individuals and companies is an essential part of the operation of tax and duties administration in Ireland. Taxpayers are required to file complete and accurate returns and to make associated tax payments in accordance with statutory deadlines. Taxpayers may also claim tax repayments on a self-assessed basis.
- 27.2** As part of its approach to promote voluntary compliance with tax and duty obligations and to detect and deter non-compliance, Revenue operates two audit programmes
- targeted audits where cases are selected on the basis of risk profiling and
 - audits of cases selected randomly.
- 27.3** The Revenue audit process is summarised in Figure 27.1.
- 27.4** Revenue audits are carried out in accordance with the requirements of legislation, principally the Taxes Consolidation Act, 1997, and Revenue's Code of Practice for Revenue Audit (Code of Practice).

Focus of the Examination

- 27.5** The focus of this examination is on audit settlements.¹ In the course of planning and carrying out audits, Revenue officials are required to exercise judgment in a number of areas. These include the estimation of the liability (if any) due and the amount of interest and penalties to be applied in settlements reached with taxpayers following a Revenue audit. Taxpayers are entitled to equitable and even-handed treatment by Revenue and Revenue audit files should include appropriate evidence to support judgments made.
- 27.6** The objectives of the review were to
- review audit settlements reached to determine whether the basis for settlements is clear and that the settlements have been approved at the appropriate level in Revenue
 - assess the extent to which interest and penalties were applied to audit settlements completed in 2012
 - review the extent to which taxpayers meet payment obligations following audit settlements.

¹ The term settlement includes liabilities, agreed between Revenue and taxpayers, and liabilities determined by the Appeal Commissioners or the courts.

Figure 27.1 Revenue audit process



1 Audits are classified as completed when the audit file is closed and the liability arising from the audit has been paid or passed to the Collector General for collection.

2 Revenue district managers have authority to approve settlements up to €50,000; Assistant Secretaries up to €100,000; and the approval of a Revenue Commissioner is required for settlements in excess of €100,000.

Sample of cases examined

- 27.7** Revenue reported that it completed 9,066 audit cases in 2012 with a total yield of €359 million and an average yield per case of €39,600.¹
- 27.8** As part of this examination, 45 audit cases closed by Revenue in 2012 were reviewed. The cases selected comprised the four cases with the highest audit settlements in 2012 and 41 cases selected at random with some from each of the settlement approval levels.²

- 27.9** Review of the files showed that nine cases (20% of the sample), including one of the four largest cases, had been incorrectly recorded as audit interventions. The 36 audit cases had a yield of €41.4 million, or 11.5% of the total reported audit yield in 2012. The outcomes of the 36 audits are summarised in Figure 27.2.

Figure 27.2 Outcomes from sample of audit cases, 2012

Outcome	Number	Proportion of cases	Audit yield € m
Audit resulted in settlement	28	78%	39.9
Repayment claim disallowed	1	3%	1.5
No liability	7	19%	—
Total	36		41.4

Source: Revenue audit files.

Quantifying the Liability

- 27.10** Revenue's procedures require that the Revenue auditor should, at the completion of an audit, quantify the amount of tax, interest and penalties due by a taxpayer.

Prompted disclosure

- 27.11** Following notification by Revenue of an audit, taxpayers may take steps to correct their tax returns by making a 'prompted disclosure' to Revenue. Where a prompted disclosure: is a disclosure of complete information relating to a tax liability; is made in writing; and is accompanied by payment in full of the tax or duty and any interest due on the late payment or an agreed phased payment arrangement that complies with Revenue's instalment arrangement procedures, it is considered to be a 'qualifying disclosure'.¹ One of the effects of a valid qualifying disclosure is to reduce penalties that are applied for tax default, including avoidance of publication of settlement details.
- 27.12** The review of the 36 files found that prompted disclosures had been made in 11 cases. Only four cases were valid qualifying disclosures with full payment including interest. Seven of the 11 cases did not satisfy the qualifying disclosure criteria, mainly because the liability was not paid at, or around, the time the disclosure was made or an instalment arrangement had not been put in place.

Calculating the tax liability

- 27.13** At the completion of an audit, the auditor quantifies liability in respect of tax, interest and penalties (if any) and the taxpayer is invited to make a settlement offer in writing.² If no settlement is reached, the Revenue auditor raises a formal assessment for the liability due. The taxpayer has the option of appealing this assessment. Typically, the auditor raises a formal assessment for tax only at this point, on the basis that the taxpayer has a right of appeal.³ Revenue considers that it would be premature to raise an interest or penalty charge until the final tax charge is determined at appeal.
- 27.14** In seven of the 36 audit files reviewed, the Revenue audit found that no additional tax liability was due. The examination reviewed the files and found that the Revenue conclusions were appropriate based on the evidence on the files.

1 Section 1077E(I) of the Taxes Consolidation Act 1997.

2 The Code of Practice requires that in circumstances where a tax liability has been quantified in a qualifying disclosure, the auditor should check the taxpayer's calculation.

3 A notice of opinion is issued by Revenue in cases where no agreement can be reached with the taxpayer about the level of penalties payable. It also covers any case where a penalty is agreed but not paid. In these circumstances, the Revenue auditor formally expresses the opinion that the penalty is due and gives notice of that opinion to the taxpayer and the taxpayer's agent. A notice of opinion must be issued before a penalty can be pursued through the courts.

- 27.15** Another case concerned a claim for repayment by a taxpayer. The claim for €1.5 million was disallowed by Revenue following an audit and the examination found that this was appropriate.
- 27.16** The remaining 28 cases were reviewed for evidence that audit settlements reached appeared reasonable based on the evidence on the files and that the settlement amounts were agreed on the basis of a calculation by the Revenue auditor of the taxpayer's liability, including appropriate application of interest and penalties.
- 27.17** The files indicated that the Revenue auditors had recorded an assessment of the liability in four out of five cases. Assessments had not usually been recorded in lower value cases (see Figure 27.3).

Figure 27.3 Revenue quantification of tax liability

	Proportion of cases	Proportion of settlement values
Revenue auditor calculated liability ^a	82%	98%
Taxpayer's calculation not verified by Revenue	11%	1%
No evidence of liability calculation	7%	1%

Source: Revenue audit files

Note: a Including cases where the Revenue auditor validated taxpayers' calculations.

Charging of Interest and Penalties

- 27.18** The Taxes Consolidation Act, 1997 provides for the application of interest for the late payment of tax and there is no provision for it to be mitigated even after qualifying disclosure.¹ The rates of interest to be applied are set out in various Finance Acts.
- 27.19** Penalties may be payable where tax returns are incomplete or inaccurate and associated payments have not been made on time. In cases where penalties apply, the Code of Practice states that the amount of the penalty is generally calculated by the Revenue auditor and agreed with the taxpayer. In circumstances where agreement is not reached or where the taxpayer does not pay an agreed penalty, the applicable penalty is determined by the relevant court.² A number of factors determine the level of penalties, if any, including
- whether the tax default occurred before or after 24 December 2008
 - whether the taxpayer made a qualifying disclosure (including payment of due amounts)
 - the category of default e.g. careless or deliberate behaviour
 - whether a taxpayer co-operates with Revenue in the course of an audit.

Revenue has the discretion to mitigate penalties by up to a maximum of 50%. Penalties are not due in circumstances where additional tax is due to a technical adjustment or an innocent error that is corrected at the first opportunity. In some circumstances, penalties may not be applied where a taxpayer claims that their failure to comply with a requirement of the tax code results in no loss of revenue to the State.

Further details are set out in Annex A.

¹ Taxes Consolidation Act 1997, sections 1080 to 1084.

² For amounts up to €6,350, the District Court is the relevant court. The Circuit Court has jurisdiction for amounts up to €38,092 and the High Court for amounts above that.

27.20 The examination reviewed the extent to which interest and penalties were applied in respect of all audits finalised in 2012. The results are set out in Figure 27.4.

Figure 27.4 Proportion of yielding cases in 2012 where interest and penalties were applied, by region

	Number of cases	Interest and penalties applied	No interest and penalties applied	Total yield including interest and penalties € 000	Average yield including interest and penalties € 000	Interest and penalties as a proportion of the total yield
Special Units						
Large Cases Division	127	55%	45%	57,771	455	6%
Investigations and Prosecutions Division	192	95%	5%	17,688	92	55%
Regions						
Border Midlands West	1,940	78%	22%	83,024	43	20%
Dublin	1,262	79%	21%	71,667	57	22%
East South East	1,141	79%	21%	57,685	51	25%
South West	1,456	73%	27%	69,853	48	22%
Total	6,118			357,688	58	21%

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

Note: a Figure does not include around 120 audits that are not recorded in Revenue's audit case management system. These are mainly Stamp Duty and Capital Acquisitions Tax audits. All other cases classified by Revenue as yielding audits are included.

27.21 The level of interest and penalties applied was significantly lower for the Large Cases Division than for the other units. Interest and penalties were applied to fewer large cases and represented only 6% of the yield.¹ This compares to 21% for audits at regional level.

Interest and penalties in sample cases

27.22 The examination also reviewed the application of interest and penalties in the 28 audit cases where settlements had been made.

Charging of Interest

27.23 The interest applied in 24 cases amounted to around €1.1 million. The interest was recalculated to determine whether the amounts charged were correct, based on the period when the tax should have been paid and the applicable interest rates. The results showed that

- The interest charged in 21 cases was correct.
- In three cases, the interest amounts charged by Revenue were, on average, two-thirds of the amount estimated to be chargeable by the examination team. The estimated total interest undercharge for these cases was around €21,000.

27.24 In two cases, round settlement amounts had been agreed with taxpayers. This included the two largest cases examined.

- In one case, the settlement amount of €8 million was stated to include an unspecified amount in respect of interest (see Case Study A).

¹ Revenue defines large cases as companies with turnover of €162 million or more or tax payments greater than €16 million annually. For individuals, the Large Cases Division manages those with net assets greater than €50 million, non-residents with substantial interests in Ireland and partners in large accountancy and legal practices.

- In the other case, Revenue arbitrarily split the round settlement amount of €15 million between tax due (€9.7 million) and interest (€5.3 million) in its records (see Case Study B).

27.25 The Revenue files recorded that interest had not been applied in two cases

- In one case, the settlement amount was €7.3 million but no interest was applied. The examination calculated that interest due in this case was of the order of €570,000 (see Case Study C).
- The second case was a settlement for almost €690,000. The interest due, but not charged, for late payment in this case was estimated at around €63,000.

Imposition of Penalties

27.26 Penalties were not applied in eight of the 28 cases. The examination found that the non-application of penalties was appropriate in three of these cases.

27.27 In the remaining five cases, the examination team concluded that penalties could have been applied but were not. This included three of the four case studies outlined below. In the other two cases, where the tax liabilities amounted to €385,000 and €343,000, the examination team estimated that the penalties not levied amounted to around €390,000.

27.28 The examination found that penalties had been applied in 20 cases (71%). The level of penalties applied was in accordance with the legislative requirements and the Code of Practice in thirteen of these cases.

27.29 For the remaining seven cases where penalties were applied, the examination found that the penalties applied were lower than what the documentation on the files indicated should have been charged

- In three cases, taxpayers were given the benefit of reduced penalties because they had made qualifying disclosures prior to the Revenue audit commencing, but the examination found that the disclosures were not valid mainly due to non-payment of the liability when the disclosure was made.
- In three cases, the documentation on the file did not support the reasons cited for mitigating penalties e.g. mitigation of penalties because the taxpayer had cooperated with Revenue was not supported by the documentation.
- In the seventh case, the taxpayer's agent had calculated the penalty but the calculation, which was incorrect, had not been checked by Revenue.

27.30 The total tax liability in these seven cases was €862,000 and Revenue charged €266,000 in respect of penalties. The examination estimated that the appropriate level of penalties based on the evidence on the files was of the order of €478,000. On that basis, around 44% of the penalty liability was foregone.

Negotiation of Settlements

- 27.31** The review found that in most cases, the settlement amount was the same as the liability that had been calculated including interest and penalties where these had been applied. However, in two cases there was a significant difference between the liability calculated by Revenue and the settlement amount.
- One case was settled for €8 million just prior to a court hearing. See Case Study A for further details.
 - The largest settlement made in 2012 of €15 million in respect of Capital Gains Tax, was significantly less than the Revenue estimate of the taxpayer's liability. Details are set out in Case Study B.
- 27.32** In a further four cases, there were smaller differences between the Revenue calculation of the liability and the settlement amount. The differences ranged from €13,000 to €30,000 and from less than 1% to 32% of the Revenue estimate of the liability.

Case Study A

- 27.33** Revenue identified two associated companies that made Corporation Tax payments in 2005 for the year ended December 2004. On investigation, Revenue found that the companies had been in operation for a number of years prior to that but that no Corporation Tax had been paid.
- 27.34** The companies were subsidiaries of a non-Irish parent company. The parent company invested significant sums in each of the subsidiary companies and the subsidiaries then lent this money back to the parent company. Income reported in the Irish companies' accounts was in respect of interest due, but not paid, by the parent company on the loans.
- 27.35** The Irish subsidiaries asserted that their interest income was not liable to tax in Ireland as the subsidiaries had not received the interest. From 2004, following changes in the tax regime in the parent company's home country, the Irish subsidiaries received payment of the interest income and paid Corporation Tax in Ireland.
- 27.36** At an early stage, in mid-2005, the case was referred within Revenue to its anti-avoidance unit which handled the case from then on. An audit of the two companies, focused on 2001, was carried out in late 2005. Ireland has a double tax treaty with the parent company's home country and in the course of this case, Revenue engaged with the tax authorities in that country.
- 27.37** Revenue subsequently raised tax assessments and notified the taxpayer and the taxpayer's agent that it estimated the liability including interest and maximum possible penalties at between €10 million to €16 million, depending on how the income for 2004 was classified for taxation purposes.
- 27.38** The taxpayer lodged an appeal and made a payment of €11.1 million on account without prejudice to the outcome of its appeal. The Appeal Commissioners found in favour of the taxpayer, and tax was assessed at nil. Revenue indicated it would appeal to the High Court.
- 27.39** In 2008, Revenue raised further assessments (second set of assessments) for the periods to end 2003 for a total amount of €11.8 million.

- 27.40** The taxpayer appealed. The Appeal Commissioners confirmed the second set of assessments. The taxpayer appealed to have the case re-heard in the Circuit Court
- 27.41** Just prior to the case being heard in the Circuit Court, there were extensive negotiations between Revenue and the taxpayer. A settlement of €8 million was agreed and €3.1 million of the €11.1 million the taxpayer had paid on account was returned to the taxpayer.
- 27.42** The settlement amount was not separated between tax and interest. Revenue's estimate of the total due by the taxpayer if Revenue had been successful in the court case was around €14 million of which around €3.3 million (24%) would have been interest. On a pro-rata basis, the settlement represented around €6.1 million tax and €1.9 million interest.
- 27.43** The settlement was approved by a Revenue Commissioner. No penalties were applied. The settlement details were not published.
- 27.44** Some points of note about the case were
- The case was technically complex and involved the interpretation and application of tax law. Revenue referred the case to its anti-avoidance unit at an early stage. The Revenue audit file showed a significant degree of challenge of the case put forward by the taxpayer's agent including argument based on case law.
 - The taxpayer was notified at an early stage of the potential liability including interest and maximum possible penalties. The file also includes detailed notes on the negotiations conducted between the two sets of legal counsel on behalf of Revenue and the taxpayer. In the final negotiations, Revenue put forward a settlement figure that included interest.

Comments of the Accounting Officer

- 27.45** The Accounting Officer pointed out that that the opinion of senior counsel was sought by Revenue before making a decision regarding the settlement amount. Factoring in the ultimate chance of success and the further time, expense and resources that would be involved in bringing the case to conclusion, counsel's recommendation was to accept the settlement proposed. Following consideration of this opinion, Revenue decided to accept the settlement.

Case Study B

- 27.46** In the course of an audit in 2011, Revenue identified a transaction in which the taxpayer had transferred company ownership in exchange for another company which had a significant cash balance and no other assets. The taxpayer's agent asserted (subsequently) that the share exchange did not constitute a disposal and that the taxpayer qualified for relief from Capital Gains Tax under provisions of the Taxes Consolidation Act, 1997.
- 27.47** Following the audit, Revenue took the view that the taxpayer had made a taxable capital gain and raised an assessment for €22 million.

- 27.48** Revenue did not notify the taxpayer of interest due or possible penalties. The examination team has calculated that interest amounting to around €10.3 million had accrued at the time the assessment was raised. In addition, penalties could range from 15% to 100% of the tax liability depending on the view Revenue took of the category of tax default involved and the extent to which the taxpayer had co-operated with Revenue. Based on Revenue's assessment of €22 million in respect of Capital Gains Tax, the taxpayer's total liability inclusive of interest and penalties could have been in the range €36 million to €54 million.
- 27.49** Revenue was not satisfied that the transaction qualified for relief under the terms of the Taxes Consolidation Act, 1997. This would have required the share exchange to be for bona fide commercial reasons and not form part of any arrangement or scheme of which the main purpose (or one of the main purposes) is avoidance of liability to tax.
- 27.50** At a subsequent meeting between Revenue and the agent, the agent stated that the taxpayer was interested in bringing the matter to an end. A Revenue file note states that both sides accepted that if the matter went through the appeals process, it could take around eight years for the case to be processed through the High Court. The agent offered an amount of €15 million to settle the case.
- 27.51** An internal Revenue document following the meeting stated that if the case was settled for €15 million, it would be closed expeditiously and a substantial payment received, the time and cost associated with an appeal would be avoided and there would be no concession of the principle involved. The risk that there might be nothing left to collect at the end of a legal case was also raised. On the other hand, it was noted, there was the possibility of a larger settlement if the appeals process was allowed to take its course.
- 27.52** The terms of the settlement, as set out in the taxpayer's letter of offer, were
- payment of €15 million in full and final settlement of the Capital Gains Tax liability
 - any liquidation of the taxpayer's assets to extract funds to meet the settlement would not give rise to a capital loss which could be offset against any future gains.
- 27.53** The taxpayer made a payment of €15 million. The settlement was approved by a Revenue Commissioner on 21 December 2012. No penalties were applied and the settlement details were not published.
- 27.54** Some matters of concern in relation to the settlement are
- The taxpayer's agent put forward arguments that the case involved a technical issue and that the taxpayer's position was supported by case law. There was no evidence on the Revenue audit file that the Revenue team managing the case sought advice in relation to the technical issues from either Revenue's anti-avoidance unit or from other specialist staff within Revenue e.g. from within its large cases division. Neither was there any evidence on the file of Revenue having put forward detailed arguments (e.g. based on precedent) to rebut those of the taxpayer's agent. There is reference on file to the issues of the cases having been highlighted to the National Anti Avoidance Network and discussed at a meeting of the network in September 2012 but there is no evidence of any recommendation being made or action being taken arising from the meeting.¹

¹ The Revenue National Anti-Avoidance Network comprises liaison officers from each of the Revenue districts and from the anti-avoidance unit who meet quarterly to discuss issues identified by the regions.

- The case was one where it appears there were just two possible outcomes - either the transaction was liable to Capital Gains Tax and the taxpayer would have been liable to pay the full amount of tax plus interest and penalties or it was not liable to tax and the taxpayer's liability would have been nil. A file note makes reference to some benefits for settling and some risks for Revenue if the case were to go to appeal, for example the time and cost involved. However, there is no detailed analysis, based on specialist knowledge or advice, of the likely outcome of litigation and of the costs involved. This type of analysis could have informed Revenue in its negotiations with the taxpayer and the taxpayer's agent.
- The Revenue audit file does not show that Revenue, at any point, made a claim for interest or penalties for the Capital Gains Tax due. Therefore, from the taxpayer's perspective, €22 million was the amount that Revenue was seeking.
- There was no evidence that Revenue, in the course of the settlement negotiations, put forward a figure higher than the €15 million offered by the taxpayer. The taxpayer's offer was proposed for approval within Revenue without any commentary on what alternative figure might have been proposed in negotiations or what the taxpayer's liability might be if Revenue were successful in a court action.
- The settlement was approved appropriately within Revenue's settlement approval thresholds which require amounts over €100,000 to be approved by a Revenue Commissioner. However, cases which involve significant differences between Revenue's estimate of a liability and the amount put forward for approval, or that may have elements of technical complexity or risk, could benefit from formal consideration by a number of people, for example a settlements approval committee, before final approval is given.

Comments of the Accounting Officer

- 27.55** In regard to the application of interest and penalties, the Accounting Officer pointed out that the assessment to Capital Gains Tax was an amount that would arise if Revenue's concerns about the non applicability of the section of the Taxes Consolidation Act, 1997 proved correct. The taxpayer had a right in law to appeal against the assessment. It would thus be incorrect to raise an interest charge in advance of the assessment becoming final and conclusive and the ultimate liability being determined. The Accounting Officer noted that a similar situation arose in relation to penalties. Furthermore, she stated that the point at issue in the case centred on an interpretation of the Taxes Consolidation Act, 1997 and the Code of Practice provides that a penalty will not apply in relation to technical adjustments. Technical adjustments are adjustments to liability that arise from differences in the interpretation or the application of legislation. The Accounting Officer pointed out that it is difficult to envisage that a claim for penalties at any level could have been sustained in the case and that Revenue considered it inappropriate to seek a penalty in these circumstances. Revenue accepted the settlement as being a compromise to include an element of tax and interest.
- 27.56** In relation to the technical aspects of the case and the use of specialist advice, the Accounting Officer stated that the team dealing with the case had considerable operational tax experience and professional and technical qualifications and that this was used to analyse both the issue and case law and precedent. Furthermore, she stated that the issues of the case were placed before the anti-avoidance unit of Revenue's Large Cases Division and discussed at a meeting of the National Anti-Avoidance Network in early September 2012. There was no consensus within Revenue on the likely success of Revenue in pursuing the case in the courts. Indeed, success was considered unlikely.

- 27.57** The Accounting Officer said that, given possible outcomes in a spectrum ranging from tax plus interest at one end, to zero at the other end, it was incumbent on Revenue to consider a settlement offer because of the possibility of the zero outcome. As the appeals procedure, including the courts, is always protracted and as the amount initially obtained by the taxpayer was rapidly dissipating, it could never be guaranteed that if Revenue ultimately won the arguments there would be any funds from which to collect the tax. She pointed out that there was, within the taxpayer's structure, two offshore registered companies and a concern existed that it would have been impossible to properly monitor any leakage of funds through those companies. Revenue personnel involved in the case were strongly of the view that a better offer would not be forthcoming, and that the taxpayer would take his/her chances in the courts if the offer of €15 million was not accepted. The Accounting Officer said that it was not possible to make a precise evaluation of the probabilities involved and thus there was a large element of value judgement involved. In reaching a settlement, she noted, Revenue did not concede any point of law.
- 27.58** In regard to the payment of €15 million, the Accounting Officer said that Revenue had always recognised that to discharge the tax it would be necessary to extract funds from the investment holding company and that this would be done by way of liquidation. If Revenue was to win on principle, and prove that the relieving sections governing share for share exchange did not apply, then the base cost of shares for that liquidation would become the initial amount. As the company's net asset value had fallen significantly, liquidation would have crystallised an allowable capital loss of this amount. The potential tax value, in the future, to the taxpayer of such a loss at a 30% Capital Gains Tax rate would also have been significant. Revenue prevented this by requiring the agent's letter of offer to include a statement to the effect that any necessary liquidation to extract funds would not give rise to a loss arising from the fall in value of the company that could be used to offset other liabilities.

Case Study C

- 27.59** A taxpayer queried the correct treatment of a series of transactions in relation to Value Added Tax. The transactions concerned interim payments on a long-term contract.
- 27.60** The taxpayer's enquiry triggered an audit. The Revenue finding was that the taxpayer owed €7.3 million in VAT which the taxpayer paid. Around half of the payment was a year late, while the remainder was between two and ten months late.
- 27.61** The Code of Practice states that statutory interest should be applied in circumstances where there is a technical tax issue under consideration and the payment is late. Notwithstanding this, Revenue did not apply interest. The examination calculated that interest due for late payment in this case was of the order of €570,000.
- 27.62** The matter of concern in relation to this case is the failure to apply interest despite the clear requirement to do so.

Comments of the Accounting Officer

- 27.63** The Accounting Officer stated that the imposition of an interest charge was considered by Revenue prior to settlement in this case. However, it was accepted that the undercharges arose as part of a 'current' contract, in that the goods were under construction at the time of the audit and were not scheduled for delivery for some time. The payments giving rise to the undercharges were a small number of high value stage payments relating to a single transaction. In addition, when the taxpayer was satisfied that the technical position as outlined by Revenue was correct, a full and immediate payment was made. Interest would have been charged if the acquisition of the goods and the completion of the contract had occurred prior to the audit.

Authorisation and Approval of Audit Settlements

- 27.64** Settlement offers are subject to approval by a Revenue Commissioner or, below certain thresholds, by regional and district staff. The Revenue auditor's report on the audit should contain a clear recommendation on whether the settlement proposed should be approved.
- 27.65** The review found that all settlements had been approved in accordance with Revenue's approval thresholds.
- 27.66** The thresholds are set by reference to the total settlement reached with the taxpayer. However, in cases where there is a difference between the Revenue estimate of the liability and the settlement amount proposed, approval may have been required at a higher level if the threshold was based on the estimate of liability.

Publication of Settlements

- 27.67** Settlement details must be published where a penalty has been applied except where the taxpayer has made a valid qualifying disclosure before an audit commenced or the settlement is less than €33,000 or the penalties are less than 15% of the tax due.¹ Revenue may also refer cases to the Director of Public Prosecutions whose decision it is whether or not to prosecute.

Collection of Settlements

- 27.68** Taxpayers do not always immediately pay the amount due when audit settlements are reached. The extent to which settlement amounts had been paid was examined in the 28 cases reviewed in the course of the examination and a review of a further sample of 25 settlements for each year from 2007 to 2012. The results are set out in Figure 27.5.

¹ The threshold for liabilities relating to the years 2005 to 2009 was €30,000. From 2010, the threshold increased to €33,000.

Figure 27.5 Payment of audit settlements

Year of settlement	Number of cases	Total settlement amount	Status per Revenue records			
			Paid	Written off	Outstanding	Not known ^a
		€m	€m	€m	€m	€m
2012	46 ^{bc}	63	45	1	6	11
2011	25	86	58	—	2	26
2010	25	67	39	—	10	18
2009	21 ^c	73	71	1	—	1
2008	25	87	80	6	—	1
2007	25	136	135	—	—	1
Totals	167	512	428	8	18	58

Source: Revenue audit files and taxpayer records maintained by Revenue.

Notes: a The cases concerned are currently being reviewed by Revenue (September 2013).

b The 2012 cases include six cases that are common to both the sample of 28 cases reviewed in detail and, also, the sample of 25 reviewed for evidence of payment only.

c Cases where the audit yield was the disallowance of a repayment claim or a restriction of losses have been excluded.

27.69 Figure 27.5 shows that of the yield of €512 million for the cases reviewed, around 84% of the settlement amounts were paid by March 2012, around 1.6% of the tax had been written off while the balance remained outstanding.

Case Study D – Appeal and Non-Payment

27.70 In 2004, Revenue undertook an audit of Company D which operated in a sector in which Revenue was carrying out a series of sector-specific audits.

27.71 Following the audit, Revenue found, in September 2005, that there was an undeclared tax liability of €1 million for the years 2003 and 2004 in respect of VAT, PAYE and Corporation Tax, penalties of the same amount and interest of €100,000 due, bringing the total amount due to €2.2 million. The subsequent key events in the case were

- In January 2006, the taxpayer appealed the findings to Revenue.
- In February 2008, Revenue requested a date for a hearing from the Appeal Commissioners.
- A hearing was scheduled by the Appeal Commissioners for October 2008 but this was postponed at the request of both parties (Revenue and the taxpayer). Hearings were held in March and October 2009.
- The company subsequently went into creditors' voluntary liquidation.
- On 25 November 2009, the Appeal Commissioners issued their determination in favour of Revenue.
- The taxpayer appealed the case to the Circuit Court. The hearing took place in 2010. The Court found in Revenue's favour.
- In November 2012, the audit was closed and the tax was written off. The file stated that although the assessments had been confirmed, the company was gone and the Collector General could not collect the amounts due.

27.72 The audit yield recorded by Revenue for the case was €1 million and this is the amount included in the 2012 audit yield.

27.73 Some points of note about the case were

- the very significant lapse of time in progressing the case
- the taxpayer's record did not show the interest and penalties that had been calculated as due by Revenue and the amount referred to the Collector General for collection was €1 million (the tax only).

Comments of the Accounting Officer

27.74 The Accounting Officer pointed out that a matter of relevance to this case was the fact that Revenue was aware that a VAT issue of importance to the case in question had been referred on 11 February 2009 by another Member State to the European Court of Justice for decision. This issue was eventually adjudicated upon in June 2010.

Tax Audit Files

27.75 Revenue audits should be carried out in accordance with the Code of Practice and audit files should provide clear evidence of this. Revenue auditors should produce audit reports that set out clearly the issues involved in the audit and provide clear recommendations about proposed settlements.

27.76 Audit files should contain, at least

- a letter of notification to the taxpayer setting out what Revenue intends to examine and the periods to be covered by the proposed audit (audit scope)
- a note of an initial interview carried out with the client at which the scope of the audit is explained and the taxpayer is given an opportunity to disclose matters to Revenue
- evidence to show how the Revenue auditor addressed the issues in the audit scope and any other issues that arose in the course of the interview with the taxpayer or the conduct of the audit
- evidence to show how the audit assessment, including interest and penalties, was calculated by the Revenue auditor or where the taxpayer made a qualifying disclosure, evidence that the taxpayer's calculation had been checked by Revenue and penalties applied, where appropriate
- a written offer of settlement from the taxpayer.

27.77 The examination found significant variability in the quality of the files for the cases that were reviewed. A number of files were of a high standard and contained clear evidence of the audit having been conducted fully in accordance with the Code of Practice, including notification of audit and interview with the taxpayer, how the audit was conducted and the basis for the audit settlement reached. However, in many cases, it was difficult to ascertain from the file what the audit issues were and what was the basis for the audit settlement proposed. Figure 27.6 summarises the findings from the file reviews.

Figure 27.6 Revenue audit files

Element	Standard met
Audits carried out (36 cases)	
Letter of notification to taxpayer	89%
Note of initial interview	61%
Evidence to show that key audit issues were addressed	67%
Settlement agreed (28 cases)	
Adequate evidence of calculation of settlement amount	86%
Written offer of settlement from taxpayer	43%

Source: Revenue audit files

- 27.78** Revenue has taken some steps in the course of 2013 to address audit quality issues. In May 2013, it issued a document 'Quality Compliance Intervention Standards' setting out quality assurance procedures for the Revenue audit and risk management intervention process. In June 2013, it issued a 'Mandatory Items Report' document setting out items that must be addressed when an audit or other intervention is being finalised.

Comments of the Accounting Officer

- 27.79** In relation to written offers of settlement from taxpayers, the Accounting Officer pointed out that settlement details can sometimes be agreed orally and followed up in writing by the Revenue auditor.
- 27.80** She also stated that the new Quality Compliance Interventions Standards were published by Revenue to highlight, inter alia, what is expected from auditors in terms of quality audit files and that one of the standards, the planning standard, addresses some issues raised here. As part of the Performance Management Development System cycle for 2013, audit managers and auditors discuss the auditor's compliance with the quality standards in the context of interim and annual reviews. It is also proposed that a programme of quality assurance checks, on cases selected randomly, will be implemented by the Planning Division by 2014. High quality audit files are used to some extent in compliance training programmes and this will be reinforced as examples of best practice.

Misclassification of Interventions

- 27.81** As part of this examination, 45 reported audit cases closed by Revenue in 2012 were selected for review. The cases had a combined audit yield of €51.4 million, or 14.3% of the total reported audit yield in 2012.

27.82 Review of the files showed that nine cases (20%) had been incorrectly recorded as audit interventions.

- One of the four cases with the highest settlements was for an amount of €7.4 million. However, the payment did not arise from an audit but from an expression of doubt notified to Revenue by the taxpayer in advance of making the Corporation Tax return for 2011.¹ Following review by Revenue and discussions with the taxpayer, the appropriate tax treatment of the transaction was agreed and payment was made of the tax due.
- In a further six cases, taxpayers had made payments following either the correction of an error made in a tax return or an unprompted voluntary disclosure.² No audits were carried out in these cases. The payments totalled €2.6 million and ranged from €7,000 to €2.3 million.
- In two further cases where no audit was carried out, there were no additional liabilities.

27.83 The cases that were incorrectly classified as audits are summarised in Figure 27.7.

Figure 27.7 Revenue interventions incorrectly classified as audits

Basis of selection for review	Number of cases	Yield value €m	Incorrectly classified	
			Number	Yield as a % of total
Large settlements	4	37.7	1	20%
Randomly selected settlements	41	13.7	8	19%
Total cases examined	45	51.4	9	20%

Source: Revenue audit files

Conclusions and Recommendations

27.84 In 2012, Revenue reported that just over 9,000 audits were carried out under its two audit programmes and that the yield from audits amounted to €359 million.

27.85 Nine of the sample cases selected for the examination had been incorrectly classified as audit interventions by Revenue. Exclusion of these cases reduces the audit yield for the sample cases by around 20%. The fall in yield was broadly the same for cases selected at random as for the large cases, which were selected on the basis of size. While the revenue was collected, in the misclassified cases it is likely based on the sample results that Revenue's reported overall audit yield of €359 million for 2012 is materially overstated.

Recommendation 27.1: Revenue should review the manner in which its interventions with taxpayers are recorded in order to ensure that the nature of an intervention is accurately recorded and that the yields from the different intervention types are appropriately classified in order to ensure more accurate targeting of scarce audit and investigation resources.

¹ An expression of doubt arises when a taxpayer is uncertain about the correct tax treatment of a transaction and seeks Revenue's view.

² An unprompted voluntary disclosure occurs where the taxpayer makes a disclosure before a letter notifying the taxpayer of an audit issues or, in the case of an investigation, prior to commencement of the investigation.

Accounting Officer Response: Agreed. Improvements are in place since July 2012. With the assistance of new case management tools, Revenue has been refining the classification of interventions beginning in 2012. It is important to point out that while the appropriate classification of a tax intervention is important it has no effect on the quantum of tax paid over to the Exchequer.

- 27.86** For most of the sample cases reviewed, the examination found that the taxpayers' liabilities had been either calculated by Revenue or Revenue had validated calculations by a taxpayer's agent and that interest and penalties had been applied in accordance with legislation. However,
- In 18% of cases reviewed there was insufficient documentation on file to show how the tax liability had been quantified.
 - Interest was applied in 93% of cases reviewed, including two cases where round sum settlements were made. No interest was applied in two cases and the interest charged in a further three other cases was not the full amount due.
 - The examination found that, where they were applied, the level of penalties was lower than the files indicated should have been charged in a third of cases. No penalties were applied in two cases reviewed although the evidence on files indicated that penalties would have been appropriate.
- 27.87** Analysis of all audit settlements reached in 2012 showed that for those cases managed by the Large Cases Division, the proportion of settlements to which interest and penalties were applied was significantly lower than the cases managed in the regions.
- 27.88** The Accounting Officer stated that interest and penalties in the cases managed by the Large Cases Division are applied in line with legislation and the Code of Practice, and there are legitimate reasons why both are lower than those in the regions. For example, the nature of the case base in the Large Cases Division, mainly large corporates, means that the issues identified in audits can often relate to technical adjustments which do not result in a penalty. Where a penalty is applied, it is applied at the appropriate rate per the Code of Practice.

Recommendation 27.2: Revenue should review the mechanisms it has in place to ensure that interest and penalties are quantified in accordance with legislation and its Code of Practice. It should consider putting in place a quality assurance system whereby a sample of files are reviewed and shortcomings that are identified are addressed. This could help to ensure consistency of interpretation and application of the legislation and the Code of Practice and provide assurance to Revenue that taxpayers are treated equitably.

Accounting Officer Response: Agreed. The nature of an audit, in particular when it comes to negotiating the audit settlement, varies significantly from case to case and while the legislation and the Code of Practice provide the auditor with a structure within which to operate, the auditor must use judgment to weigh up all of the facts and circumstances in a case to come to a fair and workable settlement. Several initiatives have been introduced since July 2012 to enhance the quality of the compliance intervention process. Enhancing the quality of our interventions will continue to be high on our agenda. The referral of audit settlements to Revenue's top management, on a random basis, introduced in July 2013, will considerably enhance our capacity to identify shortcomings in the process. In addition, a programme of quality assurance checks of cases selected randomly will be implemented by the Planning Division by 2014 and will help to underpin this.

- 27.89** The highest audit settlement in 2012 was for €15 million in Case B. Notwithstanding the technical complexity of the case and the amount involved, the case was not referred within Revenue to its anti-avoidance unit. The evidence around negotiating the settlement indicated that Revenue could have added rigour and transparency to its approach through making the taxpayer aware of the potential liability, and clearly documenting internally Revenue's assessment of the probable outcomes of litigation.
- 27.90** The approach taken in the case with the second highest settlement of €8 million in Case A contrasted with the approach taken in Case B. In Case A, Revenue involved its anti-avoidance unit from an early stage and the taxpayer was made aware of the total potential liability in the course of negotiations while the case also showed that Revenue considered the likely outcome of litigation in the course of the settlement negotiations.

Recommendation 27.3: Revenue should

- review its approval process and consider setting up a settlement approvals committee for specified types of cases e.g. cases of high value, cases of technical complexity and cases with a high degree of risk
- where there is a difference between the estimate of liability and the settlement amount proposed, consider requiring approval at the level of the original Revenue assessment (including appropriate interest and penalties) in order to ensure the potential tax foregone is reviewed at the appropriate level.

Accounting Officer Response: Agreed. Further consideration will be given to these recommendations. Revenue has in place a robust approval system requiring at least one approver at management level. Depending on the size of the settlement, approval at District Manager, Assistant Secretary and Commissioner level may be required. The standard conduct of a settlement negotiation involves regular internal consultation, as well as attendance by managers at meetings with taxpayers. In addition there are monthly management meetings chaired at Assistant Secretary level, or at the four-monthly results review meetings of the Assistant Secretaries, chaired by a Commissioner, where the level of sanctions applied to audit settlements is discussed in detail.

In July 2013, the case management systems have been modified to remind the approver to satisfy him/herself that the quality standards have been met in relation to the recording of the audit. Furthermore the systems also allow for the referral of a percentage of audit settlements, irrespective of the amount of that settlement (including nil settlements), to Assistant Secretaries and members of the Board, for approval. These initiatives are designed to raise the awareness of the importance of quality case working. In the same vein, the programme of checks referred to above will help to reinforce the quality intervention message.

Recommendation 27.4: Where cases may be settled for materially less than the Revenue estimate of a taxpayer's liability, Revenue should consider (and document) the alternative outcomes that might be expected from litigation where this is the alternative course of action. It is acknowledged that significant judgment may be required and settlements may be complex. Matters to be considered include uncertainties about the possible outcome as well as the time, costs and risks involved in litigation. Decisions, and the rationale for them, should be fully and clearly documented before the file is submitted for approval.

Accounting Officer Response: Agreed. The Quality Compliance Intervention Standards launched in May 2013 will support implementation of this recommendation and of that of 28.6 below.

Recommendation 27.5: Where cases involve technical complexity, specialist staff within Revenue (and externally where this is considered necessary) should be consulted and their opinions documented and recorded on the file.

Accounting Officer Response: Agreed. It is agreed that where it is necessary for an auditor to consult internally or externally, the specialist opinions should be documented and recorded on file.

Recommendation 27.6: In regard to the negotiation of audit settlements, Revenue should consider

- putting in place detailed guidance and procedures for the conduct of settlement negotiations
- requiring those negotiating the settlements to put forward Revenue's highest estimate of the taxpayer's liability including the appropriate interest and penalties
- setting up an experienced negotiating team which would be available to all units in circumstances where significant sums are at stake.

Accounting Officer Response: Agreed. All staff who participate in the audit training programme receive a module on settlement negotiations, where techniques are taught through a mixture of formal training, role plays and case studies. While the development of detailed guidance and procedures for conducting settlement negotiations will be considered, a strong emphasis is already placed on mentoring less experienced auditors through this phase of the audit process by having them attend meetings with senior staff where settlement negotiations are taking place. In addition, where particular technical issues are involved or large amounts are under discussion, the audit manager, and in larger cases the District Manager, as well as technical support, attend meetings with taxpayers and agents. Further consideration, however, will be given to the proposals in this recommendation.

Annex A - Penalties Rates for Defaults on or after 24 December 2008

Qualifying disclosure and taxpayers co-operation	Category of default	Prompted disclosure	Unprompted disclosure
All qualifying disclosures in this category	Careless behaviour without significant consequences	10%	3%
First qualifying disclosure in these categories	Careless behaviour with significant consequences	20%	5%
	Deliberate behaviour	50%	10%
Second qualifying disclosure in these categories	Careless behaviour with significant consequences	30%	20%
	Deliberate behaviour	75%	55%
Third or subsequent qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	40%
	Deliberate behaviour	100%	100%
No qualifying disclosure	Category of default	No co-operation	Co-operation only
All defaults where there is no qualifying disclosure	Careless behaviour without significant consequences	20%	15%
	Careless behaviour with significant consequences	40%	30%
	Deliberate behaviour	100%	75%

Note: This table refers to defaults that occurred on or after 24 December 2008 (Finance No. 2 Act 2008), where the taxpayer makes a qualifying disclosure and also to defaults where no qualifying disclosure is made. The tax geared penalty is a percentage of the underpaid tax.

Other Matters

28 Accounts of the National Treasury Management Agency

- 28.1** Section 12 of the National Treasury Management Agency Act 1990 (the Act) requires the National Treasury Management Agency (the Agency) to keep accounts of all moneys it receives or expends in the form approved by the Minister for Finance (the Minister), and to submit them for audit by the Comptroller and Auditor General. Following completion of the audit, the Agency must submit the accounts to the Minister, who in turn must present the accounts to the Houses of the Oireachtas.
- 28.2** 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 is the report for 2012 under that section of the Act.

Accounts of the Agency 2012

- 28.3** The accounts of the Agency for 2012 have been audited. My reports on the audits were issued on 30 June 2013. The accounts have been presented to the Minister who laid copies of them before both Houses of the Oireachtas on 18 July 2013.
- 28.4** I am satisfied that the accounts properly present the transactions of the Agency for 2012 and its balances at year end.
- 28.5** The accounts audited under Section 12 (as amended) are as follows
- National Debt of Ireland
 - National Treasury Management Agency administration account
 - Post Office Savings Bank Fund financial statements
 - State Claims Agency financial statements
 - Small Savings Reserve Fund account.
- 28.6** In accordance with Section 12 (as amended), the accounts of the Agency are required to note a record of expenses incurred in relation to the
- National Pensions Reserve Fund
 - National Development Finance Agency
 - National Asset Management Agency.
- 28.7** The Carbon Fund is accounted for separately and does not form part of the Agency's accounts for the purposes of Section 12 (as amended). The financial statements of the Carbon Fund are audited under the Carbon Fund Act 2007. My report on the audit was issued on 28 June 2013.
- 28.8** For the year ended 31 December 2012, five small accounts¹ which had been accounted for separately in prior years have been incorporated into the national debt accounts for efficiency purposes. There is no impact on the level of information presented in relation to the five accounts arising from this change. The Minister has approved the revised format of the national debt accounts.

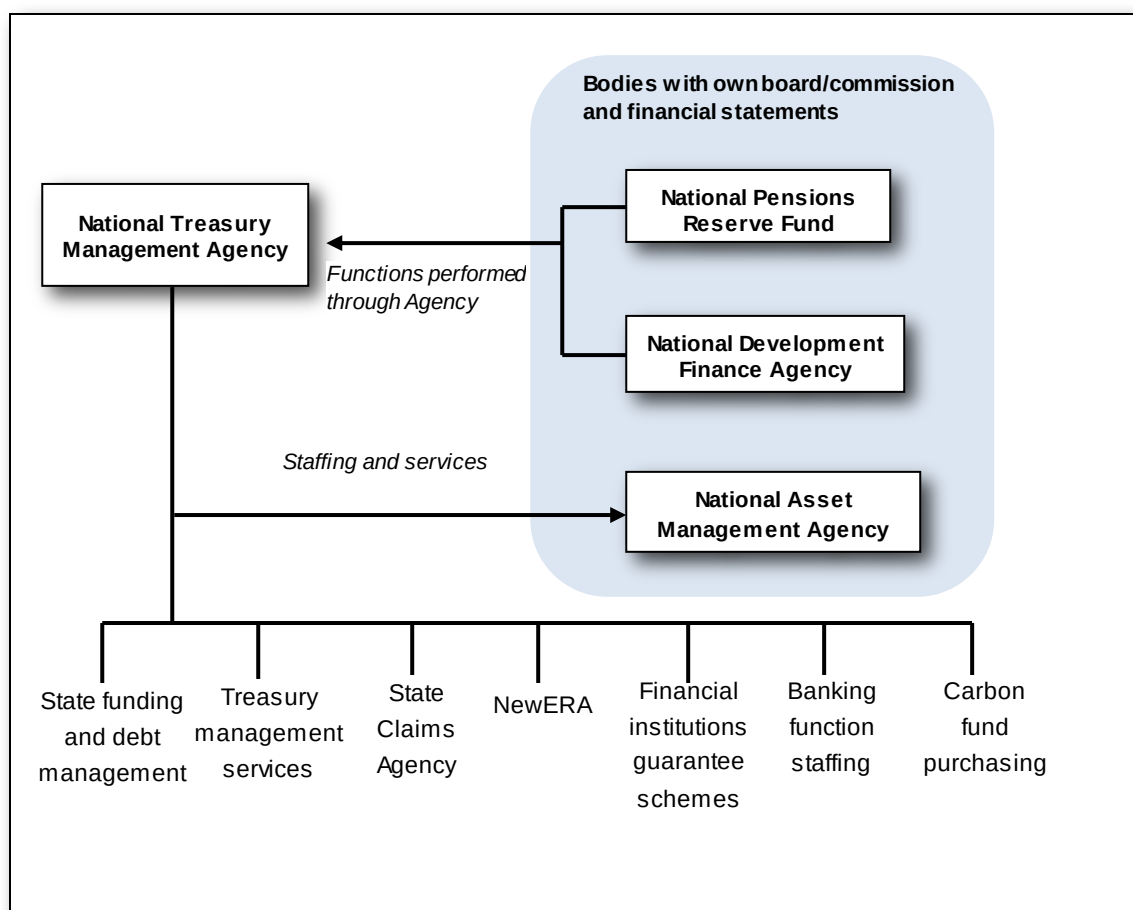
¹ The National Treasury Management Agency (Unclaimed Dividends) Account, the National Loans (Winding Up) Account, the National Loans Advance Interest Account, the Deposit Monies Investment Account and the Account of Stock Accepted in Payment of Inheritance Tax and Death Duties.

Functions, Roles and Staffing of the Agency

28.9 The Agency is a complex organisation with multiple functions and roles that now extend beyond its original function of managing Ireland's national debt.

28.10 A summary of the Agency's structure, main functions and roles is outlined in Figure 28.1.

Figure 28.1 Main functions and roles of the National Treasury Management Agency



State Funding, Debt Management and Treasury Services

28.11 The Agency borrows on behalf of the Exchequer and manages Ireland's national debt. At the end of 2012, this amounted to €137.6 billion after taking account of cash and other financial assets.

28.12 Details of the structure of the national debt are included in Chapter 2, which deals with the overall amount of Government debt.

28.13 The funding and debt management division of 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 and the Post Office Savings Bank Fund. It also oversees the Small Savings Reserve Fund. No moneys were paid into the Small Savings Reserve Fund in 2012 or were held in the Fund at year end.

State Claims Agency

- 28.14** The Agency manages personal injury, property damage and clinical negligence compensation claims on behalf of certain State authorities. When performing these functions, the Agency is known as the State Claims Agency (SCA). The Agency has estimated the cost of settling the claims that were outstanding at 31 December 2012 at €1.1 billion (2011: €0.99 billion).
- 28.15** Awards and associated claim costs of the SCA in 2012 amounted to €100 million. A further €10.3 million was incurred by the Agency in administrative costs incurred in the performance of its SCA functions. These administrative costs are included in the administration expenses of the Agency and are charged on the Central Fund.
- 28.16** Clinical claims are managed under a number of SCA schemes, the largest of which is the Clinical Indemnity Scheme. Chapter 29 reports on the operation of the Clinical Indemnity Scheme.

NewERA

- 28.17** In September 2011, the Government announced the establishment of the New Economy and Recovery Authority (NewERA). It was initially set up within the Agency on a non-statutory basis.
- 28.18** Expenditure incurred by the Agency in 2012 in relation to NewERA was mainly in relation to the following
- the proposed disposal of State assets
 - corporate finance and governance advice in relation to the governance, financial and commercial aspects of certain State bodies/assets
 - advice in relation to activities to facilitate investment in economic infrastructure
 - legal advice obtained regarding amending the NTMA legislation, including the feasibility of establishing NewERA as a holding company for certain commercial State bodies.

The costs of NewERA functions are not separately disclosed in the Agency's administration account, as there is no legislative requirement for disclosure.

- 28.19** In June 2013, the Government announced that it had agreed to the drafting of new legislation which will provide for the establishment of NewERA on a statutory basis.¹ NewERA will have a legal mandate to provide commercial advice to relevant Ministers and Ministerial shareholders for semi State companies under their remit. It will work with stakeholders to advise, develop and structure proposals for investment in priority sectors. The relevant Ministers will retain responsibility and control. The advisory functions will include
- corporate governance
 - financial performance and recommendations
 - optimal utilisation of resources
 - corporate strategy
 - capital and investment plans
 - board appointments
 - acquisitions, disposals, reorganisations and restructurings.

¹ To be called National Treasury Management Agency (Amendment) Bill 2013.

Financial Institutions Guarantee Schemes

- 28.20** Under the Eligible Liabilities Guarantee scheme, certain eligible liabilities, including deposits and debt securities of up to five years maturity in participating institutions are guaranteed by the Minister. Under State aid rules, the scheme requires the approval of the EU Commission at six-monthly intervals.
- 28.21** The Agency operates the scheme on behalf of the Minister. While the scheme is administered by the Agency, the Accounting Officer of the Department of Finance is accountable for the fees received.
- 28.22** On 26 February 2013, the Minister announced the closure of the scheme to all new liabilities with effect from midnight on 28 March 2013. After this date, no new liabilities can be incurred under the scheme. At 28 March 2013, amounts covered by the scheme totalled €75 billion.
- 28.23** Following the liquidation of the Irish Bank Resolution Corporation Limited (IBRC) in February 2013, claims under the scheme for guaranteed liabilities (bonds and deposits) may be made. Total claim payments to 10 July 2013 were €939.4 million (€933.8 million for bonds and €5.6 million for deposits).¹
- 28.24** The Minister also delegated the following to the Agency²
- verifying claims for payment in respect of a deed of guarantee made on 29 November 2010 in relation to certain derivative contracts entered into by IBRC
 - paying out amounts due and payable under the deed of guarantee.
- 28.25** Up to 10 July 2013, derivative-related payments totalling €37.4 million had been made by the Agency as a result of the liquidation of IBRC.¹

Banking System Functions Staffing

- 28.26** In March 2010, the Government delegated certain banking system functions of the Minister to the Agency.³ 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 in August 2011⁴ and the Agency's Banking Unit has since then been seconded to the Department of Finance.
- 28.27** At the direction of the Minister, costs of the Banking Unit continue to be met by the Agency. Costs incurred during 2012 comprised staff costs and certain consultancy costs. The costs of the Banking Unit are not separately disclosed in the Agency's administration account, as there is no legislative requirement for disclosure.

¹ These are unaudited figures. While the Agency processed the payments, they will be reflected in the 2013 Finance Accounts.

² Statutory Instrument No. 85 of 2013.

³ Statutory Instrument No. 115 of 2010.

⁴ Statutory Instrument No. 395 of 2011.

Carbon Fund Purchases

- 28.28** 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. However, since February 2009, the purchase of carbon credits has been suspended. At the end of 2012, the Carbon Fund held assets with an acquisition value of €99 million.

National Pensions Reserve Fund

- 28.29** The Agency is Manager of the National Pensions Reserve Fund (the Fund). The Fund's legislative remit allows the Minister to direct the Fund Commission to make certain investments and certain payments to the Exchequer. The Fund held net assets of €14.7 billion at end 2012. The net assets comprise €6.1 billion in discretionary investments and €8.6 billion in directed investments. My report on the audit of the Fund was issued on 28 June 2013.
- 28.30** The Agency incurred costs of €3.9 million in its role as Manager of the Fund. This is disclosed in the Agency's administration account but is not recouped by the Agency.
- 28.31** The proposed National Treasury Management Agency (Amendment) Bill 2013 will provide for the establishment of the Ireland Strategic Investment Fund (ISIF) by reorienting the Fund and making the Fund's discretionary portfolio resources available for commercial investment in Ireland.

National Development Finance Agency

- 28.32** 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 €20 million. It also has responsibility for the procurement and delivery of public private partnership projects in sectors other than transport and the local authorities.
- 28.33** The NDFA performs its functions through the Agency. Fees and expenses incurred by the NDFA in the performance of its financing and advisory functions amounted to €1.6 million in 2012. These expenses are recoupable from the relevant State authorities availing of NDFA services. A further €6.1 million was incurred by the Agency in the performance of its other NDFA functions. This is disclosed in the Agency's administration account but is not recouped by the Agency. My report on the audit of the NDFA was issued on 28 June 2013.

National Asset Management Agency

- 28.34** The Agency assigned staff and provided services to NAMA during 2012 for which a cost of €36.9 million was incurred and recharged to NAMA.¹
- Just over €30 million was incurred in respect of staff costs. This comprised €27.1 million for 224 staff directly employed by the Agency and assigned to NAMA and €3.1 million in respect of the apportioned cost of Agency employees operating shared services including IT, human resources and finance.
 - Just under €7 million was incurred in respect of other costs incurred by the Agency, including rent, office services and consultancy costs.²

¹ The total administrative costs of NAMA were €119.1 million in 2012 (€128.4 million in 2011).

² See NAMA financial statements 2012.

- 28.35** My report on the audit of NAMA was issued on 2 May 2013.

Agency Staff Distribution

- 28.36** Staff numbers in the Agency have risen as a result of the additional responsibilities assigned to it. At end 2012, staff numbers totalled 500 (2011: 433). The assignment of staff to the various functions of the Agency at end 2012 is set out in Figure 28.2.

Figure 28.2 Agency staffing distribution at end 2012

	Number of staff
Funding and debt management	14
State Claims Agency	69
New ERA	12
Banking Unit ^a	12
National Pensions Reserve Fund	13
National Development Finance Agency	44
National Asset Management Agency	224
Support services and other ^b	112
Total	500

Source: National Treasury Management Agency

Notes: a On secondment to the Department of Finance.

b Finance, Technology and Risk (74), HR and Corporate Services (8), Legal, Control and Compliance (16), other (14).

Governance Structure of the Agency

- 28.37** The Chief Executive of the Agency reports directly to the Minister. The Agency currently operates without a board but has an Advisory Committee to assist and advise on matters the Agency refers to the Committee.
- 28.38** As outlined earlier, proposed legislation will provide for the establishment of the ISIF and will put NewERA on a statutory footing. It will also propose a revised corporate governance structure for the Agency to streamline its governance structures and to establish a new overarching Board. This will involve the dissolution of the NPRF Commission and the NDFA Board. The reorganisation of the services will require restructuring of the financial statements and accounts.

29 Clinical Indemnity Scheme

- 29.1** The National Treasury Management Agency (NTMA) has a statutory obligation to manage personal injury and property damage claims against certain State authorities.¹ The legislation also prescribes a risk management role for the NTMA, to advise and assist State authorities in minimising their exposure to future claims. When performing these functions, the NTMA is known as the State Claims Agency (SCA).
- 29.2** The principal objectives of the SCA are to
- ensure that the State's liabilities in respect of claims and the expenses relating to their management are contained at the lowest achievable level
 - implement risk work programmes, including risk advisory services, in State authorities with the aim of reducing the costs of future litigation against the State.
- 29.3** There are currently 54 State authorities, with over 200,000 employees, within the SCA's remit. The remit covers claims against the State itself and certain State authorities including government ministers, the Attorney General, healthcare enterprises, the Commissioner of An Garda Síochána, prison governors and various other bodies.²
- 29.4** At the end of 2012, the SCA had 5,755 claims under management with an estimated potential liability in excess of €1.1 billion. The broad categories of claims managed are employer liability, public liability, property damage and clinical. Just under half of the active claims at the end of 2012 fell into the clinical category, and these accounted for over 85% of the estimated potential liability for all claims.
- 29.5** Clinical claims are managed under a number of SCA schemes, the largest of which is the Clinical Indemnity Scheme (CIS).
- 29.6** This report reviews the SCA's management of the CIS and, in particular
- the economy of its operations in terms of the statutory obligation to contain claim liabilities and expenses at the lowest achievable level
 - the efficiency of claims management in terms of the methods and time taken to settle and dispose of claims
 - the actions and initiatives taken to fulfil its statutory responsibilities in relation to risk management.

¹ National Treasury Management Agency (Amendment) Act, 2000.

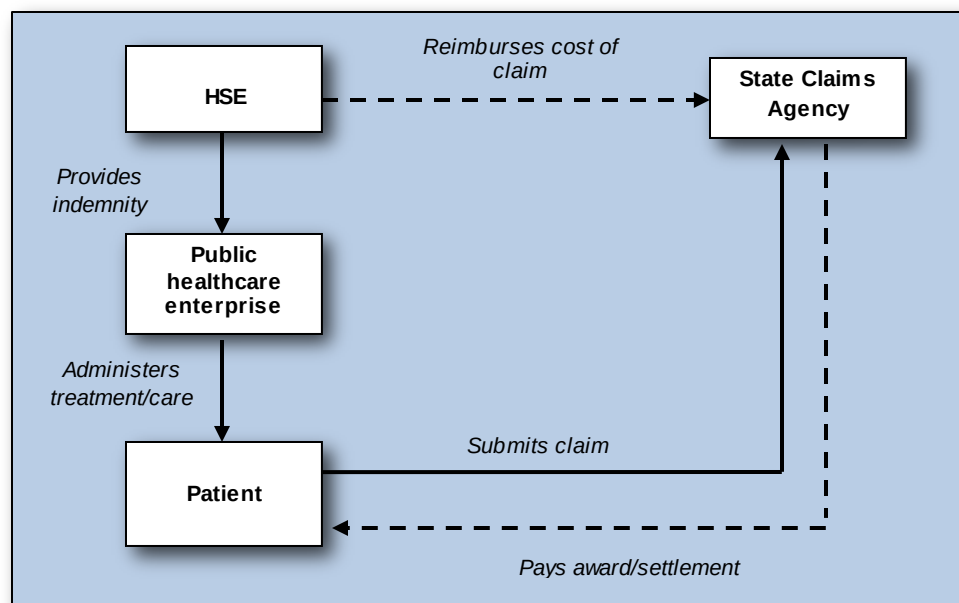
² The SCA's sphere of activity was significantly expanded in February 2011 to encompass new classes of claims and additional authorities.

Scope of the Clinical Indemnity Scheme

- 29.7** The CIS was established in July 2002 in order to address two significant issues that had arisen in respect of the pre-existing medical indemnity arrangements.
- The commercial insurance market had reached a point whereby it was no longer willing to provide insurance cover in the field of obstetrics due to the escalation in court awards and costs in cases of birth-related cerebral dysfunction.
 - Due to diverse insurance and indemnity arrangements, the previous system for resolving medical indemnity claims often featured multiple legal teams and was generally acknowledged to be costly, time consuming and adversarial in nature.
- 29.8** The scheme covers all medical malpractice and clinical negligence claims arising from the diagnosis, treatment and care of patients taken against public healthcare enterprises and their clinical, nursing and allied healthcare practitioners. Consultant hospital doctors are covered under the CIS in respect of alleged incidents of clinical negligence occurring on or after 1 February 2004.
- 29.9** Since 1 February 2004, the CIS has also covered the excess on the indemnity ceiling set by private insurers for consultants working in whole-time private practice. The current ceiling set by private insurers for consultants in high risk specialties (e.g. obstetricians, neurosurgeons, orthopaedic surgeons) is €565,000 per claim, subject to an annual aggregate limit of €1.695 million. For other specialties, the ceiling is €1.13 million per claim, with no annual aggregate limit.
- 29.10** Under the scope of the CIS, the SCA can arrange legal representation at coroners' inquests for agencies and individual practitioners where this is requested. However, it does not provide representation at disciplinary or criminal proceedings or before professional regulatory bodies.

Funding of the Scheme

- 29.11** Clinical indemnity is provided on the basis of a form of 'enterprise liability' which is a concept generally involving enterprises assuming liability for the actions of their employees. In the case of the CIS, the State assumes responsibility for the indemnification (through the HSE) and management (through the SCA) of claims on behalf of health enterprises.
- 29.12** The CIS is funded on a 'pay-as-you-go' basis. The SCA meets the cost of awards and associated expenses in the first instance before being reimbursed on a monthly basis from the HSE Vote. Roles in respect of the CIS are set out in Figure 29.1.

Figure 29.1 Clinical Indemnity Scheme roles

- 29.13** In some cases, whether by agreement or adjudication of the courts, it may be decided that liability is to be apportioned on a percentage basis between the SCA and a third party/co-defendant. This may arise, for example, in a case where the SCA is representing a hospital and its nursing staff and a medical defence organisation is representing a doctor or consultant. For some of these claims, the SCA will meet the full cost and then recover an appropriate amount from the third party. Amounts recovered from third parties are offset against the next monthly reimbursement from the HSE.
- 29.14** The SCA's income and expenditure in respect of CIS claims are accounted for in its annual financial statements. Staff costs and overheads of the SCA are included in the administration expenses of the NTMA which are met from the Central Fund.

Medical Defence Union Settlement

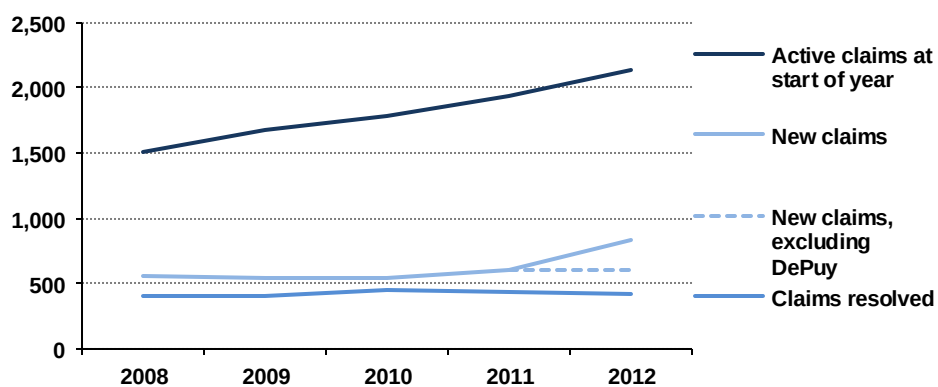
- 29.15** The Government decision approving the establishment of the CIS indicated that the scheme would not have retrospective effect. Accordingly, when the CIS was extended to cover consultants from 1 February 2004, medical defence organisations retained liability for any future claims in respect of incidents that occurred prior to that date.
- 29.16** One UK based organisation, the Medical Defence Union Limited (MDU), contended that the Irish State should take over the liabilities of its members for claims in respect of incidents occurring prior to the extension of the CIS. When the MDU refused to indemnify Irish consultants, the Department of Health implemented new arrangements in October 2004, whereby clinical negligence claims against consultants were handled by independent solicitors, nominated by the Irish Hospital Consultants Association and the Irish Medical Organisation. At the conclusion of individual cases, the solicitors were entitled to apply to the Minister for Health for ex-gratia assistance in respect of settlements and related costs. Under those arrangements, the Department of Health made ex-gratia payments totalling nearly €43 million up to June 2012.

- 29.17** Negotiations between the Department of Health and the MDU in respect of the MDU's historic liabilities commenced in 2004 and broke down in 2005. Discussions between the parties commenced in January 2011 with the aim of settling ongoing litigation. In early 2012, the SCA was given access to MDU data, enabling it to estimate the total potential liability in respect of past and potential future claims relating to incidents that occurred prior to February 2004. In September 2012, the Government decided to accept an MDU offer of €45 million in full and final settlement of its historic liabilities in Ireland.
- 29.18** The Attorney General and the Department of Health legal team agreed that the €45 million package was the best available offer and that there was a risk that the State would not recover anything from the MDU if proceedings were continued. The agreed €45 million settlement was received by the Irish State in December 2012.

Clinical Claims

- 29.19** At the end of 2012, the SCA had over 2,652 clinical claims under management, of which about 2,600 related to the CIS. Of 833 new clinical claims received during 2012, about 230 related to hip replacement procedures carried out using implants manufactured by DePuy Orthopaedics Inc. The SCA stated that it reached an agreement with DePuy during 2013, whereby the company will provide indemnity in respect of most of the cases and will reimburse costs incurred by the State to date in defending those cases.
- 29.20** Figure 29.2 traces the caseload for clinical claims over the period 2008 to 2012. DePuy claims received during 2012 are split out to show the general underlying trend in new clinical claims.

Figure 29.2 Number of clinical claims, 2008 to 2012



Source: State Claims Agency

Estimated Potential Liability

- 29.21** The SCA calculates an estimate of the potential liability associated with each individual claim. The policy is to forecast the most likely outcome scenario, in terms of the amount of the award/settlement and all associated costs, and then add a 'margin of comfort' of up to 20%. Estimates are adjusted over the life of claims to reflect new information that becomes available - a margin of up to 20% is included in each revised estimate.
- 29.22** The reasons provided by the SCA for the inclusion of a margin of up to 20% in its estimate of potential liabilities for individual cases included
- to reflect the possibility that the case may not settle prior to a court hearing, which would generally result in higher awards and legal costs
 - to reflect the possibility of unanticipated complications with regard to the plaintiff's medical condition that may entail higher general or special damages
 - the comfort factor of 20% is an acknowledged, conventional provision used by prudential insurers/indemnity providers.
- 29.23** In cases involving cerebral palsy or cerebral dysfunction, the initial estimate is set at a standard amount, pending an assessment of liability and causation. Where an element of contributory negligence or third party liability is involved, this is reflected in the estimate of potential liability for the SCA.
- 29.24** The estimates of potential claim liability are used for two purposes.
- The scheme's actuaries use this information to prepare annual budget forecasts which estimate the likely cost of managing and settling CIS claims in the coming year.
 - The annual financial statements of the SCA include a note disclosing the aggregate estimated liability of State authorities in respect of all claims under management by the SCA, at 31 December each year.
- 29.25** Figure 29.3 shows the estimated potential liability in respect of active clinical claims at the end of each year between 2008 and 2012.

Figure 29.3 Estimated potential liability for clinical claims^a, 2008 to 2012

Year	Number of claims at 31 December	Estimated potential liability ^b	
		Total €m	Claim average €000
2008	1,675	449	n/a
2009	1,783	636	356
2010	1,935	786	406
2011	2,139	860	402
2012	2,652	970	366

Source: State Claims Agency, Annual Reports of the NTMA

- Notes:
- a Figures shown refer to all clinical claims, including non-CIS claims.
 - b The estimated potential liability in 2008 is as at 30 June. Estimated potential liabilities for other years are as at 31 December.

- 29.26** Obstetrics-related claims, though accounting for 20% of the clinical claims volume, represent 55% of the total estimated liability. This is due to the high settlement values associated with cerebral palsy cases and other serious birth-related claims.
- 29.27** Auditors appointed by the SCA carry out an annual review of the estimated potential liability assigned to a sample of claims.¹ The purpose of the review is to confirm that the SCA policy for estimating potential liability is being applied by claims managers and that estimates for individual cases appear reasonable, in view of the case information on file.
- 29.28** The review carried out by the internal auditors in 2012 considered a sample of 105 claims (11 of which were closed files) with estimated potential liabilities totalling €134.5 million.² In 19 cases, it was found that the potential liability assigned was too high, generally because the estimate had yet to be adjusted to reflect actual payments made. In two cases, the potential liability was found to be underestimated because adjustments had yet to be made to reflect the latest available information.
- 29.29** At an overall level, the review concluded that the estimated potential liabilities for the sample of claims were "generally within reasonable parameters", although it did not quantify the parameters applied.

Claims Management

- 29.30** Clinical claims managers at the SCA, with legal or insurance backgrounds, are responsible for investigating claims and formulating individual claim management strategies. The objective is to investigate claims in a thorough and timely fashion in order to facilitate early decision-making in relation to liability and strategy. The steps involved in investigating claims include
- reviewing medical records
 - examining statements by clinical persons involved
 - commissioning opinions from relevant experts
 - appointing solicitors to deal with legal proceedings
 - obtaining additional statements or further explanations
 - consulting with solicitors and/or counsel, as required.
- 29.31** When a claim is made under the CIS, the practitioner that provided the clinical care is required to review all medical records relating to the incident and prepare a statement setting out his/her involvement in the patient's treatment.

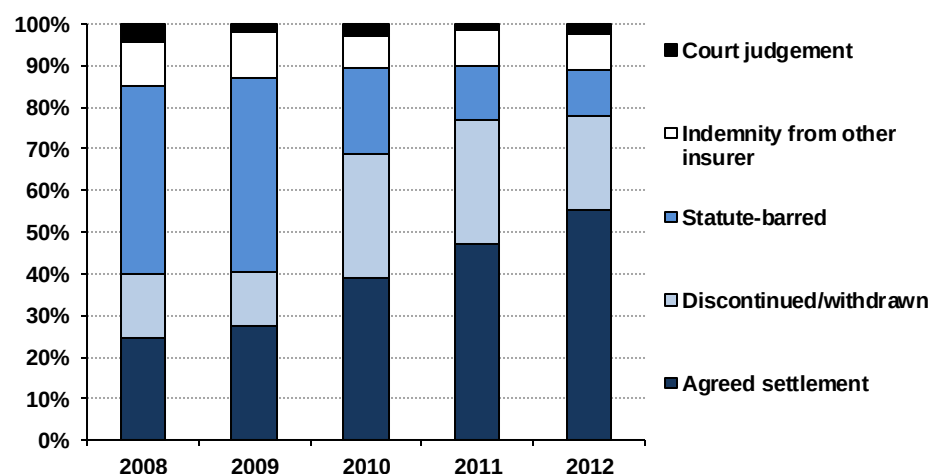
¹ The scope of the review is wider than the CIS and covers all claims under management by the SCA.

² The sample was selected from a list of active claims at 31 August 2012 and a list of claims that had been closed between 10 November 2011 and 31 August 2012.

Settlement of Claims

29.32 In cases where the SCA investigation concludes that the relevant State authority bears some or all liability, it seeks to settle claims expeditiously and on reasonable terms. If it considers that the State is not liable, the SCA's policy is to apply all necessary resources to defend the claim. Figure 29.4 illustrates the processes by which CIS claims have been resolved since 2008.

Figure 29.4 How CIS claims were resolved, 2008 to 2012



Source: State Claims Agency

29.33 The SCA resolves the majority of CIS claims by negotiating a settlement, either directly with the plaintiff's legal team, or through a process of mediation. The SCA advocates mediation as a preferable alternative to the adversarial courts system for resolving clinical negligence cases. Mediation may be initiated by the parties or suggested by the court.

29.34 Between 2008 and 2012, the proportion of claims that were resolved at no cost to the SCA declined significantly. Claims that may be resolved at no cost include cases that become statute-barred due to the lapse of time and cases where it is established that a third party or co-defendant is fully liable.¹ The SCA indicated that the decline in those cases was due to

- a reduction of about 75% in the number of cases where initial letters of claim were received but no formal proceedings were issued within the two year limit
- a reduction in the number of cases relating to treatment/care provided by consultants prior to the extension of the CIS in February 2004 - in many of these cases, liability for the claim remained with the medical defence organisation that indemnified the consultant.

29.35 Less than 3% of CIS claims are resolved through the courts. The cases that do go to court are generally those involving infant cerebral palsy or other catastrophic injuries.

¹ In general, proceedings must be issued within two years of the event giving rise to personal injury.

Periodic Payment Orders

- 29.36** Periodic payment orders (PPOs) involve awards/settlements in catastrophic injury cases being paid on a periodic basis (normally annual), rather than as a single lump sum. A PPO would generally involve the payment of an initial lump sum followed by annual payments over the duration of the claimant's life, to cover the cost of future care and medication. Under a PPO system, there is uncertainty as to the total future liability associated with awards/settlements, because annual payments continue until the death of the claimant.
- 29.37** In October 2010, a working group chaired by a High Court judge completed a report examining the case for introducing a PPO system in respect of catastrophic injury cases. The working group recommended the introduction of legislation to empower the courts to make consensual and non-consensual PPOs to compensate injured parties in cases of catastrophic injury where long-term care will be required.
- 29.38** While PPOs have yet to be legislated for, the SCA advised that it has settled 24 catastrophic injury cases on the basis of a suspended PPO arrangement, involving the payment of an initial lump sum including provision for the cost of two years' future care. It was anticipated that the required legislation would be in place before the next court dates for these cases, i.e. two years after the making of the initial order.

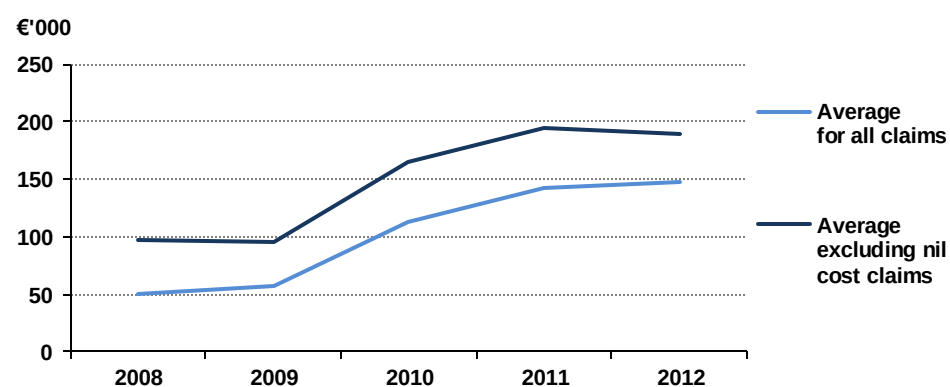
Cost of Claims

- 29.39** The primary objective of the claims management function within the SCA is to minimise the costs incurred by the State.
- 29.40** The direct costs incurred by the SCA in managing CIS claims comprise damages agreed or awarded and associated expenses. These expenses can include legal fees (SCA and plaintiff), medical fees, engineers' fees, actuary fees, expert fees and witness expenses.
- 29.41** Figure 29.5 sets out the costs of CIS claims resolved in each year from 2008 to 2012. Figure 29.6 shows the trends in the average cost per claim resolved between 2008 and 2012, both for all claims and excluding nil cost claims.

Figure 29.5 Cost of CIS claims resolved, 2008 to 2012

Cost element	2008	2009	2010	2011	2012
	€'000	€'000	€'000	€'000	€'000
Cost for all claims resolved					
Awards/settlements	9,490	13,150	30,140	36,630	36,120
Legal fees – SCA	4,450	4,590	7,680	8,600	9,330
Legal fees – plaintiff	5,380	4,600	11,020	14,250	13,790
Other	830	370	890	1,040	1,030
Total	20,150	22,710	49,730	60,520	60,270
Average cost per claim resolved					
Awards/settlements	24	33	68	87	88
Legal fees – SCA	11	11	18	20	23
Legal fees – plaintiff	13	11	25	34	34
Other	2	1	2	2	2
Total	50	56	113	143	147

Source: State Claims Agency

Figure 29.6 Average cost per CIS claim resolved, 2008 to 2012

Source: State Claims Agency

29.42 Both measures show a marked escalation between 2009 and 2011. Over that period, the average cost per claim resolved increased from around €56,000 to €143,000. This contrasts with the average estimated potential liability for active clinical claims which was over €400,000 at the end of 2011 and about €366,000 at the end of 2012 (see Figure 29.3).

29.43 The reasons provided by the SCA for the escalation in costs since 2008 include

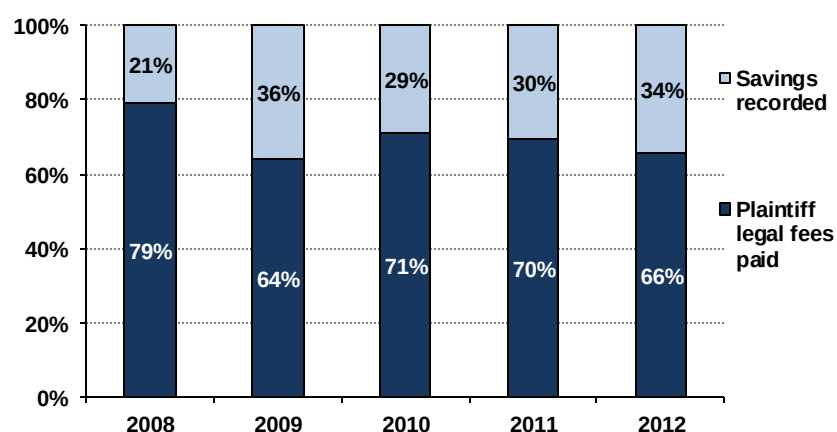
- The effect of 2,500 consultants, whose claims were previously handled by medical defence organisations, joining the CIS from 1 February 2004. By their nature, claims involving treatments provided by consultants tend to be larger than average.
- Many of the cases resolved towards the end of the period were relatively more complex as the SCA had prioritised the settlement of non-complex clinical negligence claims during the initial period after the CIS scheme was set up.

- The rate of medical costs inflation was significantly higher than the rate of general inflation during the period. This was reflected in judgements of the High Court, with the cap on general damages for serious and catastrophic injury cases increasing by 29% from €350,000 to €450,000 per case.

Cost Control

- 29.44** The extent to which the SCA can influence the level of court awards and agreed settlements is limited. Whilst the quality of the defence case put forward or the effectiveness of negotiations may be important, the outcome of the award or settlement is likely to be heavily influenced by the seriousness of the adverse incident and the extent of clinical negligence that occurred.
- 29.45** The SCA has undertaken a number of recent initiatives aimed at reducing the level of fees paid to its own retained legal firms.
- In 2011, the SCA completed a competitive procurement process to establish a panel of solicitors for the provision of legal services in respect of all claims under its management. The SCA has stated that establishment of the panel has enabled it to reduce the rates for legal fees paid to its retained solicitors firms by 25%. In addition, the SCA imposed caps on the levels of the fees paid to its panel solicitors in respect of cases involving catastrophic injury.
 - In 2012, the SCA initiated a competitive tendering process for barristers under which fees were capped at up to 25% below pre-existing levels. The lower fees apply to a wide range of legal services in respect of the District Court, Circuit Court and High Court. The SCA expects panels for both junior and senior counsel to be in place by October 2013.
- 29.46** The SCA states that it seeks to achieve the maximum possible reduction on bills for legal costs submitted by plaintiffs' legal teams. The policy of the SCA is to record savings negotiated in respect of plaintiffs' legal costs on the basis of the difference between amounts invoiced and amounts settled and paid on a claim by claim basis. In 2012, it estimated that the average amount paid to settle plaintiffs' legal costs in respect of CIS claims was around two-thirds of the amounts originally invoiced (see Figure 29.7).

Figure 29.7 Recorded savings on plaintiffs' legal costs, 2008 to 2012

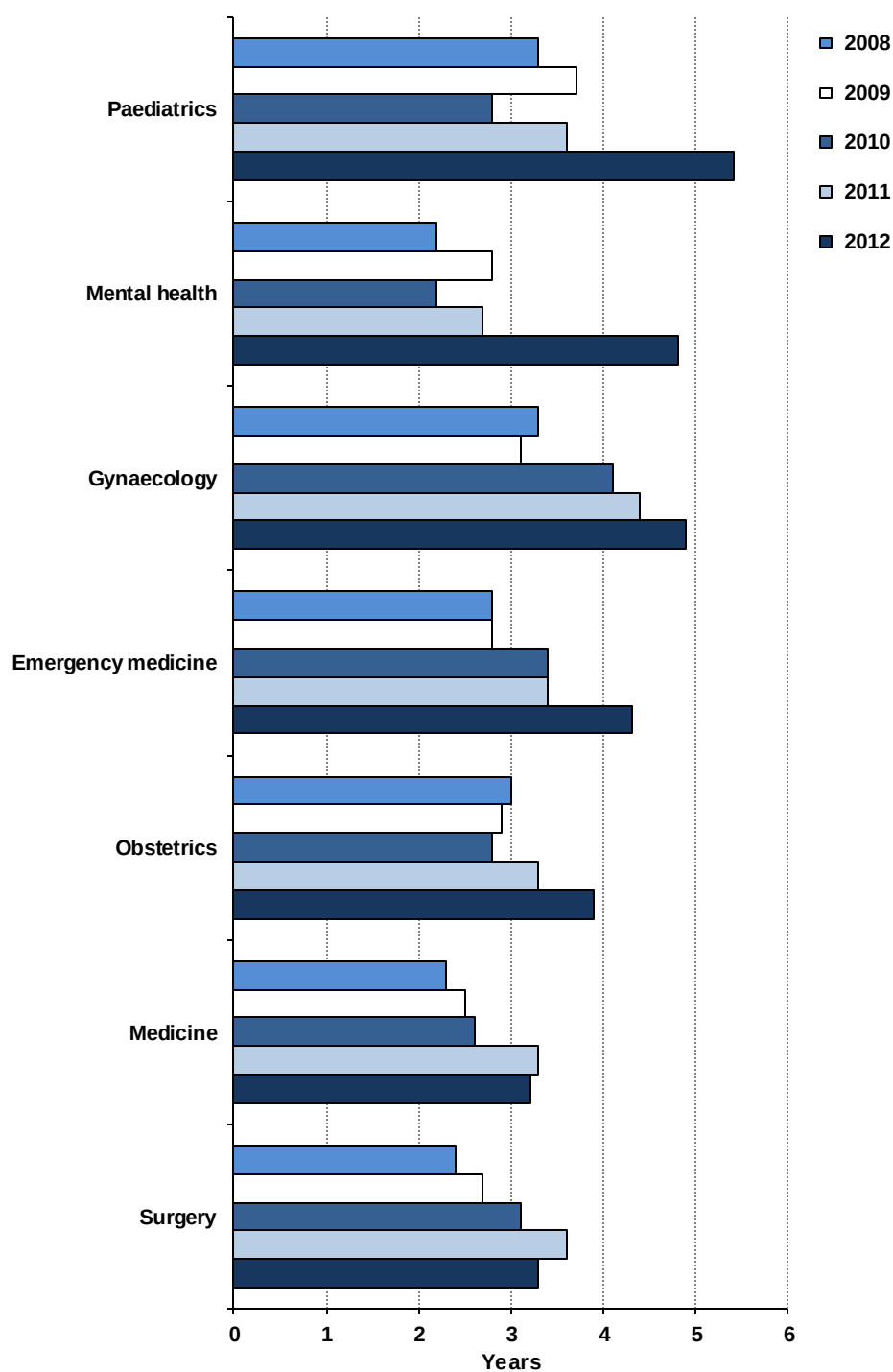


Source: State Claims Agency

- 29.47** Examination of a sample of CIS claims files carried out as part of this review found evidence that the SCA robustly challenges invoiced plaintiff legal costs and secures significant savings. However, in half of the sample cases examined, recorded savings had not been calculated in accordance with the SCA's policy for recognising legal costs savings.
- 29.48** Subsequently, an analytical review was carried out of recorded legal costs savings for all CIS claims resolved between 2008 and 2012. In 174 instances, with recorded savings totalling about €2m, it was found that savings had been recorded in respect of claims where no legal costs had actually been paid. In some other cases, where there was shared liability with a third party, the full amount of legal savings achieved was recorded against the SCA portion of the legal bill. As a result, there is a doubt over the reliability of the amount of legal savings recorded by the SCA.

Lifespan of Claims

- 29.49** The average time taken to resolve claims is a measure of the efficiency of the claims management function within the SCA. Figure 29.8 shows the average time taken to settle CIS claims for the major clinical specialties between 2008 and 2012. The lifetime of each claim was measured from the date it was recorded on the SCA's computer system until the date it was marked as closed on the system.
- 29.50** The average time taken to resolve claims in each of the clinical specialties increased over the period. In the case of mental health, the average duration more than doubled from 2.2 years for claims resolved in 2008 to 4.8 years for claims resolved in 2012.

Figure 29.8 Average lifetime of CIS claims resolved^a (years), 2008 to 2012

Source: State Claims Agency

Note: a The average number of claims resolved annually for each specialty, over the five year period, ranged from 13 for paediatrics to 110 for surgery.

29.51 The SCA provided the following reasons for the rise in the average time taken to resolve claims over the period.

- The clinical claims portfolio has matured in terms of complexity over the period, influenced largely by its extension to cover consultants from 1 February 2004.
- Significant delays occurred, particularly over the past three years, in relation to the listing of medical malpractice cases within the High Court's personal injuries list.
- More aggressive negotiating tactics have been adopted by plaintiffs' solicitors who resist early settlement in an attempt to gain advantage for their clients e.g. by commissioning multiple medical experts' reports (which can take considerable time) and delaying matters until a specific court date, where the matter is then settled. This may also result in higher plaintiffs' legal costs.
- There are certain cases where the SCA may also delay settlement e.g. where the Agency may be engaged in co-defendant or third party negotiations concerning apportionment of liability or where it is seeking an indemnity. Also, the SCA may for strategic reasons resist settlement in order to minimise or avoid costs in the future.

Claims Management Performance

29.52 Under a formal performance management system in operation within the SCA, annual goals and objectives are set for clinical claims managers. Individual plans for each claims manager are signed-off by the head of the Clinical Claims Unit and progress against objectives is monitored throughout the year. In addition, there are a number of key performance indicators (KPIs) in place for the Clinical Claims Unit. Performance against the KPIs is audited by the SCA's internal auditors. Figure 29.9 provides information on the performance of the Clinical Claims Unit for the period 2008 to 2012.

29.53 The KPIs reported generally relate to the level of claims management activity and the time taken to process transactions. In relation to its overriding objective of minimising the cost of claims, the SCA stated that it does not set specific annual targets for cost savings to be achieved and that it would be impossible to do so, given the turnover of claims in any year and on-going disputes over cost resolution.

Figure 29.9 Clinical Claims Unit performance, 2008 to 2012

Indicator	Target ^a	Performance ^b				
		2008	2009	2010	2011	2012
Active claims fully investigated	≥20%	✓	✓	✓	✓	✓
Active claims subject to negotiation, where liability is not in dispute	≥30%	✓	✓	✓	✗ (26%)	✗ (23%)
Average time from notification of claim to recording on system ^c	≤5 days	N/A	N/A	N/A	✗ (34 days)	✗ (24 days)
Claims settled at no cost to SCA	≥35%	✓	✓	✓	✓	✗ (23%)
Claims with costs but no compensation payments	≥20%	✓	✓	✓	✓	✓

Source: State Claims Agency

Notes: ✓ Target met or exceeded ✗ Did not meet target

a The targets for some of the indicators were adjusted during the period. The targets shown are the ones set for 2012. Performance is reported relative to the original targets for each year.

b Performance figures for 2008 to 2010 specifically relate to the CIS. From 2011 onwards, KPI figures relate to all clinical claims, rather than just the CIS.

c Performance reporting commenced in 2011.

- 29.54** In relation to the duration of claims, the SCA stated that it has not set specific targets for reductions to be achieved. It stated that targets in this area would not be appropriate as the extent of investigations required and the complexity of negotiations varies from claim to claim and in some cases, a faster resolution could only be achieved at the expense of a higher settlement.

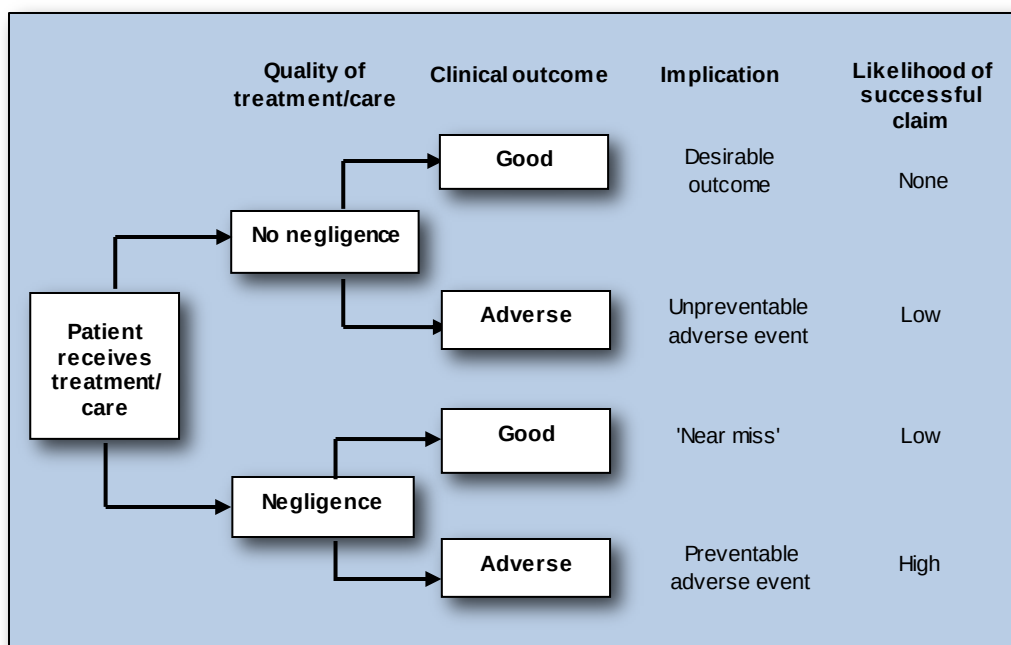
Risk Management

- 29.55** One of the SCA's objectives is to advise and assist healthcare enterprises on measures to be taken to prevent the occurrence, or reduce the incidence, of adverse clinical events that could result in medical negligence claims. The management of risk within each health enterprise is the responsibility of the enterprise itself.
- 29.56** As the SCA does not have statutory powers of enforcement or recourse to sanctions in relation to its recommendations, it relies on persuasion and the prioritisation of patient safety as the focus of its risk management activities.

Adverse Clinical Events

- 29.57** Adverse clinical events are events causing injury or other adverse effects for a patient, arising as a consequence of the provision, or non-provision, of clinical care. In a small proportion of cases, adverse clinical events can lead to claims under the CIS.
- 29.58** Figure 29.10 illustrates how claims can arise in relation to clinical care or treatment provided.
- 29.59** Enterprises covered by the CIS have a statutory duty to report all adverse clinical events to the SCA. All such events must be reported on a web-based IT system, known as the National Adverse Events Management System (NAEMS), which links hospitals and other healthcare enterprises to a central database hosted by the SCA.

Figure 29.10 How claims may arise

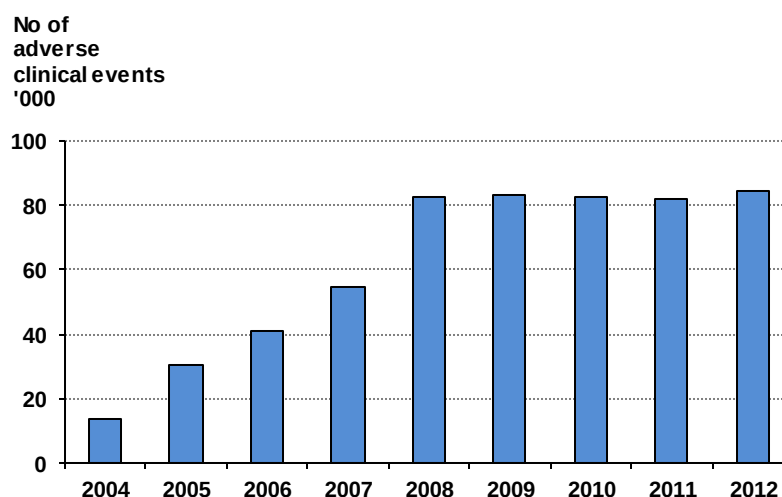


29.60 The NAEMS database provides key information at national and local level to assist in identifying clinical risks. It enables the SCA to identify and analyse developing trends and patterns and assists with claims investigation and management. It is intended that healthcare enterprises use the system to identify clusters of adverse events and perform root-cause analysis at a local level.

29.61 During 2013, the SCA provided each health enterprise with a report detailing the number of adverse clinical events reported by it and providing a comparison with a peer healthcare enterprise. During the course of this examination, the SCA was asked to provide a breakdown, by location, of adverse clinical events reported and new claims received over the period 2008 to 2012. The SCA indicated that it had no standard management report of such consolidated data and that the requested information would take a considerable amount of time to assemble.

29.62 Figure 29.11 shows the number of adverse clinical events reported over the period 2004 to 2012.

Figure 29.11 Adverse clinical events reported, 2004 to 2012

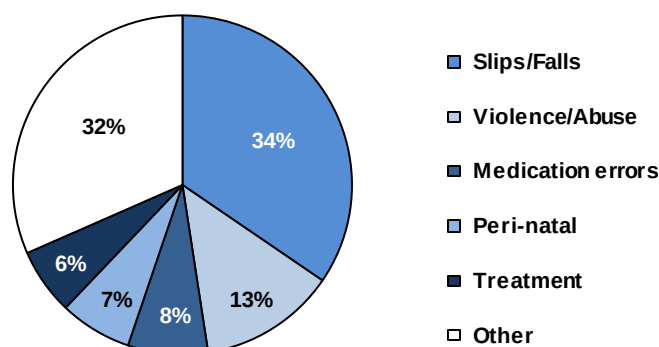


Source: State Claims Agency

29.63 Having increased very significantly between 2004 and 2008, the number of adverse clinical events being reported to the SCA has been relatively stable at between 80,000 and 85,000 each year.

29.64 Comprehensive and early reporting is critical to the SCA's ability to investigate adverse clinical events that may lead to claims and to carry out its risk management function effectively. The SCA estimates that related adverse clinical events had been reported in advance by the relevant health enterprise for less than 40% of the claims received between 2008 and 2012. There are valid reasons why a prior adverse clinical event may not have been reported for some types of claim e.g. complications may not arise for some time after a surgical procedure. Nevertheless, the rate of prior adverse clinical event reporting in claims cases appears low.

29.65 Figure 29.12 provides a breakdown of the major types of adverse clinical events reported in 2012.

Figure 29.12 Types of adverse clinical events reported in 2012

Source: State Claims Agency

Risk Management Activity

- 29.66** A team of six clinical risk advisors, with nursing, allied healthcare or medical backgrounds, is responsible for the CIS risk management programme. The SCA advised that the development of the risk management programme is informed by trend analysis of adverse clinical events notified by health enterprises, closed claims analysis, evidence based research and international best practice.
- 29.67** The main elements of the 2012 CIS risk management programme were
- reporting to healthcare enterprises on the results of analysis of adverse events and claims data
 - publishing risk management guidance for health enterprises and providing practical risk management tools
 - providing information and training through seminars, website publications and newsletters
 - providing risk management solutions directly to healthcare enterprises in respect of specific risk issues
 - assisting with the development and implementation of risk management policies and procedures for individual healthcare enterprises
 - carrying out risk management reviews.
- 29.68** The SCA provided details of some specific initiatives that have been developed, in collaboration with the HSE, with the aim of supporting the healthcare sector in delivering safer patient care.
- Open disclosure to patients and/or their families is being promoted in relation to adverse clinical events, whereby healthcare enterprises are encouraged to acknowledge the event that occurred, explain the cause, outline the expected consequences and planned future management, issue an apology and provide details of measures taken to reduce the likelihood of the event recurring in the future.

- A national early warning score system has been rolled out to support healthcare staff in promptly recognising and responding appropriately to deteriorations in the condition of patients on general wards.
- A strategy in respect of slips, trips and falls, which account for about one third of adverse clinical events reported annually, is being implemented at local, regional and national level.

29.69 The risk management programme also provides for ongoing collaboration with the Health Information and Quality Authority (HIQA). HIQA has the statutory remit for developing and monitoring compliance with standards of quality and safety in the Irish health services and to carry out investigations, as necessary, of serious concerns regarding the health and welfare of service users.

29.70 The roles of HIQA and the SCA are closely related, particularly in the area of the promotion of best practice in the quality and safety of healthcare. Although the SCA has an inspection mandate, it states that regular inspections of all health enterprises would not be feasible, given the level of resources available.

29.71 The SCA stated that the CIS risk team has collaborated with HIQA's Safety and Quality Improvement Directorate, since the latter's inception in mid-2012. Current areas of work include a quality improvement project designed to enhance control of medication for patients moving between long term care and acute hospital care, and an EU project designed to share learning between member states in relation to quality healthcare.

Risk Management Performance

29.72 The SCA has developed a risk management strategy for the CIS. The 2013 strategy lists strategic goals, core actions, key external collaborators and performance measures/outputs. However, the strategy does not specify desired outcomes or set targets in terms of the intended effect of risk management activity.

29.73 It is the opinion of the SCA that while it is possible to establish a direct causal relationship between clinical risk management activity and the number and severity of adverse clinical events, it is not possible to establish a similar direct causal relationship for clinical claims frequency.

Conclusions and Recommendations

Claims Management

- 29.74** The number of CIS claims under management by the SCA has increased year on year. The case load at the end of 2012 (excluding DePuy cases) represents an increase of over 45% since the end of 2008. Over the same period, the average time taken to resolve cases has also risen significantly. Direct costs have increased to an average of €190,000 per case, which is nearly double the 2009 equivalent figure.¹
- 29.75** While demand under the CIS, in terms of new claims received, increased from about 500 in 2008 to about 830 in 2012 (including about 230 DePuy cases), the number of cases resolved by the SCA remained steady, at between 400 and 450 per year. If the recent trend in demand continues, it is likely that the time taken to resolve cases will rise further, unless the SCA can increase its annual output of resolved cases. This may also have implications for direct costs per case.
- 29.76** The estimated potential liability in respect of all active clinical claims at the end of 2012 was €970 million. It is the SCA policy to include a 'margin of comfort' of up to 20% in its estimates of the potential liability associated with individual claims. As a result, the potential liability in respect of active claims may be overstated.
- 29.77** Auditors appointed by the SCA carry out an annual review of the estimated potential liability assigned to a sample of claims. The review considers the extent of compliance with the SCA's estimation policy and the reasonableness of the estimates in view of the case information on file. The review carried out by the auditors in 2012 concluded that the estimated potential liabilities for the sample of claims examined were "generally within reasonable parameters".
- 29.78** It may be possible for the SCA to make use of analysis undertaken by the auditors, as part of the annual review of estimated potential liabilities, in the development of statistical probabilities of case outcomes.

Recommendation 29.1: The estimates of potential liability for cases on hand should be based on statistical probabilities and informed by analysis of the outcomes of previous cases.

Accounting Officer's Response: Agreed. The NTMA agrees that the estimates, including any 'margin of comfort', of potential liability for cases on hand should be based on statistical probabilities informed by analysis of settled cases.

- 29.79** The HSE financial statements include a note disclosing the estimated liability in respect of active claims under the CIS. The HSE does not publish a schedule of the individual healthcare facilities in respect of which claims are settled, or are outstanding. In the course of the examination, the Accounting Officer of the HSE stated that the publication of such information could encourage the generation of league tables which the HSE generally considers would not be constructive, and could have the unintended consequence of discouraging the reporting by healthcare facilities of adverse events.

¹ This excludes nil cost cases.

- 29.80** Aside from damages agreed or awarded, legal fees represent the largest category of cost incurred by the SCA in managing CIS claims. The average level of legal fees paid by the SCA per resolved case has been rising over recent years. The SCA has sought to reduce the rate of legal fees paid to its retained solicitors by 25% by engaging in a competitive procurement process to establish a panel of solicitors. It is undertaking a similar process in respect of barristers. It expects to have new panels in place for both junior and senior counsel by October 2013.
- 29.81** In relation to plaintiffs' legal costs, it is SCA policy to negotiate costs and to record as savings the difference between the invoiced amount and the amount paid on a claim by claim basis. Evidence was found that the SCA routinely challenges invoices received for plaintiff legal costs, with savings of €7.2 million recorded for 2012. However, it was noted that in a significant number of cases, the savings recorded had not been calculated in accordance with the policy, thus potentially impacting the reliability of this figure.

Recommendation 29.2: The SCA should ensure that staff are familiar with the policy for recording savings on plaintiffs' legal costs and should implement a system of spot checking on compliance with the policy.

Accounting Officer's Response: Agreed. The NTMA accepts this recommendation and has re-stated its policy for the recording of savings on legal costs to all of its claims management staff. A system of spot checking has been introduced with effect from 6 August 2013.

Risk Management

- 29.82** Enterprises covered by the CIS have a statutory obligation to report adverse clinical events to the SCA. While it is likely that only a small proportion of adverse clinical events will lead to claims under the CIS, it is desirable that all adverse clinical events would be reported to the SCA in a timely manner to enable associated risks to be identified and managed effectively. The proportion of claims received since 2008 for which a prior related adverse clinical event had been reported to the SCA was less than 40%.
- 29.83** During 2013, the SCA provided reports generated from the NAEMS database to each healthcare enterprise with information on its own reporting rate for adverse clinical events and a comparison with that of a peer hospital. Performing a cross analysis of reports of this type should enable the SCA to identify healthcare enterprises where reporting needs to be improved.
- 29.84** The SCA risk management strategy for 2013 includes strategic goals, core actions and performance measures/outputs, but does not quantify desired outcomes or set specific targets.
- 29.85** Over the long term, the ultimate aim of SCA risk management is to reduce the number and severity of adverse clinical events. In the shorter term, the SCA needs to be able to measure the effectiveness of individual risk management initiatives and its risk management programme as a whole. It should be possible for the SCA to identify appropriate performance indicators to monitor the effectiveness of its risk management programme in terms of adverse clinical event outcomes at health service provider level.