TITHE AN OIREACHTAIS

AN COISTE UM CHUNTAIS PHOIBLÍ

TUARASCÁIL

Tuarascáil Thréimhsiúil Uimh. 5

Meán Fómhair - Samhain 2018

Arna Foilsiú Márta 2019

HOUSES OF THE OIREACHTAS

COMMITTEE OF PUBLIC ACCOUNTS

REPORT

Periodic Report No. 5

September - November 2018

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LIST OF TABLES AND GRAPHICS

ABBREVIATIONS USED IN REPORT

Abbreviation	Term	Chapter
C&AG	Comptroller and Auditor General	
CFRAM	Catchment Flood Risk Assessment and Management	The Office of Public Works
CSSO	Chief State Solicitor's Office	The Office of Public Works, Department of Public Expenditure and Reform
DCYA	Department of Children and Youth Affairs	The Office of Public Works
DEASP	Department of Employment Affairs and Social Protection	Department of Employment Affairs and Social Protection
DES	Department of Education and Skills	Higher Education Authority
DoF	Department of Finance	The Office of Public Works
DoH	Department of Health	The Office of Public Works
DPER	Department of Public Expenditure and Reform	The Office of Public Works, Department of Public Expenditure and Reform
DPP	Director of Public Prosecutions	Office of the Revenue Commissioners
ECB	European Central Bank	National Asset Management Agency
EROI	Equity Rate of Return	National Asset Management Agency
EU	European Union	
FOI	Freedom of Information	The President's Establishment
HEA	Higher Education Authority	Higher Education Authority
HSE	Health Service Executive	Department of Public Expenditure and Reform Department of Employment Affairs and Social Protection
HWI	High Wealth Individual	Office of the Revenue Commissioners
IFAC	Irish Fiscal Advisory Council	Department of Public Expenditure and Reform
IPMS	International Property Measurement Standard	The Office of Public Works
IRR	Internal Rate of Return	National Asset Management Agency
NAMA	National Asset Management Agency	National Asset Management Agency
NTMA	National Treasury Management Agency	National Asset Management Agency
OECD	Organisation for Economic Co-operation and Development	
OGP	Office of Government Procurement	Department of Public Expenditure and Reform
OPW	The Office of Public Works	The Office of Public Works, The Department of Public Expenditure and Reform

PAC	Public Accounts Committee	
PAYE	Pay as you Earn	Department of Employment Affairs and Social Protection
PRSI	Pay Related Social Insurance	Department of Employment Affairs and Social Protection
PSC	Public Services Card	Department of Employment Affairs and Social Protection
QAD	Qualifying Avoidance Disclosure	Office of the Revenue Commissioners
SDZ	Strategic Development Zone	National Asset Management Agency
SIF	Social Insurance Fund	Department of Employment Affairs and Social Protection

CHAIRMAN'S PREFACE

This is the Committee's fifth periodic report and it focuses on matters arising from engagements of the Committee of Public Accounts from 20 September to 29 November 2018. The Committee examined issues emerging from financial statements audited, and matters reported on, by the C&AG. The Committee has considered the evidence presented and has arrived at a number of conclusions and recommendations for further actions.

In relation to matters considered in this report, the Committee held meetings with the National Asset Management Agency; The Department of An Taoiseach (President's Establishment); Teagasc; The Office of Public Works; The Department of Public Expenditure and Reform; The Higher Education Authority; The Office of the Revenue Commissioners; and the Department of Employment Affairs and Social Protection.

The Committee also met in relation to Housing Matters and the cost of claims against the State during this period. These may be reported on later as the Committee's examination of these issues remains on-going. Other meetings that have taken place since December will also be reported on in our next periodic report.

On behalf of the Committee, I would like to express my gratitude to everyone who participated in the hearings and to those who provided detailed briefing in advance of its deliberations. I would also like to express my appreciation to the members of the Committee and the Secretariat for their work in relation to the Committee's consideration of the issues, and in the preparation of this report. I recommend that all those with an interest in governance, public finances and administration read the report in full, as it contains interesting and important factual information.

I commend the Committee's report to Dáil Éireann.

Sean Fleming

Sean Fleming, TD
Chairman, Committee of Public Accounts
13 March 2019

CONCLUSIONS AND RECOMMENDATIONS ARRIVED AT IN BODY OF THE REPORT

Below is a complete list of all conclusions and recommendations, which can be found at the end of each chapter.

The Committee of Public Accounts is of the view that:

1. NATIONAL ASSET MANAGEMENT AGENCY

A.1. NAMA's lack of systematic and routine verification of Section 172 declarations was unacceptable. The Committee recommends that NAMA puts in place a system to verify Section 172 declarations it receives for the remainder of its operation.

A.2. The acceptance by Local Authorities of just 40% of the 7,000 residential units and sites suitable for housing requires re-examination given the current housing crisis. The Committee recommends that those housing units and sites suitable for housing, still available to NAMA, be re-offered and reconsidered by Local Authorities.

2. THE PRESIDENT'S ESTABLISHMENT

A.3. It is unacceptable that the internal audit committee for the President's Establishment, which was established in 2014, did not meet prior to 2018. The Committee recommends that the audit committee for the President's Establishment develops a schedule of regular meetings each year.

A.4. There is no statutory audit in relation to the €317,000 Presidential allowance paid from the Central Fund, which is granted under the Presidential Establishment Act and S.I. No. 67/1998. The Committee recommends that consideration be given to including the €317,000 Presidential allowance under Vote 1 and therefore making it subject to audit by the C&AG.

3. TEAGASC

A.5. €1.35 million of Teagasc's expenditure in 2017 was non-compliant with public procurement guidelines. The Committee recommends that Teagasc ensures its procurement processes complies with all guidelines in future.

A.6. Teagasc is attempting to create and save surpluses year-on-year as the opportunity presents to maintain a rainy day fund. Infrastructural needs are also sometimes met by the sale of assets. The Committee recommends that a more sustainable method for establishing funds for both (a) infrastructural maintenance and (b) longer term capital projects be developed by Teagasc, in consultation with relevant Government Departments.

4. THE OFFICE OF PUBLIC WORKS

A.7. The delay in occupation of the Miesian Plaza, Baggot Street, Dublin 2 premises resulted in the ineffective expenditure of €11m. This delay was partly due to a lack of staff engagement regarding changes to the working environment in the Department of Health that were necessary to facilitate the move. The Committee recommends that in future, a programme of engagement and consultation with staff takes place at an early stage as an intrinsic part of any departmental or public body office move.

A.8. The method of calculation of the measurement used by the Office of Public Works to determine the rent of Miesian Plaza, Baggot Street, Dublin 2 was a serious error and could result in a projected over-payment of €10m during the lifetime of the lease. The Committee recommends that all Office of Public Works leases are calculated using the appropriate measurement method and are rigorously checked before a final lease is signed.

A.9. The business case presented to the Office of Public Works' Board of Management regarding Miesian Plaza, Baggot Street, Dublin 2 did not follow best practice and alternative options to Miesian Plaza were omitted. The Committee recommends that the development of business cases by the Office of Public Works in relation to major projects include a robust analysis of key options and alternatives, plus associated costs, as required under the public spending code.

5. DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

A.10. Given the fact that legislation was put in place in 2013 regarding the Single Public Service Pension Scheme, it is unacceptable that the Department of Public Expenditure and Reform failed to give effect to the provision in the legislation regarding employer contributions until 2016, due to a lack of advanced preparatory work. This has resulted in the Department of Public Expenditure and Reform requesting back-dated payments which is causing financial difficulty for certain public bodies. The Committee recommends that legislation should be implemented in a timely manner, as soon as is practical, and following all necessary preparatory work.

A.11. It is unacceptable that pension contributions under the Single Public Service Pension Scheme are not going to a fund similar to the National Pension Reserve Fund. This defeats the purpose of the contributions made by employees and their employers. The Committee recommends that consideration should be given to investing these funds in a fund similar to the National Pension Reserve Fund.

A.12. It is unclear whether the appropriate balance between leasing and property acquisition on behalf of the State is being achieved. The Committee recommends that the Department of Public Expenditure and Reform completes a detailed assessment of the relative merits and long-term implications of property leasing and property acquisition.

A.13. Repeated and regular overruns undermine the credibility of the annual Estimates. The Committee recommends that the Department of Public Expenditure and Reform works closely with each of the Departments with a history of requesting supplementary estimates to ensure that estimates presented to the Oireachtas are accurate from the outset.

A.14. It is not acceptable that it can take approximately six months for the Estimates to be dealt with by the Dáil despite the fact that the Budget Statement is announced every year before the 15 October in accordance with the fiscal rules. The Committee recommends that the Department of Public Expenditure and Reform takes all necessary steps to ensure that the Estimates are approved by the Oireachtas before the beginning of the calendar year to which they relate.

6. HIGHER EDUCATION AUTHORITY

A.15. The Higher Education Authority may not have the appropriate powers to oversee the third level sector and ensure that public monies are expended appropriately and in accordance with good governance standards. The Committee recommends that, when drafting Higher Education Authority legislation, the Department of Education and Skills ensures that the Higher Education Authority is granted sufficient powers to allow it to provide effective oversight of the third level sector.

A.16. The primary responsibility for governance of third level institutions lies with the institutions themselves. The Committee recommends that the governing bodies of third level institutions acquire and maintain the appropriate skills and knowledge balance to ensure that these institutions are managed appropriately and to take action when deviations from expected standards occur.

7. OFFICE OF THE REVENUE COMMISSIONERS

A.17. The threshold for inclusion in the High Wealth Individual category is too high and should be more closely aligned to international averages. The Committee acknowledges that Revenue is examining this matter. The Committee recommends that Revenue completes its examination by the end of March 2019 and implements a reduced threshold for the High Wealth Individual category as soon as possible.

A.18. Guidelines do not appear to exist regarding out of court settlements for tax avoidance schemes. The Committee recommends that Revenue investigates the possibility of developing guidelines regarding out of court settlements for tax avoidance schemes in order to ensure a level of consistency in reaching such settlements in future.

A.19. There is insufficient clarity in relation to statements of assets by High Wealth Individuals. The Committee recommends consideration is given to requiring High Wealth Individuals to provide Revenue with an annual statement of assets held in Ireland.

A.20. Current deterrents to the illegal tobacco trade are grossly inadequate. The Committee recommends that Revenue investigates, in consultation with relevant Departments, the possibility of introducing a suite of measures to deter individuals from entering the illegal tobacco trade, including increasing penalties.

A.21. There is currently no legal basis to allow Revenue, in relation to Corporation Tax, to separately record trading losses carried forward and capital allowances carried forward. The Committee recommends that the Minister considers whether separate identification of trading losses forward and capital allowances can be provided for in future legislation.

9. DEPARTMENT OF EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION

A.22. The Department of Employment Affairs and Social Protection previously failed to implement proper controls in relation to jobseekers payment for under 25s. The Committee acknowledges the new controls the Department has implemented to reduce excess payments for jobseeker's under 25. The Committee recommends that an annual review takes place to ensure the new controls regarding overpayments to jobseeker's under 25 are working effectively.

A.23. The processing of applications by the Department of Employment Affairs and Social Protection requiring medical assessments is unduly slow. The Committee recommends that the Department of Employment Affairs and Social Protection completes its examination of the possibility of contracting nurses to carry out medical assessments promptly. Should it not be viable, other alternatives should be actioned to improve processing times.

A.24. It is unclear to the Committee that the numbers achieving long-term full employment as a result of the JobPath programme represents value for money. The Committee recommends that the JobPath programme is reviewed on a value for money basis to determine whether the programme should continue.

A.25. The Department of Employment Affairs and Social Protection did not conduct enough PRSI inspections in 2018. The Committee recommends that annual targets are developed to ensure the number of PRSI checks remains consistent.

1. THE NATIONAL ASSET MANAGEMENT AGENCY

Meeting Date: 20 September 2018

Principal Purpose of the Meeting:

- C&AG Special Report 102 – NAMA Second Progress Report;
- NAMA 2017 Financial Statements;
- NAMA 2016 Financial Statements.

INTRODUCTION

B.1. The National Asset Management Agency (NAMA) was established in December 2009 under the National Asset Management Agency Act. NAMA was a key feature of the Government's response to the emerging banking crisis. The Act set out the role and function of the agency which was to acquire and manage property related loans from commercial banks and ultimately to dispose of the same loans and related assets in a manner that protected the State's interests. Once this had been achieved, NAMA would cease to exist.

B.2. The C&AG Special Report 102 examines the disposal by NAMA of underlying assets and loans and assesses the extent to which NAMA has progressed towards achieving its purpose and strategic objectives, as laid out in the Act and set by NAMA's Board.

B.3. NAMA's objective is to recover all costs incurred over its lifetime without resorting to further borrowing and to meet all future commitments from its own resources over the shortest possible timeline.

Under Section 2 of the NAMA Act, NAMA also had a secondary objective. Paragraph (b) of Section 2 of the Act refers to the objective of facilitating the availability of credit and also refers to protecting the interest of taxpayers and contributing to the social and economic development of the State. The Board devised strategies to achieve this objective including;

1. Facilitating the delivery of residential units.
2. Facilitating the delivery of Grade A office accommodation in the Dublin Docklands Strategic Development Zone (SDZ).

PROGRESS TO DATE IN RELATION TO DEBT RECOVERY

LOAN ACQUISITION

B.4. NAMA reduced its stock of loans from €29.4 billion in 2010 to €5.5 billion in 2016. This is a reduction of over 80%. Members raised a number of questions in relation to the proportion of assets located overseas and the strategy that NAMA employed in disposing of these assets. NAMA explained that when it was first established it had a substantial portfolio of overseas assets worth €15 billion. €10.5 billion was located in London, €2 billion in the US and approximately €2.5 billion in other locations in Europe.

B.5. These overseas assets were mainly sold between 2010 and 2016. At the time of the meeting, NAMA had €3 million in assets remaining in London, €40 million in regional areas in the UK and €40 million in the rest of the world. 70% of its remaining portfolio is based in Dublin.

B.6. Members raised the issue of certain disposals where the purchaser resold assets for significant gains. Specific sites such as Dock Mill, Barrow Street, Sir John Rogerson's Quay and New Century House in the IFSC cited as examples. Members questioned why NAMA did not take advantage of rising market values in some cases. NAMA stated that the Irish property market at the time of these sales was "dead" and that it had to generate cash flow in order to entice investors into the market. NAMA also stated that it got the best possible price for its assets at the time they were sold.

REDEEMING SENIOR DEBT

B.7. NAMA informed the Committee that it expects to exceed its target for redemption of senior debt. NAMA paid €31.8 billion to the banks for acquisition of assets. This amount was made up of €30.2 billion government guaranteed (senior) bonds and €1.6 billion in subordinated debt. In 2012 NAMA forecasted full redemption by 2020.

B.8. This target had been exceeded by the end of 2016. By this stage NAMA had redeemed 91% of its senior debt. Redemption of senior debt was fully completed by October 2017.

COST RECOVERY

B.9. In relation to cost recovery, by the end of 2016 NAMA had generated rental and other non-disposal income of €5.3 billion. It incurred interest and other related expenses of €2.18 billion and operating costs of €741 million.

NAMA PROJECTED SURPLUS

B.10. NAMA reported a surplus of €3 billion to the end of 2016. The NAMA Board announced that it expects to generate a surplus of €3 billion to €3.5 billion to be returned to the Exchequer on completion of its work, assuming that market conditions remain favourable.

RATE OF RETURN

B.11. NAMA measures its income from investments using the Equity Rate of Return on Investment (EROI). The target set for EROI to be achieved over the lifetime of NAMA was 20%. At the end of 2016 NAMA had achieved an EROI of 33%.

B.12. The C&AG's report highlighted the fact that NAMA does not use the Internal Rate of Return (IRR). The IRR is a standard measure of performance of property-related investments. The C&AG estimates that NAMA's IRR will be approximately 6.2%.

B.13. Members expressed concern that NAMA uses the EROI as a measure of the performance of its property portfolio. The C&AG's report highlighted that this rate does not take account of the time value of money. NAMA stated that due to the fact that interest rates are so low "*the time value of money does not make much difference*". The Committee notes that the IRR is the standard measurement of performance of property-related investments.

SECTION 172 DECLARATIONS

B.14. The C&AG report states that:

"Under Section 172 of the NAMA Act a person who is the debtor (or a debtor-connected party) to an acquired bank asset is prohibited from acquiring from NAMA any acquired bank asset in relation to which default has occurred".

In other words there can be no connection between the purchaser and the debtor in any sale of NAMA property.

B.15. This section of the NAMA Act was intended to ensure that no conflicts of interest arose on the sale of any property assets under NAMA's ownership. NAMA stated that when it performs any asset or loan sale, a Section 172 declaration is issued in order to ascertain whether there are any conflicts of interests or connections between the purchaser and the debtor.

B.16. The C&AG reviewed the sale of 80 assets and found that 78 of these were required to have completed a Section 172 declaration. The report also highlighted that while Section 172 declarations are received in most cases, there is no verification process carried out on the declarations.

B.17. Members queried whether there was routine or systematic verification even on a sample basis by NAMA of Section 172 declarations by debtors of assets.

PROJECT NANTES

B.18. The Committee discussed matters related to Project Nantes. Project Nantes is the name given to the sale of a collection of loans linked to Quinlan Private to a Luxembourg based company called Clairvue-Nantes. Clairvue-Nantes paid NAMA €26.6 million in this transaction.

B.19. NAMA stated that Project Nantes refers to the sale of a particular part of a debtor's loan. Members raised the issue, highlighted in some commentary, that for this sale, NAMA had allegedly waived the requirement that a purchaser must not be connected to a relevant debtor. NAMA stated that this was not the case.

B.20. In follow up correspondence to the Committee, NAMA stated that:

- Project Nantes was only one of a number of separate transactions involving the debtor connection. Overall, the connection's par debt was €489m on acquisition by NAMA. This included some €260m of debt categorised as equity-backed loans which had been advanced to the connection by the participating institutions i.e. these loans were secured not by property collateral but by intangible assets (such as personal guarantees) which had no tangible value. NAMA did not pay the participating institutions any consideration for these €260m equity-backed loans. Thus, only €229m of the €489m par debt acquired was secured by tangible property assets with a realisable market value.

- The debtor connection agreed to initiate a programme of asset sales and debt refinancing so as to maximise recovery for NAMA. As part of that programme, NAMA set a recovery target for the connection. Ultimately, total proceeds of approximately €200m were realised from loan, property and other loan security realisations.

- As part of the disposal programme, a loan sale of debt with a par value of €352m, designated Project Nantes, realised proceeds of €26.6m. This transaction included €241m (€260m at acquisition) in equity-backed loans (for which NAMA had not paid consideration) and €111m par debt secured by assets.

B.21. NAMA maintains that proceeds of approximately €200m were realised from the asset sales and loan sale/refinancing, equating to a recovery of 87% of the original acquired property-secured par debt of €229m. The proceeds realised were well in excess of the recovery target set by NAMA for the connection and the acquisition value paid by NAMA to the participating institutions.

B.22. The Committee notes that the proceeds of €200m represent only 41% of the original par debt of €489m.

SALE OF ASSETS LOCATED OUTSIDE IRELAND

B.23. The Committee was informed that €10.6bn was generated from the sales of assets located in Ireland and €13.2bn was generated from the sales of assets located outside of Ireland.

B.24. The analysis undertaken by NAMA suggests that the geographic location of the purchasers of all €24bn of secured assets (both Irish and foreign) is as set out in the table below:

Table 1: Percentage of NAMA Sales by Jurisdiction

Jurisdiction of purchaser	% of Sales
Great Britain	33%
Ireland	31%
USA	9%
Germany	5%
Other*	22%
Total	**100%**

"Other" relates to some 45 individual countries in which purchasers of NAMA-secured assets are located

INTEREST RATES

B.25. In relation to its financial statements, Members questioned the negative interest on cash and cash equivalents. According to the accounts, NAMA lost €3 million in negative interest in 2017 and €8.3 million in 2016. The Committee requested that NAMA provide it with the total cumulative negative interest paid each year.

B.26. In follow up correspondence to the Committee, NAMA provided the following breakdown of the total negative interest rate paid each year:

Table 2: Breakdown of Total Negative Interest Paid Each Year by NAMA

	€000's FY 2015	€000's FY 2016	€000's FY 2017	€000's H1 2018	€000's Total
Interest on Collateral (Note1)	641	460	106	46	1,253
Interest on Bank Accounts (Note 2)	363	876	863	572	2,674
Interest on Cash Equivalents (Note 3)	0	7,009	2,080	1,181	10,270
	1,004	8,345	3,049	1,799	14,197

Notes:

1. Interest on collateral posting with NTMA. Collateral requirements have fallen in line with reduced derivative exposures.
2. Interest on cash balances held with Central Bank. ECB deposit rates have been negative since June 2014. Cash balances held are variable.
3. Interest on exchequer notes subject to ECB deposit rates, entered into for liquidity purposes.

PROGRESS TO DATE IN RELATION TO HOUSING AND CONSTRUCTION

B.27. Members noted that under Section 2 of the NAMA Act, NAMA had a secondary objective. Paragraph (b) of Section 2 refers to the objective of facilitating the availability of credit and also refers to protecting the interest of taxpayers and contributing to the social and economic development of the State.

B.28. Members queried the achievements to date in relation to this secondary objective regarding the facilitation of residential property construction and the level of direction it received from the Minister regarding this objective.

B.29. In 2015 the Minister for Finance requested that NAMA carry out a high level analysis of the development sites controlled by its debtors. The purpose of this review was to identify the scope for the delivery of sites for residential development over the period 2016 – 2020. NAMA informed the Minister that it could potentially achieve a target of 20,000 residential units.

B.30. It was explained to the Committee that under EU law NAMA is obliged to operate on the same basis as private market operators. This means NAMA is only allowed to fund the development of residential projects that are commercially viable.

B.31. NAMA stated it has directly funded the provision of 8,000 units since 2014 and another 2,500 have been indirectly provided on sites that were facilitated and supported by NAMA.

B.32. Members' queried the contribution that NAMA has made to the stock of social and affordable housing. NAMA provided a breakdown of the 8,000 units for which it provided direct funding by housing category; private, affordable and social, location and average price. The details are displayed in the tables below:

Table 3: Breakdown by Location of New Builds Funded by NAMA Since 1 Jan 2014

County	Units	Share
Dublin	5,721	71.4%
Cork	783	9.8%
Kildare	577	7.2%
Wicklow	308	3.8%
Galway	217	2.7%
Meath	81	1.0%

County	Units	Share
Laois	75	0.9%
Wexford	56	0.7%
Louth	46	0.6%
Kilkenny	42	0.5%
Clare	37	0.5%
Monaghan	36	0.5%
Waterford	34	0.4%
Total	**8,013**	**100%**

Table 4: Breakdown by Average Price of New Builds Funded by NAMA Since 1 Jan 2014

Gross sales price per unit	>€400k	€300k - €400k	<€300k
% of units	36%	33%	31%

Table 5: Breakdown by Buyer Type of New Builds Funded by NAMA Since 1 Jan 2014

Category of Buyer	Units	% of Total
Social	1,238	15%
Private Individuals	5,282	66%
Corporates	1,493	19%
Total All Buyers	8,013	100%

B.33. NAMA cited the example of the Dublin Docklands Strategic Development Zone as an example of its contribution to the housing supply. NAMA stated that prior to its involvement in the Dublin Docklands strategy and business plan four years ago, only 1% of the delivery capacity of the docklands' sites had moved beyond the pre-planning stage. Currently 61% of the 4.2 million sq. ft. capacity is at construction stage, 18% has been completed and sold, and planning permission has been obtained for the remaining 21%. When fully developed the site will deliver office and commercial space as well as 2,200 residential units.

B.34. NAMA explained that while funding is more readily available, particularly from non-bank sources, it is unlikely that the gap between private housing supply and demand will be met for another three to four years. This is mainly due to the lack of key house-building skills.

B.35. NAMA informed the Committee that there are almost 2.25 million residential properties in Ireland at the moment. The total number of units that the major funds have bought to rent out in the private sector amounts to approximately 5,000 units or 2% of the housing population.

B.36. NAMA also made the observation that while most local authorities want housing in their areas, they often do not have the funding to develop available sites for housing. Members raised concerns about the level of take-up by local authorities of offers of residential units from NAMA. NAMA stated that only 40% of offers to local authorities were taken up.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

B.37. NAMA's lack of systematic and routine verification of Section 172 declarations was unacceptable. The Committee recommends that NAMA puts in place a system to verify Section 172 declarations it receives for the remainder of its operation.

B.38. The acceptance by Local Authorities of just 40% of the 7,000 residential units and sites suitable for housing requires re-examination given the current housing crisis. The Committee recommends that those housing units and sites suitable for housing, still available to NAMA, be re-offered and reconsidered by Local Authorities.

2. THE PRESIDENT'S ESTABLISHMENT

Meeting Date: 25 September 2018

Principal Purpose of the Meeting:

- C&AG Appropriation Account 2016 Vote 1 – President's Establishment.

INTRODUCTION

C.1. Discussion focused on matters related to Vote 1 - President's Establishment from the 2016 Annual Report of the Comptroller and Auditor General Appropriation Accounts. The purpose of the meeting was to examine the allocation and expenditure of money under the Vote, and to look at the governance and oversight measures adopted by the relevant Accounting Officer.

C.2. The Committee notes that the C&AG returned a clear audit opinion in respect of Vote 1.

C.3. This report focusses on the following:

- Expenditure in the Vote and across other Votes which pertains to the costs associated with the Office of the Presidency;
- The status of the Accounting Officer for Vote 1;
- Matters related to the President Establishment's internal audit committee;
- The President's allowance from the central fund, which is not part of Vote 1.

EXPENDITURE IN VOTE 1

C.4. Expenditure under Vote 1 is divided under two programme headings:

1. The President's Establishment – comprising pay and allowances, travel expenses, training expenses, communication services, office supplies and related expenses. Expenditure under this heading was €2,456,000 in 2016.
2. The Centenarians' Bounty – funds the amount paid to people on reaching 100 years in the country each year. It had an expenditure of €1,152,000 in 2016.

C.5. A surplus of €286,958 was returned to the Exchequer at the end of 2016 from Vote 1. The C&AG informed the Committee that this 10% underspend is usual for this particular Vote and in line with spending for similar sized offices.

FULL COST BREAKDOWN OF EXPENDITURE

C.6. The Committee was informed that the President's Establishment Vote does not cover the full cost of the Presidency. Some of the costs are covered by other departments and therefore appear across other Votes.

C.7. The Appropriation Account refers to these as net allied services expenditure and provides the following breakdown of expenditure by Vote in 2016:

Table 6: Breakdown of President's Establishment Costs by Vote

Vote 7 Office of the Minister for Finance	€20,000
Vote 12 Superannuation and Retired Allowances	€484,000
Vote 13 Office of Public Works	€2,411,000
Vote 18 National Shared Services Office	€4,000
Vote 20 Garda Síochána	€174,000
Vote 28 Foreign Affairs and Trade	€241,000
Vote 36 Defence	€431,000
Central Fund (Emoluments and allowances of President and presidential pensions).	€893,000
Total	**€4,658,000**
Net expenditure in Vote 1 (minus appropriations-in-aid and changes to assets)	€3,505,000
Total net operating cost	**€8,163,000**

STATUS OF ACCOUNTING OFFICER

C.8. The Committee discussed the fact that the Secretary General of the Department of An Taoiseach is the Accounting Officer for Vote 1 - President's Establishment, despite having no executive or operational responsibility for the Office of the President. Rather, he obtains assurances that the Office operates properly from direct contact with the Secretary General to the President and from the audit performed by the Comptroller and Auditor General.

C.9. The Committee was informed that the Secretary General of the Department of An Taoiseach is the Accounting Officer of the Presidents' Establishment, rather than the Secretary General of the President's Establishment, because of a constitutional issue. If the President's direct staff were to be accountable to the Oireachtas, it would violate the constitutional provision which prohibits the President being answerable to the Oireachtas.

C.10. The Committee was also informed that the Presidency is not subject to Freedom of Information provision. The Committee heard that this would present a similar constitutional issue, as the President is not accountable to the Courts and FOI legislation involves the courts.

INTERNAL AUDIT FUNCTION

C.11. The Committee explored the issue of the President's Establishment's audit committee and it emerged that, although the audit committee was first established in Spring 2014, it did not meet until February 2018. The audit Committee met three times between February and September 2018.

C.12. Members drew attention to the fact that the appropriation accounts were filed in September 2017, four months overdue.

ALLOWANCE FROM THE CENTRAL FUND

C.13. During the meeting the matter of an annual allowance made available to the Presidency through the Central Fund was raised. It is not in Vote 1 – President's Establishment. It is a payment made under the Presidential Establishment Act, set at €317,000 since 1998 via Statutory Instrument. The purpose that the allowance is to be used for is not prescribed in law. The allowance is not audited by the C&AG as he does not have the power to audit allowances.

C.14. The C&AG told the Committee that, while the amount is not surrenderable at the end of each year, in 2011 an amount of €357,000 was returned to the Central Fund at the end of the previous Presidency.

C.15. The Committee notes that the total net operating cost of the Office of the President is €8,163,000. This amount is fully audited by the C&AG. If the allowance from the Central

Fund were included in this figure, the total expenditure would be €8,480,000. The table below shows the relative breakdown in percentage terms of all expenditure associated with the Office of the President.

Table 7: Total Expenditure Associated with the President's Establishment

Funding	Amount €	Percentage %
Vote 1 – President's Establishment	€3,505,000	41%
Net Allied Expenditure	€4,658,000	55%
Total Audited Expenditure	**€8,163,000**	**96%**
Presidential Allowance*	€317,000	4%
Total (Voted Expenditure + Presidential Allowance)	**€8,480,000**	**100%**

** This allowance is paid through the Central Fund and not through voted expenditure. Table is based on the assumption that allowance is spent in full.*

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

C.16. It is unacceptable that the internal audit committee for the President's Establishment, which was established in 2014, did not meet prior to 2018. The Committee recommends that the audit committee for the President's Establishment develops a schedule of regular meetings each year.

C.17. There is no statutory audit in relation to the €317,000 Presidential allowance paid from the Central Fund, which is granted under the Presidential Establishment Act and S.I. No. 67/1998. The Committee recommends that consideration be given to including the €317,000 Presidential allowance under Vote 1 and therefore making it subject to audit by the C&AG.

3. TEAGASC

Meeting Date: 4 October 2018

Principal Purpose of the Meeting:

- Teagasc Financial Statements 2017

INTRODUCTION

D.1. Teagasc is a state agency which provides research, advisory and education functions in agriculture, horticulture, food and rural development.

D.2. Discussions related to the following issues highlighted in the Financial Statements:

- €1.35m of expenditure which did not comply with public procurement guidelines;
- Teagasc's operating surplus, cash flow and a fund for infrastructure;
- Sale of assets and office rationalisation.

D.3. Teagasc's total income in 2017 was €183 million. Over three quarters of Teagasc's income comes from direct Oireachtas grants. Non-grant-in-aid income in 2017 was €56 million.

D.4. Expenditure totalled €178 million with pay and other staff costs accounting for two thirds of this. Teagasc's operating surplus was €5 million.

NON-COMPLIANT PROCUREMENT

D.5. Members noted Teagasc's disclosure in its Statement of Internal Control that in 2017 procurement procedures relating to expenditure of €1.35m did not comply with public procurement guidelines. Teagasc informed the Committee that these instances of non-compliance were caused by:

1. quotes being sought by local suppliers rather than through eTenders;
2. the extension of existing contracts where the service requirement was being reviewed, where there were delays in the implementation of the Office of Government Procurement Process or where a similar service had been procured from the same supplier.

ISSUES ARISING FROM FINANCIAL STATEMENTS

D.6. Members inquired how advisory fees are determined. The Director told the Committee that Teagasc's Advisory and Education Committee makes recommendations for advisory fee changes which must be approved by the Minister for Agriculture, Food and the Marine. €113,000 advisory fee bad debts were written off in 2017.

D.7. Members questioned the 8% increase of €403,000 expenditure on travel and subsistence. Teagasc explained that all travel and subsistence is driven by activity levels on farms. The Accounting Officer stated that the fodder shortage increased the need for on-farm visits.

D.8. Members noted the increase in financial charges from €95,000 in 2016 to €439,000 in 2017.

D.9. Members noted the grants to private colleges in the accounts. The Director stated that these consisted of staff salary subventions and contributions to facilities maintenance for colleges which provide educational courses on behalf of Teagasc, and that grants are made on the basis of Service Level Agreements which are already in place.

D.10. Members questioned Teagasc's expenditure of €175,000 on tax advice and other consultancy charges of €345,000. Teagasc explained that due to the various types of activities it is involved in, expert advice on tax compliance is required, and that the consultancy charges covered a range of issues including educational activities and developing a tourism centre in Johnstown Castle.

CASH FLOW AND OPERATING SURPLUSES

D.11. The Committee notes that the total surplus at the end of 2017 was €2.398 million, a decline from €6.152 million in 2016.

D.12. Teagasc informed the Committee that a higher surplus was purposely generated in 2016 in order to build up "a rainy day fund" to help better manage its cash flow. Teagasc told the Committee that if the opportunity presents in future, it will aim to build up this fund to a significantly higher amount. The purpose of the rainy day fund is to help Teagasc to meet ongoing capital requirements.

D.13. Teagasc explained that building up such a rainy day fund is necessary due to delayed income resulting from costly activities and because Teagasc does not have overdraft facilities.

LANDHOLDING AND ASSETS

D.14. Teagasc told the Committee that substantial infrastructural needs are sometimes funded through the sale of assets or through one-off special capital grants from Government. Members questioned the sustainability of this model and Teagasc explained that it does not believe that the current model is sustainable for ongoing infrastructural needs.

D.15. The Committee was informed that Teagasc owns approximately 1,800 ha. in non-utilised agricultural area across all sites. Teagasc does not regularly get its lands valued due to costs, but professional advice on market value is sought when there is intention to sell.

D.16. Teagasc explained that a recent rationalisation programme has reduced the number of advisory officers from 90 to 51.

FARM SAFETY

D.17. Members raised the issue of farm safety and farm deaths. The Committee was informed that Teagasc has a special adviser for farm safety and was in the process of recruiting a second one. The Director of Teagasc expressed their concern about the safety of elderly farmers and stated that statistics are moving in the wrong direction.

D.18. Follow up correspondence from Teagasc to the Committee confirmed that “results from the Teagasc National Farm survey indicated that on farm accidents causing injury occurred on 11% of farms in 2017.

OTHER ISSUES NOTED BY THE COMMITTEE

D.19. Members raised the issue of the challenges presented by climate change and Teagasc informed the Committee that the growth in cow numbers and meeting greenhouse gas obligations by 2030 is incompatible. This could have resulting financial implications for Ireland. The Committee heard that Teagasc has a dedicated climate change team, including a research department and a knowledge transfer department. There are also two internal working groups drawn from across the organisation, one on climate change and the other on water.

D.20. Members raised the recent issue of fodder shortage and while Teagasc indicated that the situation was improving at the time of the meeting, it acknowledged that such events are likely to continue to happen due to climate change. Teagasc explained that it is tracking grass growth and that grass production on most farms could potentially be doubled.

D.21. The Committee discussed the Greenfield dairy programme in Kilkenny and Teagasc stated that it has no investment in it, but that it provides managerial advice on the model and supplies the services of a Moorepark staff member to it. Teagasc confirmed that the animals are mostly kept outdoors and said that this will be examined in a review which has been commissioned.

D.22. Members acknowledged that Teagasc's shareholding in private companies was small, but questioned whether it could compromise Teagasc's independence regarding advising farmers on organic farming practices. Teagasc stated that the shares are received automatically for supplying milk.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

D.23. €1.35 million of Teagasc's expenditure in 2017 was non-compliant with public procurement guidelines. The Committee recommends that Teagasc ensures its procurement processes complies with all guidelines in future.

D.24. Teagasc is attempting to create and save surpluses year-on-year as the opportunity presents to maintain a rainy day fund. Infrastructural needs are also sometimes met by the sale of assets. The Committee recommends that a more sustainable method for establishing funds for both (a) infrastructural maintenance and (b) longer term capital projects be developed by Teagasc, in consultation with relevant Government Departments.

4. THE OFFICE OF PUBLIC WORKS

Meeting Date: 11 October 2018

Principal Purpose of the Meeting:

- Vote 13 – Office of Public Works;
- Appropriation Account 2017;
- C&AG Report 2017 Chapter 6 – Lease of Offices at Miesian Plaza,

INTRODUCTION

E.1. Discussion focused on matters relating to the Office of Public Works Appropriation Account 2017 and Chapter 6 of the C&AG's Report 2017. The C&AG returned a clear audit opinion of the appropriation account.

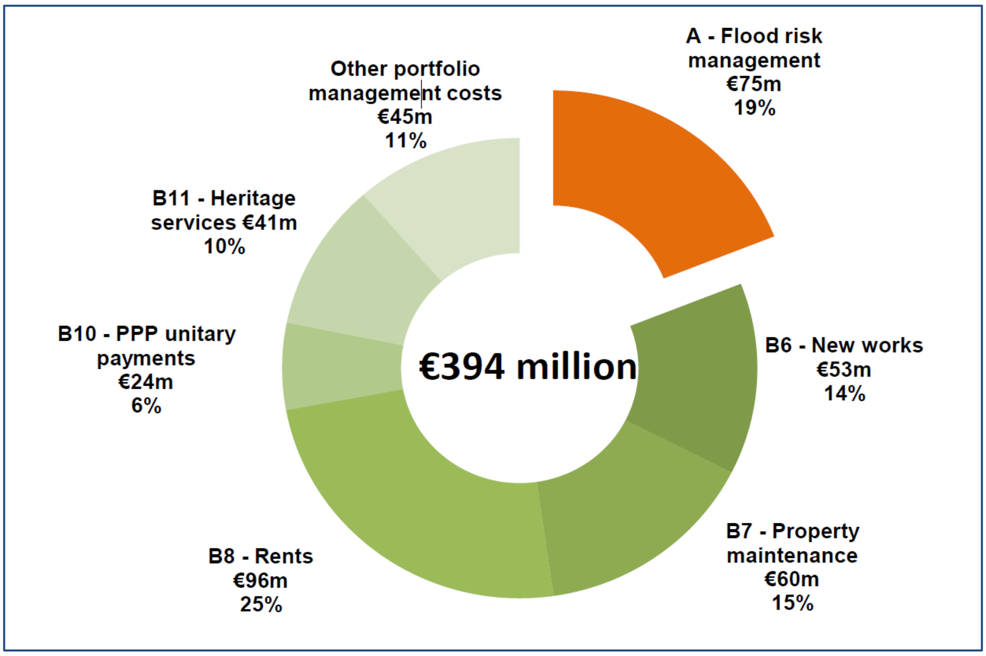
E.2. The Committee heard that voted net expenditure for the OPW in 2017 was €360m. This comprised €394m gross voted expenditure and €34m appropriations-in-aid.

E.3. OPW expenditure is categorised under 2 primary programme headings:

1. Flood Risk Management;
2. Estate Portfolio Management.

The graphic below outlines the main areas of expenditure for Vote 13 in 2017

Graphic 1: OPW Expenditure 2017, by Programme



E.4. While a clear audit opinion was returned, the Committee's consideration focussed on the following;

- Lease of Offices at Miesian Plaza, Baggot Street, Dublin 2;
- Property Management Agency Function;
- Garda Station Re-openings;
- Flood Relief Programmes;
- Heritage Estate Management.

LEASE OF MIESIAN PLAZA OFFICES

E.5. The Committee heard that the OPW entered into a 25-year lease at Miesian Plaza, Baggot Street, Dublin 2 in May 2017. Miesian Plaza is a property of 15,000 sq.m and represents the largest leased acquisition of the State in recent years. It has the capacity to accommodate 936 members of staff.

BACKGROUND TO THE MIESIAN PLAZA LEASE AGREEMENT

E.6. The C&AG informed the Committee that Miesian Plaza was primarily acquired to accommodate the Department of Health (DoH) and the Department of Children and Youth Affairs (DCYA).

E.7. The OPW informed the Committee that the DoH needed a new headquarters (HQ) due to the deteriorating conditions of its former HQ in Hawkins House. The C&AG informed the Committee that ICT capacity in Hawkins House was limited and that there were problems with the existing telephone system.

E.8. The OPW also informed the Committee that the lease for the building the DCYA previously occupied on Mespil Road was due to expire, and that the building was no longer capable of meeting the staff requirements of that Department.

E.9. The OPW informed the Committee that Miesian Plaza was also intended to house certain sections of the Department of Finance (DoF) and DPER. Members expressed concern that the expectation that one building would provide accommodation for four Departments was overly ambitious.

LEASE AGREEMENT AND RESULTING ISSUES

E.10. The Committee heard that in March 2016 the OPW Board approved the lease for Miesian Plaza on the basis of the terms negotiated by independent consultants on its behalf. At that stage it was envisioned that allowing for a fit out period of 8 to 10 months, the premises would be ready for full occupancy in the first quarter of 2017. Ultimately occupancy began in May 2018, and full occupancy was achieved only in July 2018.

E.11. The contracted annual rent for the premises is currently €10m and is subject to 5-year rent reviews throughout the lifespan of the 25-year lease. The Committee was informed that lease payments on the property began in December 2016, 18 months before Miesian Plaza was occupied.

E.12. The OPW informed the Committee that the delay in occupation was due to delays in reaching agreement between Departments in relation to the number of staff to be accommodated and the refurbishment plans.

E.13. The C&AG informed the Committee that currently Miesian Plaza does not have the capacity to accommodate the full complement of staff, or the projected future staffing needs, of the DoH and the DCYA.

E.14. The OPW confirmed to the Committee that 95% of staff from the primary departments are currently located in Miesian Plaza but that the remaining staff members are accommodated in secondary locations.

E.15. The Committee was informed by the C&AG that the delay in occupation resulted in the ineffective expenditure of €11m. This was because the lease payments began 18 months before the building was occupied. This resulted in the OPW making payments on an empty premises and making payments to keep the departments intended to occupy Miesian Plaza elsewhere. The graphic below explains the timeline for the lease from the time Miesian Plaza was proposed until the date of occupancy.

Graphic 2: Timeline – Lease of Miesian Plaza and engagements with DoH and DCYA

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

		DoH	OPW	DCYA
2015	Aug		Following discussions, landlord's agent submits proposal on Miesian Plaza.	
	Sept		Two options for DoH discounted, Miesian Plaza considered optimum solution due to urgency around relocation	
	Oct	Preliminary meeting re relocation from Hawkins House		DCYA formally contact OPW re lease expiry Mespil Road
	Nov		Consultants negotiate lease terms on behalf of OPW	
2016	Apr		OPW appoint quantity surveyor re fit-out	
	May			OPW Chairman writes to Sec Gen stating that all requirements of brief have been met
	June	Sec Gen writes to Chairman setting out detailed observations on floor plans provided		Sec Gen replies disagreeing that all requirements met
	July			DCYA sign off on floor layouts subject to later sign off on open plan layouts
	Oct	Sec Gen writes to Chairman stating that based on the plans provided, DoH cannot, at this stage proceed with the relocation		
	Dec	OPW review options due to disagreements with DoH. Decide not to use directive role	Measurement of premises carried out by consultants on behalf of landlord and OPW	
2017	Jan	Chairman writes to Sec Gen re OPW's intention to reallocate space in Miesian Plaza to other departments/agencies as DoH's requirements cannot be physically met		
	Feb	Sec Gen replies to Chairman stating that in the absence of a specific alternative proposal DoH would have great difficulty in abandoning Miesian Plaza option; notes that provision of 5 floors would allow DoH to commit Chairman writes to Sec Gen stating that 4 floors allocated to DoH as well as part of the 5th floor (to be shared with other departments), with provision for expansion Sec Gen confirms agreement to the proposals as set out in Chairman's letter		
	Mar	Sec Gen writes to Chairman noting that DoH have not agreed layout of offices and common areas		
	May		Lease signed by OPW and landlord; rent commencement date 21 Dec 2016	
	June		Notice to commence fit out	
	July	DoH consider floor plans agreed		Lease on Mespil road premises extended
2018	Feb		OPW consider final layouts agreed. Practical completion of floors 1 - 7	
	May			DCYA move into Miesian Plaza
	July	DoH move into Miesian Plaza		

Extensive ongoing engagement between DCYA and OPW

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

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

MISCALCULATED RENT

E.16. The C&AG also informed the Committee that confusion in relation to measurement requirements will result in a projected over-payment of €10m in rent charges over the lifetime of the lease.

E.17. The C&AG's 2017 report highlighted how the Chief State Solicitor's Office (CSSO) requested that the OPW check with its in-house valuer that the International Property Measurement Standard (IPMS) used to calculate the measurement of Miesian Plaza was in accordance with-standard international practice.

E.18. The OPW informed the Committee that the CSSO made its request in August or September 2016, before the lease agreement was signed in January 2017.

E.19. The OPW explained that the lease had been negotiated using an old standard of measurement and that, at the time, the new IPMS code referenced by the CSSO was not widely used in Ireland.

E.20. The Committee was informed that the OPW engaged with the owner of the building regarding recalculating the rent. At the time of publication of this report, these negotiations were still on-going.

E.21. Members expressed concern that the OPW did not act sooner to re-calculate the rent which should have been determined by measurements using the new IPMS code. It was of particular concern to members that it took approximately two years from when the issue was first raised internally before the OPW looked in to it.

THE MIESIAN PLAZA BUSINESS CASE

E.22. Members expressed concern regarding the process of acquiring Miesian Plaza and the information provided in the business case, required under the public spending code, that was submitted to the OPW's board. Members were concerned that two other identified sites appeared to be omitted from the documentation presented to the management board of the OPW in March 2016.

E.23. The OPW explained that, while there were no formal submissions to OPW management regarding the alternative building options identified, the two additional options had been discussed at board level.

E.24. Members drew attention to the fact that the required economic appraisal and documentation of advanced analysis of full costs and risks associated with the project was also omitted from the business plan. The OPW explained that they recognised that the process regarding the business case for Miesian Plaza was not followed properly and that they accepted the recommendation in the C&AG report to that effect.

BUSINESS REFORM AND RESULTING STAFF ISSUES

E.25. The Committee heard that the delay in the occupation of Miesian Plaza was also influenced by the business practice reform required of departments to facilitate the move. The Miesian Plaza refurbishment project resulted in a significant reduction of the number of individual offices available. As a result staff members, particularly those at Assistant Principal (AP) level who previously had individual offices, would be required to work in open plan spaces instead.

E.26. The change in business practice for the DoH staff proved more problematic than anticipated and had an effect on the time it took to occupy Miesian Plaza. Members expressed dissatisfaction that staff resolution took so long and with the resulting cost implications.

PROPERTY MANAGEMENT AGENCY FUNCTION

E.27. The Committee heard that in addition to the activities funded by Vote 13, the OPW acts on an agency basis for Government Departments and State Agencies. This includes leasing accommodation on their behalf as well as managing larger capital projects.

E.28. The OPW informed the Committee that it spent €84m in 2017 on behalf of Government Departments and State agencies. Some Members noted that the OPW is active in the rental market and that this may inadvertently contribute to the high cost of rent in the market place.

LEASING VERSUS BUYING

E.29. In the course of discussing the property management agency function, Members queried the benefits of leasing property over purchasing property. Members questioned the long-term benefits of leasing as the State does not own the property at the end of the lease period. This is a matter that the Committee raised in its last periodic report as there is no clear policy in place regarding leasing versus purchasing.

E.30. The OPW explained that they consistently monitor the Irish property market to identify suitable property. There are 3 options the OPW considers when looking for property. These are buying, building and leasing. The preferred option depends on market conditions at each given time. The OPW also has the option of refurbishing buildings that are currently in State ownership. The OPW informed the Committee that there is no official policy on renting versus buying. It depends on the funding available and market conditions. Funding for large capital projects is determined by the Department of Public Expenditure and Reform (DPER).

ADDITIONAL OVERPAYMENT IDENTIFIED

E.31. Following the discovery that the Miesian Plaza lease had been negotiated using incorrect measurements, the C&AG examination team undertook a review of 20 active OPW leases to determine whether this mistake had occurred before. The review identified a similar case which involves a 20-year lease, entered into in 2006, in Galway. Similar confusion about measurement appeared to have resulted in the annual over-payment of €141,000 in the Galway lease. In follow-up information, the OPW confirmed that it has examined the lease in question and is confident that no overpayment had occurred on this particular property.

GARDA STATION REOPENINGS

E.32. The OPW confirmed to the Committee that 6 Garda Stations have been approved for re-opening following their closure in recent years. The OPW is responsible for sourcing and/or refurbishing the properties. The allocated budget for this project is €2.5m. At the time of the meeting, €1.5m had been allocated to the re-opening the Garda Station in Stepaside Co. Dublin. Members noted that this leaves €1m for the remaining 5 sites which could result in the project going over budget.

FLOOD RISK MANAGEMENT

E.33. The OPW is responsible for the implementation of the national flood risk policy. The Committee heard that the risk of flooding is increasing due to rising sea levels and other potential effects of climate change. €1billion has been committed by the Government for capital investment in flood risk management over the next decade. The Committee heard that €75m was spent in 2017 on this sub-heading in 2017. This represents 19% of the OPW budget 2017.

E.34. In 2017 the OPW undertook the Catchment Flood Risk Assessment and Management (CFRAM) programme. According to the OPW, this was the largest flood risk study undertaken in and by the State to date. The CFRAM involved analysis of flood risk across 300 designated communities, including 90 coastal areas.

E.35. The OPW informed the Committee that the CFRAM has resulted in the creation of 29 flood risk management plans with priority measurements to manage the assessed flood risk. The CFRAM includes increasing capability to protect 95% of properties assessed as being at risk of flooding through 118 new flood relief schemes. The 118 new schemes identified are in addition to the current 75 flood relief schemes that are complete or currently under way.

E.36. The OPW confirmed that 50 of the 118 new schemes have been prioritised. The OPW confirmed that they are underway but still at the design stage.

E.37. In addition to flood relief programmes, the OPW maintains all arterial drainage schemes completed by it under the Arterial Drainage Act 1945, including the ongoing protection of 263,000 ha of agricultural land.

HERITAGE ESTATE PORTFOLIO MANAGEMENT

E.38. The OPW are the caretakers of the State's built heritage estate. This involves the maintenance and management of 780 national monuments, 70 heritage sites and 30 historical properties. The estate management functions of the OPW include the obtainment, upkeep and management of 2,500 properties for more than 70 client Departments and public bodies. Other regular functions of the OPW include the provision of storage and the management of the State art collection.

E.39. The OPW returned €5M to the Exchequer at the end of 2017 due to increased income from heritage site receipts. This is accounted for under a different heading in Vote 13 and this difference had to be returned under the rules of the net vote.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

E.40. The delay in occupation of the Miesian Plaza, Baggot Street, Dublin 2 premises resulted in the ineffective expenditure of €11m. This delay was partly due to a lack of staff engagement regarding changes to the working environment in the Department of Health that were necessary to facilitate the move. The Committee recommends that in future, a programme of engagement and consultation with staff takes place at an early stage as an intrinsic part of any departmental or public body office move.

E.41. The method of calculation of the measurement used by the Office of Public Works to determine the rent of Miesian Plaza, Baggot Street, Dublin 2 was a serious error and could result in a projected over-payment of €10m during the lifetime of the lease. The Committee recommends that all Office of Public Works leases are calculated using the appropriate measurement method and are rigorously checked before a final lease is signed.

E.42. The business case presented to the Office of Public Works' Board of Management regarding Miesian Plaza, Baggot Street, Dublin 2 did not follow best practice and alternative options to Miesian Plaza were omitted. The Committee recommends that the development of business cases by the Office of Public Works in relation to major projects include a robust analysis of key options and alternatives, plus associated costs, as required under the public spending code.

5. DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

Meeting Date: 18 October 2018

Principal Purpose of the Meeting:

- Appropriation Account 2016 and 2017 Vote 11: Department of Public Expenditure and Reform (DPER);
- Appropriation Account 2016 and 2017 Vote 12: Superannuation and Retired Allowances ;
- C&AG Report 2016 Chapter 6: Vote Accounting and Budget Management;
- C&AG Report 2017 Chapter 5: Vote Accounting and Budget Management;
- C&AG Report 2017 Chapter 2: Collection of Pension Contributions due to the Exchequer;
- C&AG Report 2017 Chapter 3: Control of Funding for Voted Public Services;
- C&AG Special Report 95: Financial Reporting in the Public Sector;
- C&AG Special Report 99: Public Sector Financial Reporting for 2015;
- C&AG Special Report 100: Public Sector Financial Reporting for 2016.

INTRODUCTION

FINANCIAL OVERVIEW

F.1. The Comptroller and Auditor General (C&AG) issued a clear audit opinion for both the 2016 and 2017 appropriation accounts for Vote 11.

F.2. The 2017 Vote 11 Office of the Minister for Public Expenditure and Reform recorded gross expenditure of almost €53 million, an increase of 23% on prior year. The bulk of this increase is due to additional spending of €7.4 million by the Office of the Government Chief Information Officer. These figures are set out in Table 7 below.

Table 8: Total DPER Programme Expenditure 2016 and 2017

Subhead	Programme Area	2017 €000	2016 €000
A	Public expenditure and sectoral policy	15,092	14,908
B	Public service management and reform	37,899	28,280
	Total Programme Expenditure	**52,991**	**43,188**

Source: Appropriation Account 2017 Vote 11 p.6

F.3. At the end of 2017 the Department had underspent by €2 million of which unspent capital funding of €685,000 was carried forward to 2018. The remaining €1.3 million was returned to the Exchequer. At the end of 2016 the total amount refunded to the Exchequer was €2.5 million. Table 8 below sets out the amounts refunded to the Exchequer since 2015.

Table 9: Surplus for Surrender by DPER since 2015

2015	2016	2017
€4,142,320	€2,524,639	€1,326,378[a]
[a]*Original surplus €2,011,378 less deferred surrender €685,000 = €1,326,378*		

F.4. The Vote 12 Superannuation and Retired Allowances Appropriation account is used to pay pensions to civil servants and prison officers. The gross expenditure on Vote 12 in 2017 was €535.5 million. This is an increase of 7% from 2016.

F.5. Appropriations-in-Aid which consisted mainly of employee pension contributions amounted to €202.5 million in 2017 which was an increase of 28% from 2016. This increase was as a result of increased employee contributions in respect of the single public service pension scheme.

MATTERS ARISING FROM DISCUSSION OF THE C&AG'S 2016 AND 2017 ANNUAL REPORTS

CHAPTER 2: C&AG 2017 ANNUAL REPORT COLLECTION OF PENSION CONTRIBUTIONS DUE TO THE EXCHEQUER

F.6. The new Single Public Service Pension Scheme was established pursuant to the Public Service Pensions Act 2012 and came into effect from 1 January 2013. In general all new entrants to pensionable positions on or after 1 January 2013 are members of the Single Public Service Pension Scheme.

F.7. The legislation underpinning the Single Public Service Pension Scheme provided for employer pension contributions for entities that are not fully funded by the Exchequer. The employer contribution rate was specified as the actuarially-determined cost of providing for the benefits concerned after taking account of employee contributions, but was capped at three times the employees' contributions.

F.8. Although the Public Service Pensions Act was passed in 2012, it was not until 2016 that DPER gave effect to the provision in the legislation and issued Circular 28/2016 (the Circular) stating that employer contributions were payable at three times the employees' contributions.

F.9. At the time the Circular was issued, the Department did not have an estimate of the number of bodies that it was applicable to or the amounts that would be collected.

F.10. At the time of the meeting there were 14 bodies making employer contributions. As of 14 September 2018, these contributions amounted to €4.35 million. A list of these bodies is set out in Graphic 3 below.

Graphic 3: Public bodies making employer pension contributions as of September 2018

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

Source: C&AG's report 2017 Chapter 2 p.24

F.11. DPER confirmed to the Committee that, as of 31 January 2019, 24 additional bodies had been identified as liable for Public Service Single Pension Scheme employer contributions. 17 had already made payments totalling €5.8m. Six of the remaining bodies have given a commitment that they will make payment at the earliest opportunity. Agreement to remit employer contributions is still subject to discussion with one body, the Dental Council. In correspondence received in March 2019, the Dental Council informed the Committee that it is still in contact with DPER and will make payments if and when DPER confirms how it will meet its obligations to organisations like the Dental Council which are predominantly self-funded.

Graphic 4: 24 Additional Bodies Identified as Liable for the Public Service Single Pension Scheme

Department	Relevant Authority	RA Code	Status	Amount Remitted
DAFM	National Milk Agency	244	No Members Currently	0
DBEI	Irish Auditing and Accounting Supervisory Authority	184	Remitting	Overpayment Identified-Reconciliation in Process
DBEI	Personal Injuries Assessment Board	271	Remitting	€280,000
DBEI	National Standards Authority of Ireland	355	Agreed to Remit	0
DCCAE	Broadcasting Authority of Ireland	47	Remitting	€120,000
DCCAE	Commission for Communications Regulation	86	Remitting	€1,130,000
DCCAE	Commission for Regulation of Utilities	87	Remitting	€920,000
DCCAE	Digital Hub Development Agency	126	Remitting	€125,000
DCCAE	National Oil Reserves Agency	246	Remitting	€90,000
DEASP	Pensions Authority	256	Remitting	€345,000
DES	Teaching Council	345	Remitting	€60,000
DHPLG	Housing Finance Agency	174	Remitting	€95,000
DHPLG	Residential Tenancies Board	285	Agreed to Remit	€0
DoF	Financial Services and Pensions Ombudsman	149	Remitting	€265,000
DoH	Dental Council	125	Awaiting Agreement	€0
DoH	Health Products Regulatory Authority	187	Agreed to Remit	€0
DoH	Nursing and Midwifery Board of Ireland	255	Remitting	€230,000
DoH	Health Insurance Authority	351	Remitting	€70,000
DoH	Medical Council	354	Remitting	€750,000
DoH	Pharmaceutical Society of Ireland	357	Remitting	€290,000
DPER	National Lottery Regulator's Office	387	Remitting	€130,000
DTTS	Commission for Aviation Regulation	85	Remitting	€95,000
DTTS	Road Safety Authority	292	Remitting	€795,000
DoJ	Legal Service Regulatory Authority	413	Agreed to Remit	€0

F.12. Members queried why pension contributions were not transferred to a fund similar to the National Pension Reserve Fund. Currently pension contributions from the Single Public Service Pension Scheme are used to pay day-to-day pension expenditure and the funds are guaranteed by the Exchequer. Members raised the point that if contributions are not going into a fund such as the National Pension Reserve Fund, then this could defeat the purpose of employees making contributions. DPER stated that it accepts the point raised by Members.

F.13. Members expressed dissatisfaction with this response. Members also stated that as a result of the lack of action taken by the Department regarding employer contributions, certain individual entities may encounter cash flow difficulties as five years' contributions will become payable in the near future.

CHAPTER 3: C&AG 2017 ANNUAL REPORT CONTROL OF FUNDING FOR VOTED PUBLIC SERVICES

F.14. The Appropriation Act set out the framework for how funds are allocated for voted public services and how these funds are accounted for. Voted expenditure includes the ordinary services of the various departments and offices and is approved by the Dáil every year. This is a two stage process:

Stage 1: Dáil Éireann considers the estimate for each service and passes the relevant financial resolution.

Stage 2: Legislation to give effect to the financial resolutions for each year must be enacted within that year – this is done through the annual Appropriation Act.

F.15. Through the Appropriation Act 2017 the Dáil approved voted expenditure totaling €49.7 billion for 42 voted services. This total was made up of €46.8 billion from the Central Fund and €2.9 billion in appropriations-in-aid and other receipts collected by the various departments and offices. The key elements of this process are set out in Graphic 5 below.

Graphic 5: Process of Approval for Appropriation Act

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

Source: C&AG's report adapted by PAC Committee Secretariat

F.16. In its 2017 Annual Report, the C&AG highlighted the risk to the continuity of funding of public services through the Appropriation Act resulting from unexpected or short notice dissolution of Dáil Éireann.

F.17. This means that, if the Dáil is dissolved at short notice, there is a risk that there will not be enough time for the Dáil to pass the annual Appropriation Act and therefore funding of public services may not be provided.

F.18. In response to this issue and questions raised by the Members, DPER confirmed that the officials of the Department are aware of this risk and, in an effort to mitigate it, there is constant and clear communication with the Whip's office regarding the timeline for publication of the Appropriations Bill.

F.19. DPER explained that it anticipates the Bill will be passed by the end of the year. It accepted the risk highlighted by the C&AG but stated that it was in constant communication with the Taoiseach's Department and that the legislation was ready for any short notice dissolution.

AMOUNTS RETURNED TO THE EXCHEQUER

F.20. Members raised questions in relation to amounts the Department has surrendered to the Exchequer in recent years. For example, €2.5 million was returned in 2017. DPER explained that this was not necessarily due to efficiencies within the Department but to the fact that difficulties have arisen in relation to recruiting staff, particularly IT staff. Investment in IT has been ramped up but it has been difficult to recruit the appropriately qualified staff.

LEGAL COSTS

F.21. Members raised the issue of a legal case that had been brought against the Department which the Department won but in which it will have to pay legal costs. Members requested an explanation.

F.22. In response, DPER stated that the case related to sick leave and changes to entitlements that had been introduced several years ago. The case went through several stages of the courts and, while the Department ultimately won, there were issues with how the case was handled which resulted in the Department not being awarded costs. The Department will have to pay costs of between €200,000 and €250,000.

F.23. The Committee received correspondence from the Department setting out the status and costs of this case which is summarised below:

- The Garda Representative Association brought a judicial review of the decision to include their members in the new sick leave regulations contained within the Public Service Sick Leave Scheme which was introduced in March 2014;
- In May 2018 the Supreme Court judgment on the issue of costs in relation to the entire legal proceedings in the case was given;
- An estimate of these costs was made by the costs section of the Chief State Solicitors Office (CSSO) prior to the Supreme Court hearings costs being incurred that were approximately €255,000. The final amount of costs involved will be determined through

the process of assessment and measurement of legal costs by the Office of the Taxing Master;

- The case was concluded in February 2018 on the substantive issues but the issue of judgment on costs was to be heard at a further session of the Supreme Court;
- The CSSO informed the Department in September 2018 that, given the complexity of the case, the multiple orders, and the fact that final order was only made 4 months previously, that payment would not be realised in 2018 and the funds would need to be provided for in 2019.

F.24. DPER informed the Committee that the changes to sick leave entitlements had been a significant reform and have resulted in a reduction in absenteeism and significant savings. Absenteeism has fallen from 4.4% to 3.94% across the public sector.

F.25. The Committee received correspondence from the Department regarding the Public Service Sick Leave Scheme. The main points of this correspondence are that since, the introduction of the scheme:

- The total cost of sick leave across the Public Service was estimated at €341.5 million in 2017, which represents a cumulative saving of €167 million since 2013;
- The rate of sick leave has fallen by 0.3% in comparison to 2013 when it was 4.3% and is now 4.0%;
- The number of days lost to sick leave per FTE has fallen by 0.7 days from 9.5 days in 2013 to 8.8 days in 2018

PROTECTED DISCLOSURES

F.26. Members discussed the guidelines in place around protected disclosures, in particular the recourse a complainant has to an internal or external review, steps to ensure those investigating the disclosure are independent, and whether the guidelines were being implemented uniformly across the public sector.

F.27. DPER stated that it has carried out a review of the protected disclosures guidelines. This was on foot of a request from the Government as questions have been raised as to how consistently the guidelines are being applied and followed.

FINANCIAL ACCOUNTING FRAMEWORK AND ASSESSMENT OF VALUE FOR MONEY ON PROPERTY TRANSACTIONS

F.28. In relation to accounting for property assets, Members raised the issue of the proposed changes to the financial accounting framework for property, to address shortcomings and give certainty to departments in relation to how assets are valued and accounted for.

F.29. The C&AG informed the Committee that there was considerable inconsistency across departments in relation to how property assets are valued and accounted for. It was explained to the Committee that it is left up to each Accounting Officer to determine how capital assets are valued. There is no single method or approach applied by the Department in relation to this.

F.30. DPER explained that work had begun to address this issue, mainly moving from a cash basis to an accrual accounting basis. A move to a full accrual system would result in clearer rules regarding valuation and depreciation of assets.

F.31. The Secretary General confirmed that a review of the current accounting systems and how assets are valued was being carried out by the OECD. In correspondence to the Committee DPER confirmed that the final OECD report and recommendations will be completed in Quarter 1 2019.

LEASING VERSUS PURCHASING OF PROPERTIES

F.32. Members also raised the issue that there appeared to be a view emanating from various departments that they would prefer to purchase property rather than lease it but are being discouraged from doing so because of the fiscal rules and accounting rules such as accounting on a cash basis.

F.33. The Committee received correspondence from the Department regarding the assessment of value for money in relation to renting or purchasing buildings. In summary the correspondence states that:

- The Office of Public Works has accepted the recommendation in the Department of Public Expenditure and Reform report dated July 2018 on *Analysis of OPW Spending* *on State Rents* that further research/analysis should be carried out into the balance between capital and current expenditure on property.

HAROLD'S CROSS STADIUM

F.34. In relation to property matters, Members questioned the sale and acquisition of the former Harold's Cross Greyhound stadium. Members expressed the view that the State paid €23 million for this site when in reality it may only have been worth €12 million.

F.35. DPER responded by stating that "*the valuation should be the valuation"* and that no transaction should be organised to bail out another body. It went on to state that it would be unacceptable for one part of the State to decide to buy a site for the purposes of reducing the debt of another part of the State.

ADHERENCE TO PROCUREMENT RULES

F.36. The Committee discussed the issue of adherence to procurement rules and highlighted the fact that there are recurring problems regarding adherence to procurement rules by the HSE. This is an issue that the Committee has examined previously. Members raised concerns that the issues around adherence to procurement rules by the HSE had not been resolved.

F.37. DPER stated that the Office of Government Procurement (OGP) was established in 2012 in an effort to professionalise the procurement function and improve compliance. The Department has been consistently arguing for the need for Departments and bodes to co-operate with the OGP and work with it.

F.38. It also explained that while there are some specific provisions which allow for exclusion from the procurement rules, these were very specific and non-compliance outside of these provisions is not acceptable.

F.39. The C&AG stated that there is a systematic problem within the HSE and the health sector regarding compliance with the procurement rules. The C&AG expressed the view that the HSE has not made enough progress in addressing the issue, and that he was not aware of any sanctions for non-compliance with procurement rules.

F.40. DPER stated that the HSE needs to engage properly and regularly with the OGP. The Department is not satisfied with its procurement practices and has raised this issue with the HSE many times.

F.41. Both the C&AG and DPER stated that they would not be confident that improvements will have been made in the health sector by this time next year.

CHAPTER 6 (CHAPTER 5 IN 2017): VOTE ACCOUNTING AND BUDGET MANAGEMENT

F.42. In 2017 the total expenditure by departments and offices was €49.3 billion.

F.43. The C&AG' report sets out the budget variance for each vote. The budget variance is the difference between the original estimate of net expenditure and the actual expenditure. The three votes with the largest budget variances in 2017 were; Health (€193 million more than the original estimate), Education and Skills (€99 million more than the original estimate) and Housing, Planning and Local Government (€196 million more than the original estimate).

F.44. Since 2013 a pattern of increased spending on Health has emerged. This issue was highlighted by the Irish Fiscal Advisory Council (IFAC) in its Fiscal Assessment Report. The report analysed the overruns in Health from 2013 to 2018. Table 9 below sets out this analysis.

Table 10: Department of Health Overruns since 2013

2013 (€billion)	2014 (€billion)	2015 (€billion)	2016 (€billion)	2017 (€billion)	2018 (€billion)
0.1	0.6	0.7	0.5	0.2	0.6

Source: IFAC Fiscal Assessment Report November 2018 adapted by PAC Committee Secretariat
Note: Overruns are shown in terms of gross voted current spending and are derived from end-December Analytical Exchequer Statements outturns less profiles. The 2018 figure shows the expected overrun for the year.

PAY RESTORATION

F.45. Members queried the status of pay equalisation for public servants recruited since 2011.

F.46. DPER explained that, by the end of 2020, under the terms of the agreement, 90% of public servants will have their pay restored. Those earning up to €70,000 will have their pay restored to above what they were paid. Those earning over €70,000 were described as "a long way off" having their pay restored.

F.47. The Committee received correspondence from the Department outlining public service pay from 2010 to 2020 by income band showing deductions under the various pay agreements, figures on how much has been restored and the schedule for further pay restoration. These figures are set out in Table 10 below.

Table 11: Public Service Pay 2010 to 2020

1 Sep 2008 (Pre-FEMPI)	1 Jan 2010 FEMPI (No. 2) 2009 Reduction	1 Jul 2013* FEMPI 2013 Reduction	Post LRA Salaries **	1 Oct 2020 PSSA	% Pre-cut
€22,080	€20,976	€20,976	€22,500	€24,179	110%
€33,243	€31,500	€31,500	€32,500	€34,408	104%
€44054	€41,500	€41,500	€42,500	€44,995	102%
€54,865	€51,500	€51,500	€52,500	€55,582	101%
€65,676	€61,500	€61,500	€62,500	€66,169	101%
€77,778	€72,500	€68,513	€72,500	€76,757	99%
€88,889	€82,500	€77,900	€82,500	€87,344	98%
€100,000	€92,500	€87,100	€92,500	€97,931	98%
€122,222	€112,500	€105,500	€112,500	€119,105	97%
€190,341	€167,500	€155,925	€167,500	€177,334	93%
€235,294	€200,000	€185,350	€200,000	€211,742	90%

PENSION FUND THRESHOLD OF €2 MILLION

F.48. Members questioned an item in the 2016 accounts relating to a retiring civil servant that owes overdue tax and has 20 years in which to repay it. DPER responded by stating that this issue relates to an excess charge. If a civil servant's notional "pension pot" is above the fund threshold, then according to the Finance Act the individual pays back the excess charge over 20 years.

F.49. The Committee received correspondence in relation to this from the Department which sets out an explanation of the Standard Fund Threshold and the excess charge that arises when this threshold is exceeded.

F.50. In a case where the threshold is exceeded, under current legislation the pension administrator of the relevant pension scheme and the individual are jointly and severally liable for the tax charge (at a rate of 40%).

F.51. Due to the changes in the Finance (No. 2) Act (2013), the legislation introduced an option whereby individuals who became liable for "chargeable excess" income tax could repay any chargeable excess over a post retirement period of up to 20 years. However, the full amount owing must be paid by the pension administrator to the Collector General within 3 months of the person's retirement.

F.52. In relation to Chapter 3 of the C&AG's 2017 report, Members raised the issue of the current timeline for dealing with the Estimates. Members expressed dissatisfaction with the fact that it takes six months after the Budget Statement to deal with the Estimates.

F.53. Members also raised criticism of the Estimates process for the Department of Health and the Department of Defence (in relation to supplementary estimate for army pensions) and An Garda Síochána (in relation to supplementary estimates for overtime). Members stated that there does not appear to be an effort to get the Estimates right from the outset.

MATTERS ARISING FROM DISCUSSION OF THE C&AG'S SPECIAL REPORTS 95, 99 AND 100

F.54. The C&AG produced 3 special reports examining the preparation and presentation of audited financial statements in the public sector. These reports relate to financial statements for periods ending in 2014, 2015 and 2016. The timely preparation and presentation of audited accounts are an essential element of public accountability and is a key aspect of providing effective oversight.

F.55. In response to the C&AG's special reports regarding public sector financial reporting DPER highlighted the progress that has been made since 2014. It also stated that, on foot of the recommendation in the C&AG's Special Report 95, departments are now required to include an annexe in the appropriation accounts on the presentation of audited financial statements to the Oireachtas by bodies operating under their remit.

F.56. The Committee has highlighted the issue of the timely presentation of accounts previously and its views and recommendations were set out in detail in the Periodic Report No.4 May – July 2018. In that report the Committee noted that in 2017 approximately 87% of public bodies produced their financial statements for audit within three months of the end of the accounting period. This compares favourably with 2014 when approximately 33% of public bodies met the requirement. While the Committee acknowledges that the figures have moved significantly in the right direction, the expectation is that 100% of public bodies should present their financial statements for audit within three months of the year end.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

F.57. Given the fact that legislation was put in place in 2013 regarding the Single Public Service Pension Scheme, it is unacceptable that the Department of Public Expenditure and Reform failed to give effect to the provision in the legislation regarding employer contributions until 2016, due to a lack of advanced preparatory work. This has resulted in the Department of Public Expenditure and Reform requesting back-dated payments which is causing financial difficulty for certain public bodies. The Committee recommends that legislation should be implemented in a timely manner, as soon as is practical, and following all necessary preparatory work.

F.58. It is unacceptable that pension contributions under the Single Public Service Pension Scheme are not going to a fund similar to the National Pension Reserve Fund. This defeats the purpose of the contributions made by employees and their employers. The Committee recommends that consideration should be given to investing these funds in a fund similar to the National Pension Reserve Fund.

F.59. It is unclear whether the appropriate balance between leasing and property acquisition on behalf of the State is being achieved. The Committee recommends that the Department of Public Expenditure and Reform completes a detailed assessment of the relative merits and long-term implications of property leasing and property acquisition.

F.60. Repeated and regular overruns undermine the credibility of the annual Estimates. The Committee recommends that the Department of Public Expenditure and Reform works closely with each of the Departments with a history of requesting supplementary estimates to ensure that estimates presented to the Oireachtas are accurate from the outset.

F.61. It is not acceptable that it can take approximately six months for the Estimates to be dealt with by the Dáil despite the fact that the Budget Statement is announced every year before the 15 October in accordance with the fiscal rules. The Committee recommends that the Department of Public Expenditure and Reform takes all necessary steps to ensure that the Estimates are approved by the Oireachtas before the beginning of the calendar year to which they relate.

6. HIGHER EDUCATION AUTHORITY

Meeting Date: 18 October 2018

Principal Purpose of the Meeting:

- Higher Education Authority (HEA) Financial Statements 2017.

INTRODUCTION

G.1. The Higher Education Authority is the funding body for the higher education sector and is responsible for the allocation of funds to universities, institutes of technology and other designated educational institutions. The key functions of the Authority are to monitor the performance of higher education institutions and to promote strategic development of higher education and research. The Authority reports to the Minister of Education and Skills on this performance and provides accountability and assurance.

G.2. Discussion centred on matters relating to the HEA's 2017 Financial Statements. The C&AG issued a clear audit opinion on the HEA's 2017 financial accounts with no issues arising. This meeting coincided with the resignation of the HEA's CEO and highlighted concerns regarding the relationship between the HEA and the Department of Education and Skills.

G.3. The HEA reported a surplus for 2017 of €365,000. This compared to a deficit of €49,000 in 2016.

G.4. A summary of income and expenditure for 2017 and 2016 is set out below:

Table 12: Summary of HEA Income 2016 & 2017

Income	2017 €000	2016 €000
Oireachtas Grants	1,153,979	1,111,584
Other Income *including* • *Non-State grant income*[1]	12,101 *10,772*	33,635 *32,211*
Total	**1,166,080**	**1,145,219**
[1]*Mainly funds under Science without Borders and EU programmes*		

Source: HEA Annual Report and Accounts 2017 p.25

Table 13: Summary of HEA Expenditure 2016 & 2017

Expenditure	2017 €000	2016 €000
Recurrent and access grants	1,066,097	1,027,251
Capital grants	21,626	30,072
Research grants	69,166	78,674
Administration overheads	8,901	9,344
Total	**1,165,790**	**1,145,341**
Transfer from capital reserve	75	73
Surplus/(Deficit) for the year	**365**	**(49)**

Source: HEA Annual Report and Accounts 2017 p.25

G.5. The HEA stated that in 2017 it allocated over €1 billion of funding to the higher education sector. Included in this amount was the traditional core grant to institutions and also other initiatives such as Springboard which provides free college places for unemployed people.

G.6. The HEA updated the Committee on the progress that it has been made in the areas detailed below.

THORN REPORT ON THE UNIVERSITY OF LIMERICK

G.7. In November 2017 Dr. Richard Thorn published a report on the University of Limerick entitled; "*Independent Review of Certain Matters and Allegations Relating to the University of Limerick*". The report made 36 findings and put forward 10 recommendations. At the time of the meeting 8 of the 10 recommendations had been implemented and the remaining 2 were scheduled to be implemented by the end of the year. In further correspondence requested by the Committee in February 2019, the HEA confirmed that 9 of the recommendations from the Thorn report had been implemented by the end of 2018 and that the implementation of the final recommendation was in progress.

G.8. In early 2019 the Committee met with representatives from the Higher Education Authority, the Department of Education and Skills and University of Limerick to discuss the Thorn report. It also met with a number of whistle-blowers regarding their concerns. These matters will be reported on in the next periodic report.

ROLLING GOVERNANCE REVIEWS

G.9. To date the HEA has conducted two governance reviews on procurement policies and intellectual property policies. The HEA stated that it was due to carry out a third review focusing on employee remuneration and other benefits.

G.10. In April 2017, the HEA launched a corporate procurement plan template. It is hoped that this will help higher education institutions to improve their procurement planning and ensure better compliance with national procurement guidelines.

PRODUCTION OF FINANCIAL STATEMENTS FOR HIGHER EDUCATION INSTITUTIONS

G.11. The HEA explained that it is continuing to make progress in ensuring that all higher education institutions and universities produce financial accounts on a timely basis.

GOVERNANCE FRAMEWORK

G.12. Officials from the Department of Education and Skills (DES) updated the Committee on a number of measures that have been put in place in recent years to enhance the oversight role of the HEA. For example, a new Governance Framework was put in place in 2015 which highlights and clarifies the central oversight role of the HEA in overseeing and monitoring governance practices across the higher education sector.

G.13. The DES stated that a review of the allocation model employed by the HEA was completed by the HEA and the results were published January in 2018. The review highlighted the need to reform the current allocation model in order to enhance transparency in the allocation of State investment in higher education.

SPIN OUT COMPANIES AT WATERFORD IT AND CORK IT

G.14. Members raised concerns about the delay in receiving a report on the independent review of spin out companies at Waterford Institute of Technology and asked when it was likely to receive the report. The Department of Education and Skills informed the Committee in correspondence received following the meeting that the report that was carried out in relation to this issue could be outside the HEA's scope of power. The Department explained that the HEA would have to determine if the report could be released in its current form, taking legal advice into account.

G.15. Members also questioned the status of the HEA review on spin-out companies in Cork Institute of Technology. In February 2019 the HEA confirmed that a draft report had been prepared and will be sent to the Committee upon its completion. At the time of publication of this periodic report, the HEA review had still not been received.

G.16. Members expressed dissatisfaction at delays to both reports and intend to return to the matters in both Institutes of Technology in its next periodic report.

ACCOUNTABILITY OF THE INSTITUTES OF TECHNOLOGY AND UNIVERSITIES

G.17. Correspondence received from the DES sets out the powers of the Minister to carry out different types of investigations. In summary the Minister has the following powers:

- To appoint an investigator to examine issues in Technological Universities, Institutes of Technology, the National College of Art and Design and the Dublin Institute of Advanced Studies;
- To appoint a visitor to examine issues in Universities under Section 19 and 20 of the Universities Act 1997.

G.18. In relation to the HEA the correspondence explains that it has the power "to set conditions attaching to the funding it disburses and to ensure accountability for that funding". The DES's assessment is that this power implies that the HEA has the authority to "review compliance with these conditions".

G.19. The correspondence also stated that the Department has sought legal advice from the Attorney General regarding the powers of the HEA to carry out reviews and investigations and that this advice was being assessed by the Department and the Committee would be updated once this assessment has been finalised.

G.20. The Department confirmed in its correspondence that work has begun on updating the Higher Education Act 1971 and that; *"The updated legislation is intended to provide the HEA with any necessary authority in relation to revised functions, governance and other related matters which more fully reflect its current role and responsibilities in relation to higher education".*

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

G.21. The Higher Education Authority may not have the appropriate powers to oversee the third level sector and ensure that public monies are expended appropriately and in accordance with good governance standards. The Committee recommends that, when drafting Higher Education Authority legislation, the Department of Education and Skills ensures that the Higher Education Authority is granted sufficient powers to allow it to provide effective oversight of the third level sector.

G.22. The primary responsibility for governance of third level institutions lies with the institutions themselves. The Committee recommends that the governing bodies of third level institutions acquire and maintain the appropriate skills and knowledge balance to ensure that these institutions are managed appropriately and to take action when deviations from expected standards occur.

7. OFFICE OF THE REVENUE COMMISSIONERS

Meeting Date: 15 November 2018

Principal Purpose of the Meeting:

- Appropriation Account 2017 Vote 9 – Officer of the Revenue Commissioners;
- C&AG Report 2017 Chapter 17 – Revenue's Progress in Tackling Tobacco Smuggling;
- C&AG Report 2017 Chapter 18 – Management of High Wealth Individuals' Tax Liabilities;
- C&AG Report 2017 Chapter 19 – Corporation Tax Losses.

INTRODUCTION

H.1. Discussion focused on matters relating to the Appropriation Account 2017 for Vote 9 – Office of the Revenue Commissioners. Vote 9 covers Revenue's administration and operational expenses. The 2017 accounts show that total spending by Revenue in 2017 was €411m. Appropriations-in-aid were €71m and net expenditure under the Vote was €340m. The amount surrendered to the Exchequer at the end of the year was €3.4m.

H.2. Revenue informed the Committee that its primary responsibly is to serve citizens by fairly and efficiently collecting taxes and duties and implementing customs controls. It has a duty to protect Exchequer funds and to ensure that all citizens meet their tax and duty obligations in accordance to the law.

TOBACCO SMUGGLING

H.3. Revenue informed the Committee that taxation is a key part of Government policy to reduce tobacco consumption in Ireland. Ireland has one of the highest rates of tobacco tax in Europe and over 79% of the retail price of the most popular price category of cigarettes is made up of excise and VAT. Tobacco raised €1.4 billion in tax for the Exchequer in 2017.

H.4. The C&AG informed the Committee that Revenue, in conjunction with the Office for Tobacco Control, commission an annual survey to estimate the extent of illicit tobacco related activity in Ireland. Revenue explained that its aim is to "contain and diminish" the illegal tobacco trade as much as possible. The Committee heard that Revenue estimates 13% of cigarettes consumed in Ireland in 2017 were illegal.

H.5. The associated loss, due to a loss of customs and excise duty, could amount to approximately €229m. Revenue explained that this number is based on the assumption that the same number of legal cigarettes would be consumed if the illegal products were not available, which means that the figure is the maximum potential loss but not the proven actual loss.

H.6. Members queried whether the annual survey that Revenue conducts to determine the rate of illegal cigarette consumption is sufficiently thorough. Revenue explained that the survey informs a larger report about the consumption of illegal cigarettes, which is informed by five methodologies including the survey referred to.

H.7. The Committee heard that in 2017 Revenue seized illegal cigarettes and tobacco products worth more then €20m in official prices and that this represents a potential loss of €16m to the Exchequer. The rate of illegal cigarette detection is approximately 7%. This does not include seizures that Revenue assists in abroad as there is no mechanism in place to record this information.

H.8. To counteract the growth of illegal tobacco consumption, Revenue in conjunction with the Department of Health, has developed a track and trace system to regulate the legitimate tobacco supply chain across Europe. Revenue has been designated as the competent authority for this system in Ireland, which will be introduced in 2019.

H.9. Revenue informed the Committee that, by October 2018, prosecution for tobacco smuggling or selling offences had resulted in 60 summary convictions, five indictable convictions, fines totalling €140,250, nine suspended sentences and one custodial sentence of six months' imprisonment.

H.10. Members expressed concern that the fines imposed, compared to the value of illegal cigarettes estimated to be sold, and are not strong enough deterrents as the fines incurred are low compared to the money that can be made from the illegal tobacco trade. In correspondence received by the Committee, Revenue confirmed that in 2017 two individuals were fined €5,000 on summary conviction. In 2018, one individual was fined the same amount and received a one-year suspended prison sentence. The largest fine imposed since 2016 in relation to tobacco convictions was €12,500.

H.11. Revenue explained that large seizures of illegal cigarettes are usually from containers rather than an individual. When an individual can be identified, Revenue refers the case to the Director of Public Prosecutions (DPP). Revenue also explained that the majority of cases prosecuted are summary prosecutions for individuals bringing a relatively low number of cigarettes through the airport but that these cases are minor incidences. Revenue explained that the fines imposed are decided by the courts and that the penalties have been significantly increased by the Oireachtas in recent years. Members expressed concern that the fines do not appear to be high enough to be a sufficient deterrent.

H.12. Revenue is currently responsible for storing the *MV Shingle*, a ship that was seized in Drogheda port in 2014 for carrying illegal cigarettes. Expenditure for storing this ship was €400,000 by the end of August 2018 and significant disposal costs are anticipated. Members queried the status of the disposal of the ship.

H.13. Revenue informed the Committee that it usually disposes what it seizes in a timely manner. However, the *MV Shingle* is not legally seaworthy and it had to be retained for evidence until court proceedings finished as the registered owners of the ship were attempting to reclaim it. Revenue also confirmed to the Committee that it will incur the costs of destroying the ship and that costs could be significant due to the presence of asbestos on-board.

MANAGEMENT OF HIGH WEALTH INDIVIDUALS' TAX LIABILITIES

H.14. High Wealth Individuals (HWIs) are individuals at the top of the wealth or income scale, and according to international classification are considered to have assets between $1m and $50m. Revenue's criterion for someone to be considered a HWI is that they are known or believed to have net assets of more than €50m. Members agreed with the C&AG's assessment that Ireland's HWI threshold may be too high. Revenue informed the Committee that it aims to bring a proposal to the Board by the end of Q1, 2019 to reduce the HWI threshold.

H.15. HWI's are managed by Revenue in a dedicated unit with its Large Cases Division. Each HWI is assigned a specific case manager and that, as of June 2018, the unit was dealing with approximately 480 individuals as well as approximately 140 trusts, partnerships and other legal entities connected to them.

H.16. The most recent information available regarding this category of taxpayers is from 2015. In 2015 HWIs accounted for 3.4% of all net income tax due, 9.3% capital gains tax receipts and 2% of capital acquisitions tax receipts. 334 HWI tax returns were filed in 2015. According to Revenue, HWIs paid a total of €545m in taxes in 2015. However, there were large variations across the group with 85% of income tax due from just ten HWIs. The average rate of income tax was 39.2% but 90 HWIs had an effective income tax of less than the national average of 16.3%.

H.17. A review of 30 sample compliance interventions undertaken by Revenue resulted in additional tax being collected from HWIs. Of the 30 cases sampled, 14 had used a qualifying avoidance disclosure (QAD) to settle their tax affairs. QADs allow taxpayers who engaged with a tax avoidance transaction to settle with Revenue by paying the full tax and interest due at the time of the disclosure. Incentives to avail of QADs are a 20% reduction in interest otherwise due, and the avoidance of penalties and publication as defaulters.

H.18. Revenue informed the Committee that HWIs income is mainly from capital rather than earnings. HWIs mainly keep more than half of their wealth portfolios in cash and equity with the balance in properties and investments. Stocks of wealth may also be held in trusts or legal entities controlled by an individual or family group. Revenue informed the Committee that income generated by capital is not subject to income tax, but that it could be subject to capital gains tax.

H.19. Revenue also informed the Committee that HWIs are more likely to be engaged with wealth management and personal tax planning and are often subject to taxation in a number of jurisdictions meaning they tend to pay close attention to global and local tax development. However, Revenue stressed that there is no evidence to suggest that HWIs are more likely to be tax non-compliant. However, due to these tax complexities, Revenue pays special attention to the sector using internationally exchanged information to manage compliance, risk and intervention. In 2015, HWI compliance interventions raised €15.3m.

H.20. Members requested the details of how many queries regarding compliance amongst HWIs are made in a particular year. Revenue informed the Committee that in 2017 there were five investigations, 17 audits and 13 profile interviews.

H.21. Members drew attention to the fact that 83 HWIs had an income subject to income tax in Ireland of less than the average wage in 2015. Revenue explained that there are various reasons for this result. 25 individuals were part of a family group and they were included because while they do not have an income they could be the beneficiary of a gift or, there could be a liability for capitals gains tax or capital acquisitions tax. 21 of the individuals in this group were not resident or domiciled in Ireland and therefore were only subject to income tax on Irish sourced income. 22 HWIs had specific circumstances and were impacted by the economic downturn with a number of them now bankrupt. They were still included as there is a chance they could recover financially. The remaining 15 individuals had significant releases of capital allowances or carried losses forward. Some individuals carried forward certain losses and reliefs that impacted their taxable income in 2015.

H.22. Revenue informed the Committee that there are 14 types of relief available to offset losses. Nearly half of the 15 individuals referenced above had trading losses of above €100,000 that they were able to carry forward. However, Revenue explained that there are less reliefs available now then there was previously and that a lot of property reliefs have been abolished.

H.23. Members raised the issue of artificial capital losses being used as a feature in many tax avoidance schemes. Revenue explained that an artificial loss is when someone has a significant gain, for example €10m, and would be liable to pay 33% in capital gains tax. Some people try to create a loss to shelter the gain through a series of sophisticated financial transactions that take place over a number of days. This would create a significant loss and then another gain that was not legally taxable under a particular provision. The artificial loss and gain would cancel each other out and the individual would receive the same amount of money and attempt to keep it tax free.

H.24. Revenue informed the Committee that it challenges schemes like this and that it is now in active court proceedings with some of the cases. A further 28 cases have been identified where the amount of tax at risk was €110m. However, Revenue informed the Committee that the tax appeals process can take up to 10 years to complete and that people who engage in such schemes are very well resourced and that the prolonging of payment could be an incentive for them.

H.25. Revenue informed the Committee that it can audit taxpayer's records and in this situation it engages with the taxpayer and their agent. If there is an issue around the interpretation of the law, it will most likely go through the courts process. If the evidence is strong enough, the taxpayer may choose to settle. Otherwise it can go through several appeal processes within the court system. Revenue stated that the majority of cases like this are settled and that it collects approximately €500m in tax settlements.

H.26. Members questioned why HWIs are not required to provide Revenue with a regular statement of assets. The C&AG explained that there are certain obligations pertaining to the declaration of assets but they do not apply in the same way when income returns are made on a yearly basis. Revenue explained that they keep data relating to property as there are stamp duty requirements. Assets are also taken into account in relation to probate and inheritance.

H.27. Members queried whether the figures Revenue publishes provide a clear understanding of the wealth of HWIs as it does not list their assets. Revenue explained that it can only implement the law as it is written, and that its job is to ensure that all citizens meet their tax obligations.

CORPORATION TAX LOSSES

H.28. The C&AG informed the Committee that when a company reports a trading loss, that loss can be used to obtain relief from the payment of Corporation Tax. Losses can be carried forward by companies and can be made up of capital allowances and trading losses. Revenue's system does not differentiate between the two and produces one amount for tax relief.

H.29. Members also queried whether the difference between trading losses carried forward and capital allowances can be recorded separately, as recommended by PAC in a previous report on *Examination of Matters in relation to Receipts from Corporation Tax (2018)*. Progress on the implementation of the recommendation was discussed and Revenue explained that only one computation is made because there is no legal basis to do otherwise and to do so would require a legislative change.

H.30. Members queried the process whereby companies which are not generating trading losses, are able to use previously accumulated losses to offset tax on new trading profits. Significant accumulated losses forward have built up since 2008 and the current level of €231 billion represents potential future tax receipt reductions of €29 billion.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

H.31. The threshold for inclusion in the High Wealth Individual category is too high and should be more closely aligned to international averages. The Committee acknowledges that Revenue is examining this matter. The Committee recommends that Revenue completes its examination by the end of March 2019 and implements a reduced threshold for the High Wealth Individual category as soon as possible.

H.32. Guidelines do not appear to exist regarding out of court settlements for tax avoidance schemes. The Committee recommends that Revenue investigates the possibility of developing guidelines regarding out of court settlements for tax avoidance schemes in order to ensure a level of consistency in reaching such settlements in future.

H.33. There is insufficient clarity in relation to statements of assets by High Wealth Individuals. The Committee recommends consideration is given to requiring High Wealth Individuals to provide Revenue with an annual statement of assets held in Ireland.

H.34. Current deterrents to the illegal tobacco trade are grossly inadequate. The Committee recommends that Revenue investigates, in consultation with relevant Departments, the possibility of introducing a suite of measures to deter individuals from entering the illegal tobacco trade, including increasing penalties.

H.35. There is currently no legal basis to allow Revenue, in relation to Corporation Tax, to separately record trading losses carried forward and capital allowances carried forward. The Committee recommends that the Minister considers whether separate identification of trading losses forward and capital allowances can be provided for in future legislation.

8. DEPARTMENT OF EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION

Meeting Date: 29 November 2018

Principal Purpose of the Meeting:

- Vote 37 – Social Protection;
- Appropriation Account 2017;
- C&AG Report 2017 Chapter 11 – Regularity of Social Welfare Payments;
- C&AG Report 2017 Chapter 12 – JobPath Employment Activation Services;
- C&AG Report 2017 Chapter 13 – Actuarial Review of Social Insurance Fund;
- C&AG Report 2017 Chapter 14 – Overpayments of Age-Related Jobseeker's Allowance;
- C&AG Report 2017 Chapter 20 – PRSI Contributions by the Self-Employed.

INTRODUCTION

I.1. Discussion focused on matters relating to the Appropriation Account 2017 for Vote 37 - Department of Employment Affairs and Social Protection (DEASP) and the Social Insurance Fund (SIF). The C&AG returned a clear audit opinion of the Vote and the SIF for 2017.

I.2. DEASP scheme expenditure is spread across the account for Vote 37 and the SIF account. Overall scheme expenditure was €19.3billion in 2017. Administration costs amounted to a further €618m.

I.3. Gross expenditure for Vote 37 amounted to €11.03billion in 2017. This included €264m in appropriations-in-aid leaving a net expenditure of €10.77billion. A surplus of €20.02m was surrendered to the Exchequer under fiscal rules at the end of 2017.

I.4. While a clear audit opinion was delivered by the C&AG the following matters were addressed by the Committee:

1. Social Welfare Payments
2. JobPath Employment Activation Service
3. PRSI Contributions
4. Social Insurance Fund
5. Public Service Cards
6. Legacy Debts

7. Outstanding Redundancy Debts
8. Breaches of Procurement Law

SOCIAL WELFARE PAYMENTS

I.5. The Committee questioned the controls and processes behind several types of welfare payments.

OUTSTANDING DEBTS RELATING TO OVERPAYMENTS

I.6. The DEASP informed the Committee that it had conducted 14 surveys over the past six years in relation to 14 schemes that account for 80% of the Department's expenditure. It found that the net level of excess payments averaged 2.2%.

I.7. The DEASP informed the Committee that the outstanding debt for individuals at the end of October 2018 was worth €475m in value and comprised approximately 156,000 individual debts. The DEASP explained that 60% (€284m) is off-book debt meaning the debtor is no longer in receipt of a social welfare payment. The remaining 40% (€191m) is on-book meaning it is attributed to persons still in receipt of a social welfare payment.

I.8. There are 3 classifications of irregular payments.

- Innocent claimant errors;
- Deliberate fraud by claimants;
- Departmental error.

The majority of errors are attributed to departmental error or genuine claimant error rather than fraud.

I.9. The DEASP informed the Committee that most recoveries are from people who are in receipt of a social welfare payment as they still have direct contact with them. In supplementary information the DEASP provided the Committee with the following breakdown regarding outstanding debts:

Table 14: Social Welfare Client Debts where the Outstanding Value was €30,000 or more, end of October 2018

Status of debt[1]	Debtors not receiving a payment from the Department		Debtors currently receiving a payment from the Department		All debtors	
	No. of *Debts*	Value €m	No. of *Debts*	Value €m	No. of *Debts*	Value €m
Customer repaying	457	€25.102	1,073	€58.776	1,530	€83.877
Not currently repaying	954	€57.203	94	€5.058	1,048	€62.261
Suspended	494	€26.057	136	€6.577	630	€32.634
Total	**1,905**	**€108.361**	**1,303**	**€70.410**	**3,208**	**€178.772**

Table 15: Social Welfare Client Debts Stockpile as of end October 2018

Customer debt stockpile as at end of October 2018						
	Customers not currently receiving a payment from the Department (off-book)		Customers currently receiving a payment from the Department (on-book)		Total	
Status of case	No. of *cases*	Balance Outstanding	No. of *cases*	Balance Outstanding	No. of *cases*	Balance Outstanding
Repaying	13,335	€63,937,855	36,809	€158,299,085	50,144	€222,236,940
Not Currently Repaying	72,770	€144,193,000	8,436	€14,374,830	81,206	€158,567,830
Suspended cases	20,433	€75,985,139	4,469	€18,695,149	24,902	€94,680,288
Total	**106,538**	**€284,115,994**	**49,714**	**€191,369,065**	**156,252**	**€475,485,058**

When questioned on how it can recover debts from those no longer in receipt of a social welfare payment, the DEASP informed the Committee that it now has the ability to apply attachment orders on the earnings of those who have outstanding debts but are no longer in receipt of social welfare.

EXCESS PAYMENTS IN UNDER 25'S JOBSEEKER'S ALLOWANCE

I.10. Jobseeker's allowance is a means-tested payment to people who are seeking employment. To qualify, a person must be between ages 18 and 66 and meet other qualifying conditions.

I.11. The C&AG informed the Committee that, as part of the audit of the 2017 Appropriation Account, a review was undertaken of Jobseeker's Allowance for claimants under the age of 25. Reduced payment rates for jobseekers aged 25 and under have been in use since 2009. However, not all jobseekers under the age of 25 receive a reduced payment and payments are means tested. At the beginning of November 2018 there were approximately 30,000 people in this age group and 17% (5,225) were not on a reduced rate.

I.12. During the audit it was found that 486 claimants aged 25 or under did not meet the requirements to receive the maximum payments and that these excess payments cost approximately €1.2m in 2017. The C&AG attributed this mistake to Departmental error rather than claimant error or deliberate fraud.

I.13. The DEASP informed the Committee that it accepts the recommendations made in the C&AG's 2017 report that the rules for payment for this category are coded into the Department's computer systems, that a greater level of quality control is applied thereafter, and that additional staff training takes places to ensure all staff are aware of the rules.

I.14. The DEASP explained that most cases of overpayment had to do with the exemptions and, to limit these errors, it has reduced the number of staff that process this type of application to two per Intreo office. It stated that there will always be a margin of error but that it has sought to deal with the issue.

LEGACY DEBTS

I.15. The DEASP informed the Committee that over the last year it has carried out significant work to reduce its legacy debt. In 2017, the DEASP wrote off €41.5m of legacy debts with the approval of the Department of Public Expenditure and Reform (DPER). The DEASP informed the Committee that this amount was associated with outstanding overpayments from pre-2011. In 2017, it also recovered €8.9m from 337 cases of overpayment where the claimant had passed away in recent years and a debt was associated with their estate.

I.16. The DEASP confirmed that there were 33,290 cases of legacy debt written off in 2017. It informed the Committee that in each case the debt was less than €10,000 and that no repayment had been collected since 2015. The average debt written off by the DEASP was €1,247.

CARER’S ALLOWANCE APPLICATION PROCESS

I.17. Members queried the lead-times for payments, specifically questioning the length of time the DEASP takes to process an application for carer’s allowance. The DEASP informed the Committee that this particular scheme takes an average of 17 weeks to process. It informed the Committee that ideally the average lead-time for carer’s allowance would be 12 weeks. This includes all applications, including those that undergo the review process.

I.18. The DEASP informed the Committee that efforts to reduce carer’s allowance application processing times is heavily dependent on increasing staff numbers. It informed the Committee that it is recruiting additional medical assessors but that it has an issue retaining staff in this role.

I.19. Members expressed concern that the DEASP has issues with staff retention. The DEASP informed the Committee that it has to hire staff and compete with the pay terms of the HSE which is a historical issue that it is dealing with. It also informed the Committee that it is currently investigating if nurses could be recruited to assess certain medical conditions. This is common practice in other jurisdictions.

JOBPATH EMPLOYMENT ACTIVATION SERVICE

I.20. The C&AG informed the Committee that chapter 12 of the 2017 report focuses on the JobPath Employment Activation Service that the DEASP provides for people who have been unemployed for more than one year. JobPath services have been provided since mid-2015 and are contracted to two companies by the Department. By November 2018 the expenditure for JobPath services had reached €149m.

I.21. The aim of JobPath is to help people who are long-term unemployed find and sustain permanent employment. The DEASP had referred 192,000 jobseekers to JobPath service by March 2018 and 160,000 of those referred were engaging with the service providers.

I.22. Fees are paid to the service providers once a client signs up to the service. The average registration fee is €311. The DEASP informed the Committee that it pays the providers four sustainment fees depending on how long a client remains in employment. They are listed below:

Table 16: Payment of Sustainment Fees for JobPath Service Providers

Weekly Period	Amount €
13 weeks	613
26 weeks	737
29 weeks	892
52 weeks (1 year)	1,165

Table created by the Secretariat with information provided by the Department of Employment Affairs and Social protection

I.23. The DEASP defines sustained employment as a job of more than 30 hours per week, lasting a minimum of 13 weeks and up to 12 months. This is the rationale behind the 13 week payment scheme for service providers.

I.24. The DEASP informed the Committee that approximately 28% of clients have gone on to employment. However, just 9% of those referred to the service have maintained employment for more than one year.

I.25. Members queried whether a final result of 9% in employment lasting more than a year is a good result. The DEASP explained that it is a good result for people who are long-term unemployed and that preliminary results from its econometric review indicate that earnings, employment, job progression and job sustainment are significantly higher among clients referred to JobPath services.

I.26. Members noted that the highest instances of clients leaving JobPath services occurs during the first 13-week period and questioned whether any clients have been referred to the service more than once. The DEASP confirmed that approximately 15,000 people had been referred to JobPath services twice and that the companies received the registration fee for these clients a second time.

I.27. The DEASP informed the Committee that without case management and support 10% of those classified as long-term unemployed would have entered the workforce. This has increased to 12% overall, an increase of 20%. Members queried whether an increase of 2% of people gaining employment represents good value for money. The DEASP explained that it provides these services on the basis of need and the value it represents to society as more people will enter employment as a result.

PRSI CONTRIBUTIONS

I.28. Pay Related Social Insurance (PRSI) contributions are based on earned income but vary for different contribution classes. There are 11 classes of PRSI and that classification is determined through self-assessment by each person and/or employer.

I.29. In 2016, 96% of people classified for PRSI purposes were in one of three classes: A,M or S. Approximately 10% of people are in class S which mainly applies to earnings from self-employment. Another 10% of people are in class M which mainly applies to those under 16 or over 66 and those in receipt of an occupational pension. 76% are in class A which applies to most categories of employees.

I.30. Personal contributions are the same in class A and S, at 4% of earnings. Employers of class A workers are liable for an additional contribution of 10.85% of the employee's earnings.

PRSI IRREGULARITIES

I.31. The DEASP does not analyse PRSI receipts by class and that self-employed PRSI receipts are assumed to be class S.

I.32. The issue with this classification is that statistics are also gathered by Revenue. However, the DEASP and Revenue each use different definitions for individuals and receipts when capturing data. They are similar but not exactly the same which produces different results.

I.33. Members queried whether it would be possible for both Revenue and the DEASP to adopt the same classifications for receipts and individuals. The DEASP stated that it is working with Revenue on this matter and that it believes the current PAYE modernisation project will be able to provide more up-to-date information that will help to apply a standard measurement.

I.34. Members queried the process surrounding PRSI inspections in regard to false self-employment claims.

I.35. The DEASP explained that self-employed people pay a 4% PRSI contribution but not the 10.85% employers' contribution. It explained that this difference in contribution could act as a financial incentive for individuals to be wrongly classified as self-employed. The DEASP informed the Committee that the issue of disguised employment was the subject of an interdepartmental review group study in 2017.

I.36. Members queried the inspection and recording process of PRSI classification inspections. The DEASP told the Committee that the information is recorded on site in paper format. The DEASP informed the Committee that all PRSI irregularities are classified as miscalculation in the official figures. The DEASP records how many cases of reclassification occur each year following inspection. The figures are not broken down between honest mistake and deliberate miscategorisation. Members expressed concern that the recording measures are not detailed enough and suggested that this division should take place.

I.37. The DEASP explained that it is not able to categorise a misclassification as deliberately fraudulent as that has to be determined by a court. The DEASP explained that deliberately misclassifying your own or someone else's PRSI class is an offence under the *Social Welfare (Consolidation) Act 2005.* It confirmed that 22 cases of suspected deliberate PRSI fraud have been referred to the courts in the past three to four years but none specifically in the last year.

I.38. The DEASP informed the Committee that it carried out 5,400 PRSI inspections in 2017. It stated that the vast majority of employer PRSI inspections are conducted without notice. The DEASP informed the Committee that it aims to complete 3,000 employer PRSI inspections in 2018 and to increase on this figure in 2019. It explained that the decrease from 2017 is due to the availability of inspector resources and the focus of the sector for the year. The Committee noted that the DEASP acknowledges that it did not conduct enough PRSI employer inspections this year.

SOCIAL INSURANCE FUND

I.39. The Social Insurance Fund (SIF) is primarily funded through PRSI contributions which are collected by Revenue. The total receipts collected in 2017 were €10.2 billion, which represents a 6.6% increase from the year before. The surplus for the year was €731m which resulted in accumulated reserves of €1.2 billion in 2017.

I.40. The Minister for Employment Affairs and Social Protection is required under Section 10 of the *Social Welfare Consolidation Act 2005* to publish actuarial reviews of the SIF at least every five years. The last review was undertaken in 2015. According to the C&AG, the review indicates that the fund will move in to a deficit position unless actions are implemented to tackle the shortfall. Otherwise, supplementary Exchequer funding will be required each year to meet the ongoing spending requirements of the fund.

I.41. Pension-related expenditure is expected to be the primary component of SIF expenditure in the medium-long term. Currently pension-related expenditure accounts for 70% of SIF expenditure and this is expected to rise to 80% by 2071. The shortfall in the SIF is due to the decreasing ratio of workers to those over the age of 66, the qualifying age for the State pension. The ratio is expected to decline from 4.9 workers in 2015 to 2.9 in 2035 and to 2 workers by 2055. This takes into account the upcoming increase in pensionable age from 66 to 68 in 2028.

I.42. The Committee was informed that the reviews are assumption-driven and that changes in assumptions about real earnings growth and life expectancy have a significant impact in the projected shortfall. Its conclusion about the five-year actuarial reviews is that they inform public discussion about the expected long-term impacts on current decision-making.

I.43. Members queried the benefits of the outcomes of the review seeing as they are undertaken at a particular point in time and make projections for the condition of the SIF for the next 70 years. The DEASP informed the Committee that the final projections are probably “wrong” but that the reviews provide some advanced warnings about the future condition of the fund. It also informed the Committee that it is a statutory and European obligation.

PUBLIC SERVICE CARD

I.44. The Public Service Card (PSC) is funded through the DEASP capital projects expenditure. Expected expenditure of the PSC project is forecasted to be €895,000 more than originally anticipated. The C&AG 2017 report explained that this was due to more cards being issued than previously expected. The original plan anticipated 3 million cards would be needed. 3.04 million cards were actually produced.

I.45. Members questioned whether the PSC is being used for the purposed it was originally intended for and if not, does it represent good value for money The DEASP explained that it is difficult to measure the value of the project as the Public Services Card replaced the previous social services card. It informed the Committee that the main cost of implementing the PSC project was production costs and that these would have been incurred by the social services card otherwise.

I.46. The DEASP informed the Committee that the PSC has helped identify approximately 220 cases of fraud resulting in approximately €4.2m in savings.

I.47. Members questioned whether the card is used to make savings across multiple Government Departments as this was an original argument for introducing the card. The DEASP stated its position that the card is fit for purpose as it consists of a safe registration process that verifies a person's identity. It explained that it believes it to be safer than the previous social services card due to the photo ID it provides. However, it stated that it is the decision of each Government Department to determine whether the PSC can be implemented in its individual processes.

REDUNDANCY PAYMENTS

I.48. Members queried the level of outstanding debt regarding the rebate due from employers that made employees redundant. The DEASP informed the Committee that the current debt is €460m relating to 13,400 employers. The majority of these employers were insolvent or went into liquidation between 2008 and 2013. In correspondence received from the DEASP in 2017, it provided the following breakdown of the 13,400 employers with an outstanding debt regarding redundancy.

Table 17: Breakdown of Companies' with an Outstanding Redundancy Debt by Registration

Type of Registration	Amount
Irish registered companies	9,306
Partnerships or Sole traders	4,094
Companies registered outside Ireland	30
Total	**13,430**

The DEASP confirmed in this correspondence that there is no mechanism to independently verify whether the 4,094 partnerships and sole traders with outstanding debt are still actively trading. Below is the breakdown of the trading status of the 9,306 Irish registered companies whose trading status can be verified.

Table 18: Trading Status of the Irish Registered Companies with an Outstanding Redundancy Debt

Trading Status	Amount
Receivership	565
Liquidation	3,324
Dissolved	1,887
Struck Off	77
Normal	3,453
Total	**9,306**

I.49. The DEASP informed the Committee that when a company goes into liquidation, it retains the redundancy debts on its books. Generally, it pursues recovery through the officially appointed liquidator, but in practice it does not receive a substantial amount of repayment. When the liquidation process is complete, which can take up to 7 years, the debt is generally written off.

I.50. Members questioned whether the €460m that is outstanding is part of active liquidations or live employers. The DEASP informed the Committee that 75% or €345m relates to employers that have been liquidated and ceased trading. It confirmed that a further €40m relates to sole traders who do not have to go through the liquidation process but appear to have ceased trading. It confirmed that it is pursuing recovery but it does not anticipate that it will receive these payments.

I.51. The DEASP went on to inform the Committee that approximately 16% of the debt is associated with companies that are still actively trading and that it is working with these companies to design payment plans to recover the debts associated with them. This amounts to approximately €72m.

I.52. The DEASP informed the Committee that it recovered approximately €7m in outstanding redundancy payments in 2017 and had recovered approximately €9m at the time of its engagement with PAC in 2018.

I.53. The DEASP informed the Committee that it implemented the PAC's 2017 recommendation and has set up a new process with Revenue where both organisations share information on the 100 highest debts in both organisations and cross-reference them. It then begins the process to recover the highest 100 debts from companies that are still active. Members questioned whether this new system would allow the DEASP to recover 100% of these debts but the DEASP said that it does not expect to recover the full amount. It anticipates collecting approximately €10m a year.

CONCLUSIONS AND RECOMMENDATIONS

The Committee of Public Accounts is of the view that:

I.54. The Department of Employment Affairs and Social Protection previously failed to implement proper controls in relation to jobseekers payment for under 25s. The Committee acknowledges the new controls the Department has implemented to reduce excess payments for jobseekers under 25. The Committee recommends that an annual review takes place to ensure the new controls regarding overpayments to jobseeker's under 25 are working effectively.

I.55. The processing of applications by the Department of Employment Affairs and Social Protection requiring medical assessments is unduly slow. The Committee recommends that the Department of Employment Affairs and Social Protection completes its examination of the possibility of contracting nurses to carry out medical assessments promptly. Should it not be viable, other alternatives should be actioned to improve processing times.

I.56. It is unclear to the Committee that the numbers achieving long-term full employment as a result of the JobPath programme represents value for money. The Committee recommends that the JobPath programme is reviewed on a value for money basis to determine whether the programme should continue.

I.57. The Department of Employment Affairs and Social Protection did not conduct enough PRSI inspections in 2018. The Committee recommends that annual targets are developed to ensure the number of PRSI checks remains consistent.

Appendix 1 Committee Membership

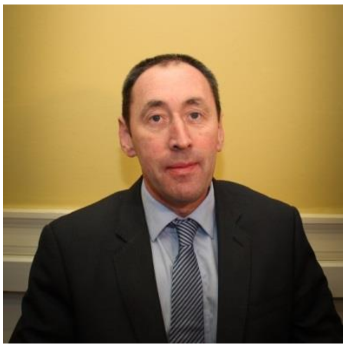
Bobby Aylward (FF)

Peter Burke (FG)

Shane Cassells (FF)

Catherine Connolly (I4C)

David Cullinane (SF)



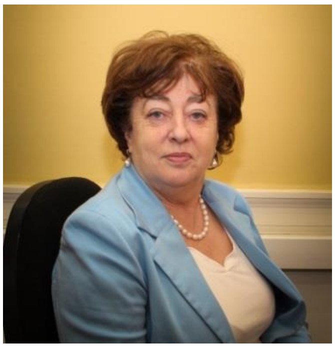
Pat Deering (FG)

Alan Farrell (FG)

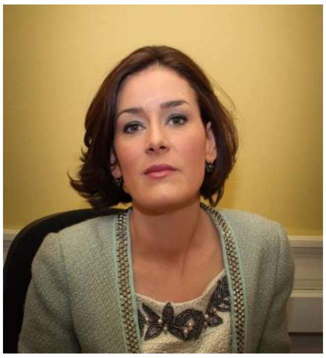
Seán Fleming (FF)

Alan Kelly (Lab)


Marc MacSharry (FF)


Catherine Murphy (SD/GPTG)


Jonathan O Brien (SF)


Kate O Connell (FG)

Committee of Public Accounts

186. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, to be known as the Committee of Public Accounts, to examine and report to the Dáil upon—

a) the accounts showing the appropriation of the sums granted by the Dáil to meet the public expenditure and such other accounts as they see fit (not being accounts of persons included in the Second Schedule of the Comptroller and Auditor General (Amendment) Act 1993) which are audited by the Comptroller and Auditor General and presented to the Dáil, together with any reports by the Comptroller and Auditor General thereon: Provided that in relation to accounts other than Appropriation Accounts, only accounts for a financial year beginning not earlier than 1 January, 1994, shall be examined by the Committee;

b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and

c) other reports carried out by the Comptroller and Auditor General under the Act.

(2) The Committee may suggest alterations and improvements in the form of the Estimates submitted to the Dáil.

(3) The Committee may proceed with its examination of an account or a report of the Comptroller and Auditor General at any time after that account or report is presented to Dáil Éireann.

(4) The Committee shall have the following powers:

a) power to send for persons, papers and records as defined in Standing Order 88;

b) power to take oral and written evidence as defined in Standing Order 85(1);

c) power to appoint sub-Committees as defined in Standing Order 85(3);

d) power to engage consultants as defined in Standing Order 85(8); and

e) power to travel as defined in Standing Order 85(9).

(5) Every report which the Committee proposes to make shall, on adoption by the Committee, be laid before the Dáil forthwith whereupon the Committee shall be empowered to print and publish such report together with such related documents as it thinks fit.

(6) The Committee shall present an annual progress report to Dáil Éireann on its activities and plans.

(7) The Committee shall refrain from—

a) Enquiring into in public session, or publishing, confidential information regarding the activities and plans of a Government Department or office, or of a body which is subject to audit, examination or inspection by the Comptroller and Auditor General, if so requested either by a member of the Government, or the body concerned; and

b) Enquiring into the merits of a policy or policies of the Government or a member of the Government or the merits of the objectives of such policies.

(8) The Committee may, without prejudice to the independence of the Comptroller and Auditor General in determining the work to be carried out by his or her Office or the manner in which it is carried out, in private communication, make such suggestions to the Comptroller and Auditor General regarding that work as it sees fit.

(9) The Committee shall consist of twelve members, none of whom shall be a member of the Government or a Minister of State, and four of whom shall constitute a quorum. The Committee and any sub-Committee which it may appoint shall be constituted so as to be impartially representative of the Dáil.

Appendix 3 Witnesses who provided oral evidence, and links to transcripts

THE NATIONAL ASSET MANAGEMENT AGENCY

Link to Transcript

Meeting Date: 20 September 2018

Principal Purpose of the Meeting:

- C&AG Special Report 102 – NAMA Second Progress Report;
- NAMA 2017 Financial Statements;
- NAMA 2016 Financial Statements

Witness Name	Title
National Asset Management Agency	
Mr. Frank Daly	Chairman
Mr. Brendan McDonagh	Chief Executive
Mr. Alan Stewart	Chief Legal Officer
Ms Noelle Condon	Chief Financial Officer
Mr. John Collison	Head of Residential Delivery
Department of Finance	
Mr. Des Carville	Head of Shareholding and Financial Advisory Division

THE PRESIDENT'S ESTABLISHMENT

Link to Transcript

Meeting Date: 25 September 2018

Principal Purpose of the Meeting:

- C&AG Appropriation Account 2016 Vote 1 – President's Establishment.

Witness Name	Title
Department of the Taoiseach	
Mr. Martin Fraser	Secretary General

TEAGASC

Link to Transcript

Meeting Date: 4 October 2018

Principal Purpose of the Meeting:

- Teagasc Financial Statements 2017.

Witness Name	Title
Teagasc	
Professor Gerry Boyle	Director
Mr. Tom Doherty	Chief Operations Officer
Department of Agriculture, Food and the Marine	
Mr. Kevin Smyth	Secretary General (Acting)

THE OFFICE OF PUBLIC WORKS

Link to Transcript

Meeting Date: 11 October 2018

Principal Purpose of the Meeting:

- Vote 13 – Office of Public Works;
- Appropriation Account 2017;
- C&AG Report 2017 Chapter 6 – Lease of Offices at Miesian Plaza.

Witness Name	Title
Office of Public Works	
Mr. Maurice Buckley	Chairman
Mr. John McMahon	Commissioner
Mr. John Sydenham	Commissioner
Mr. Martin Bourke	Assistant Secretary General
Mr. Mick Long	Director of Corporate Services

DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

Link to Transcript

Meeting Date: 18 October 2018

Principal Purpose of the Meeting:

- Appropriation Account 2016 and 2017 Vote 11: Public Expenditure and Reform (DPER);
- Appropriation Account 2016 and 2017 Vote 12: Superannuation and Retired Allowances;
- C&AG Report 2016 Chapter 6: Vote Accounting and Budget Management;
- C&AG Report 2017 Chapter 5: Vote Accounting and Budget Management;
- C&AG Report 2017 Chapter 2: Collection of Pension Contributions due to the Exchequer;
- C&AG Report 2017 Chapter 3: Control of Funding for Voted Public Services;
- C&AG Special Report 95: Financial Reporting in the Public Sector;
- C&AG Special Report 99: Public Sector Financial Reporting for 2015;
- C&AG Special Report 100: Public Sector Financial Reporting for 2016.

Witness Name	Title
Department of Public Expenditure and Reform	
Mr. Robert Watt	Secretary General
Mr. David Feeney	Principal Officer – Corporate Office
Mr. John Pender	Principal Officer – Actuarial and Quantitative Analysis
Ms Helen Codd	Assistant Principal Officer – Corporate Officer

HIGHER EDUCATION AUTHORITY

Link to Transcript

Meeting Date: 18 October 2018

Principal Purpose of the Meeting:

- Higher Education Authority (HEA) Financial Statements 2017.

Witness Name	Title
Department of Education and Skills	
Mr. Seán Ó Foghlú	Secretary General
Mr. William Beausang	Assistant Secretary General
Mr. Tony Gaynor	Principal Officer
The Higher Education Authority	
Mr. Michael Horgan	Chairman
Dr. Graham Love	Chief Executive
Mr. Neil McDermott	Assistant Principal Officer
Ms Sheena Duffy	Assistant Principal Officer
Mr. Stewart Roche	Management Accountant

OFFICE OF THE REVENUE COMMISSIONERS

Link to Transcript

Meeting Date: 15 November 2018

Principal Purpose of the Meeting:

- Appropriation Account 2017 Vote 9 – Officer of the Revenue Commissioners;
- C&AG Report 2017 Chapter 17 – Revenue's Progress in Tackling Tobacco Smuggling;
- C&AG Report 2017 Chapter 18 – Management of High Wealth Individuals' Tax Liabilities;
- C&AG Report 2017 Chapter 19 – Corporation Tax Losses.

Witness Name	Title
Office of the Revenue Commissioners	
Mr. Niall Cody	Chairman
Mr. Mick Gilligan	Principal Officer – Criminal Investigations
Ms Ruth Fennessy	Principal Officer – High Wealth Individuals
Mr. Keith Walsh	Principal Officer – Statistics and Economic Research
Ms Clare Omelia	C&AG Committee Liaison
Department of Finance	
Ms Anna Donnegan	Principal Officer – Tax Policy Division
Mr. Patrick Brennan	Assistant Principal – Income Tax Policy Division

DEPARTMENT OF EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION

Link to Transcript

Meeting Date: 29 November 2018

Principal Purpose of the Meeting:

- Vote 37 – Social Protection;
- Appropriation Account 2017;
- C&AG Report 2017 Chapter 11 – Regularity of Social Welfare Payments;
- C&AG Report 2017 Chapter 12 – JobPath Employment Activation Services;
- C&AG Report 2017 Chapter 13 – Actuarial Review of Social Insurance Fund;
- C&AG Report 2017 Chapter 14 – Overpayments of Age-Related Jobseeker's Allowance;
- C&AG Report 2017 Chapter 20 – PRSI Contributions by the Self-Employed.

Witness Name	Title
Department of Employment Affairs and Social Protection	
Mr. John McKeon	Secretary General
Ms Anne Vaughan	Deputy Secretary General
Ms Kathleen Stack	Assistant Secretary General
Ms Deirdre Shanley	Assistant Secretary General
Ms Patricia Murphy	Assistant Secretary General
Mr. Jim McDonnell	Chief Accountant
Department of Public Expenditure and Reform	
Ms Gráinne McGuckin	Principal Officer

Appendix 4 References

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1. National Asset Management Agency	
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B.2.	• C&AG Special Report 102 p. 10-12
B.3.	• C&AG Special Report 102 p. 10-12
B.4.	• Transcript 20.09.18 p. 20-26
B.5.	• Transcript 20.09.18 p. 27
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B.7.	• Transcript 20.09.18 p. 21
B.8.	• Transcript 20.09.18 p. 21
B.9.	• C&AG Special Report 102 p. 31-41
B.10.	• Transcript 20.09.18 p. 48
B.11.	• Transcript 20.09.18 p. 21
B.12.	• C&AG Special Report 102 p. 31-33
B.13.	• Transcript 20.09.18 p. 52-53
B.14.	• C&AG Special Report 102 p. 47
B.15.	• Transcript 20.09.18 p. 56
B.16.	• C&AG Special Report 102 p. 48
B.17.	• Transcript 20.09.18 p. 56-57
B.18.	• 'NAMA could be questioned on sale of Quinlan Private Loans' - Irish Times, Thursday 20th September 2018
B.19.	• Transcript 20.09.18 p. 36-38
B.20.	• PAC32-R-1711B
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B.27.	• Transcript 20.09.18 p. 47
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B.31.	• Transcript 20.09.18 p. 25
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C.4.	• Transcript 25.09.18 p. 3
C.5.	• Transcript 25.09.18 p. 6 • Appropriation Account Vote 1 p. 6
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C.7.	• Appropriation Account Vote 1 p. 7
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