

DPE 022/002/2018

10th August 2018

To: Accounting Officers

DPER Circular: 14/2018

Minute of the Minister for Finance and Public Expenditure and Reform in response to the Committee of Public Accounts Periodic Report November - December 2017

A Dhuine Uasail,

I am directed by the Minister for Finance and Public Expenditure and Reform to enclose, for your information and guidance, a copy of the Minute of the Minister for Finance and Public Expenditure and Reform in response to the Committee of Public Accounts Periodic Meetings Report initiated between November and December, 2017.

Issues raised

The Minute of the Minister addresses a number of issues, including;

- Oversight arrangements and service level agreements between the DCCAIE and RTÉ.
- Recognition of amounts given to ETBS and other sectors by the DES in their Appropriation Accounts.
- The Chairperson of every public body Board personally ensures that the financial statements for the organisation are submitted within the statutory time limit for annual audit.

Enquiries

Enquiries in relation to this Circular can be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571 or email: govacc@per.gov.ie.

Mise le Meas,

Robert Watt
Secretary General

**Minute of the Minister for Finance and Public Expenditure and Reform in response to the
Committee of Public Accounts Periodic Report No. 2, March 2018**

The Minister for Finance and Public Expenditure and Reform has examined the Committee's Report and has taken account of its recommendations and conclusions.

The Committee's recommendations, which are outlined below, have been grouped with regard to the six organisations the Committee met between November and December, 2017, following up on matters arising from previous meetings and examining issues emerging from financial statements audited and matters reported upon by the C&AG. The Minister's response is as follows:

Department of Communications, Climate Action and Environment

Recommendation B.1

The Committee recommends that the Department of Communications, Climate Action and Environment improves its project planning and budgeting processes to ensure the timely delivery, within budget, of significant projects such as broadband infrastructure, sustainable energy and landfill remediation.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Communications, Climate Action and Environment that this recommendation is accepted.

The Department of Communications, Climate Action and Environment (DCCAIE) is responsible for the planning and delivery of a number of strategic projects of significant scale and complexity. The processes referred to in the recommendation require ongoing attention by Government Departments. DCCAIE actively seeks opportunities to further strengthen processes and practices, while noting that effective project management and governance arrangements, in compliance with the requirements of the Public Spending Code, are in place.

Specifically in relation to the three projects referred to in the recommendation, DCCAIE notes the following:

National Broadband Plan (NBP)

The governance structures put in place by the Department of Communications, Climate Action and Environment for the National Broadband Plan (NBP) reflect the importance attached to this complex national infrastructure project. The procurement process is being effectively managed by a senior management team, supported by specialists, with the objective of delivering a quality and future proofed solution for Ireland. The specialist team,

comprising a broad mix of expertise and experience, includes experts in procurement, project management and engineering; commercial and financial analysts, as well as legal advisors.

The National Development Finance Agency provides specific assistance on the financial aspects of the NBP procurement process and acts as an independent reviewer and evaluator on the value for money aspect of the project.

There is an additional level of oversight in the form of a Steering Group which oversees the strategy development and a Procurement Board which oversees the procurement process. Both groups are chaired by DCCAIE and comprise independent national and international experts.

Sustainable Energy

Effective policy and corporate oversight structures are in place to manage the delivery of the sustainable energy programmes funded by the Department of Communications, Climate Action and Environment and administered by Sustainable Energy Authority of Ireland (SEAI), in line with policy direction from the Department.

Monthly meetings are held with the policy team and senior managers in SEAI on the three key areas of spend under the Energy Efficiency Programme, viz. residential, commercial and public sector, at which comprehensive reports on uptake and outputs are provided. This data is a critical input to the evidence base for ongoing policy decisions on scheme development and the monitoring of progress to Ireland's 2020 target to improve energy efficiency by 20%. Under the Performance Delivery Agreement in place between DCCAIE and SEAI, formal corporate governance meetings, at senior management level, take place on a quarterly basis in relation to operational and policy matters. Furthermore, engagement between senior management in the Energy Divisions and the SEAI on strategic policy issues takes place on an ongoing basis, and are also the subject of individual quarterly meetings.

Landfill Remediation

Closer cooperation between the Department of Communications, Climate Action and Environment, Local Authorities and the Waste Management Regions in relation to landfill remediation is being implemented. In 2018, additional resources are being provided by DCCAIE to the Waste Management Regions to provide project planning supports to the local authority sector, and to the Environmental Protection Agency (EPA) to allow the timely processing of the necessary consents. The Department is developing a pipeline of projects, working with the Local Authorities and the EPA, to ensure the completion of remediation works as quickly as possible.

Recommendation B.2

The Committee recommends that a formal oversight arrangement and service level agreement be put in place between the Department of Communications, Climate Action and Environment and RTÉ as soon as possible.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Communications, Climate Action and Environment that it accepts the recommendation that a formal oversight agreement be put in place with RTÉ. In line with the 2016 Code of Practice for the Governance of State Bodies, an Oversight Agreement, which describes the roles, responsibilities and obligations of DCCA and RTÉ, has been in place since 8 January 2018.

The Department maintains that, in the case of RTÉ, a service level agreement is inappropriate given its status as an independent public service broadcaster and the obligations imposed on it under the Broadcasting Act 2009. The pre-existing statutory regime, set out in the 2009 Act, reflects many of the standard parameters of a service level agreement including the establishment of objectives, financial requirements, and reporting and regulatory compliance obligations. The Department believes that these governance provisions are sufficiently explicit and that a service level agreement would duplicate the requirements of the legislation and, in particular, the role of the Broadcasting Authority of Ireland (BAI), as regulator. In addition, there is a question as to whether the imposition of a service level agreement would undermine the independence of RTÉ as a public service broadcaster which is specifically provided for under section 98 of the 2009 Act.

Robust governance, oversight and reporting arrangements are in place to monitor RTÉ's financial performance and the achievement of its objects as set out in the 2009 Act. RTÉ submits monthly management accounts to both the Department of Communications, Climate Action and Environment and the Department of Public Expenditure and Reform for review. Formal quarterly oversight meetings are held between DCCA and senior officials from RTÉ in line with the Oversight Agreement. In addition, the Department verifies annually that RTÉ is in compliance with all applicable provisions of the 2016 Code of Practice for the Governance of State Bodies.

As part of its annual reporting process, RTÉ submits a statement relating to the use of the Exchequer monies paid to it, and a statement in respect of total revenue and costs derived in that financial year, distinguishing between monies received or expended on activities in pursuance of its public service objects and activities in pursuance of its exploitation of commercial opportunities objects. The 2009 Act places additional reporting requirements on RTÉ, and each year in its Annual Report, it reports on the fulfilment or otherwise of the

commitments made in its Annual Statement of Performance Commitments. The full Annual Report and Accounts of RTÉ are laid before both Houses of the Oireachtas.

The BAI conducts an annual review to determine the extent to which RTÉ has met their public service commitments in the previous year and can make recommendations to the Minister of Communications, Climate Action and Environment with regard to funding. The BAI review report and the Minister's response is published and laid before the Houses of the Oireachtas. Furthermore, section 92 of the 2009 Act stipulates that the Director General of RTÉ can be called to attend before an Oireachtas Committee to give an account of the general administration of RTÉ and to represent the views of its board.

Recommendation B.3

The Committee recommends that the Department of Communications, Climate Action and Environment uses the available budget to ensure that landfill remediation work on the 71 sites which have been identified as high priority is carried out promptly.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Communications, Climate Action and Environment that this recommendation is accepted.

The Department of Communications, Climate Action and Environment notes that the assessment, consenting and remediation of landfill sites typically involve several phases, such as a three tier assessment of the remediation project, a tendering process to engage a contractor to implement the works, an application for a Certificate of Authorisation from the EPA to carry out the work and the work actually taking place, all of which require a number of years to complete. It has already taken a number of steps with a view to ensuring that the remediation of the high priority landfill sites is carried out promptly.

The Department is working closely with the local authority system to progress remediation needs and to allocate funding to the most suitable projects, in order to ensure the timely delivery, within budget, of projects. It has funded the appointment of a Project Co-ordinator in the Waste Management Regions to provide project planning supports to Local Authorities. Additional resourcing in the EPA will also support the timely processing of the necessary consents.

A multi-annual planning approach is being taken by DCCA, in collaboration with the EPA and the Local Authority sector, to facilitate the earliest possible delivery of this work programme, with particular attention being paid to the priority sites identified in regional waste management plans.

Recommendation B.4

The Committee recommends that, in order to reduce project risks and the possibility of budgetary overspend, the Department of Communications, Climate Action and Environment produce and clear and published timetable and costings for the implementation of the National Broadband Plan by June, 2018.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Communications, Climate Action and Environment that it notes this recommendation.

The Department of Communications, Climate Action and Environment is in the final stages of a formal procurement process to select a company to roll out a new high speed broadband network in the National Broadband Plan (NBP) State Intervention area. The Department's specialist NBP procurement team continues to engage intensively with all relevant stakeholders, including the bidding consortium, to ensure the earliest possible completion of this complex national infrastructure project.

Following a successful conclusion to the NBP procurement process and subject to approval of Government, the timetable for deployment of the new high speed broadband network and the associated budget will be finalised. The Department is working to a timeline of having selected a preferred bidder by September 2018.

Recommendation B.5

The Committee recommends that the Department of Communications, Climate Action and Environment carries out a costed review of Ireland's potential liability for not meeting its 2020 carbon emissions targets.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Communications, Climate Action and Environment that this recommendation is accepted.

The Department has commenced work on the development of a strategy, for Government approval, on ensuring compliance with Ireland's 2020 Effort Sharing Decision targets on greenhouse gas emissions through purchasing of allowances.

An inter-Departmental working group has been established, comprised of officials from the Departments of Communications, Climate Action and Environment, Finance and Public Expenditure and Reform, the National Treasury Management Agency and the Environment Protection Agency, to lead this work.

The strategy will be informed by an updated assessment of the likely costs of purchasing additional allowances for compliance with the Effort Sharing Decision and may include a combination of purchases from EU Member States with surplus emissions allowances, as well as the purchasing of available allowances from international markets.

Ireland is also permitted to bank and use surplus emissions credits from the years it over-achieved on its annual emissions targets (2013-2015) to comply with the Effort Sharing Decision, as well as to use any surplus units already acquired and carried over from the 2008-2013 Kyoto Protocol compliance period, thereby reducing the net additional cost to the Exchequer.

Education and Training Boards (ETBs)

Recommendation B.6

The Committee recommends that a note be added to the Department of Education and Skills' Appropriation Accounts going forward to clearly show amounts given to ETBs and other sectors.

The Minister for Finance and Public Expenditure and Reform is informed by the Department Education and Skills that this recommendation is accepted.

In its 2017 accounts the Department has added a table listing the funding provided directly from the Vote to the ETBs on an aggregate basis.

Recommendation B.7

The Committee recommends that the Department of Education and Skills strengthen its governance and oversight of the ETB sector, including working with the ETBs to ensure that their annual accounts are submitted within the statutory time limit.

Recommendation B.8

The Committee recommends the implementation of meaningful performance indicators for ETBs and the establishment of regular comprehensive reporting arrangements.

Recommendation B.9

The Committee recommends that the role of ETB boards be strengthened and that comprehensive governance training be provided for all board members.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that these recommendations are accepted.

While there is a comprehensive suite of governance instruments in place for the ETB sector suitable to the various needs of policy and funding sections, work on strengthening the Department's governance and oversight of the ETBs is a priority for the Department and forms a key part of its work on strengthening governance in the education sector as a whole.

Work on updating the ETB Code of Governance is well underway. It is anticipated that drafting and consultation will be done by Quarter 3 with a view to finalising in Quarter 4 of this year.

A framework of performance indicators is also being developed which will provide a more panoramic overview of the various governance and compliance strands across an ETB's operations, for example in relation to funding provided from different DES sources for purposes such as capital works, second-level education or further education and training. Work on the initial draft is expected to be completed in Quarter 2 of 2018.

In relation to annual accounts, as part of a focussed effort and working with the ETBs and C&AG, a range of measures were put in place to facilitate timely submission by the ETBs of their 2017 accounts. At the statutory deadline for submission to the C&AG for audit, 1 April 2018, all 16 ETBs had prepared and submitted accounts for 2017 for audit.

The role of ETB Boards is set out in the governing legislation and is further elaborated on in the Code of Governance. Training is provided at ETBI level and in individual ETBs. It is agreed that training/expertise among boards should be bolstered to ensure that the Board members are properly equipped to understand and act on their responsibility to provide appropriate and meaningful oversight to the ETBs. The Department has previously contributed to ETBI training and will avail of further opportunities for same, for example by working with ETBI's recently established legal services support section.

Recommendation B.10

The Committee recommends that boards of ETBs and the Chairpersons of ETBs take responsibility for ensuring that ETBs submit their annual account to the C&AG by the statutory deadline.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

As set out in the legislation governing ETBs, responsibility for submitting accounts to the C&AG in accordance with the statutory deadline is a matter for ETBs and Chairpersons.

The Department will continue to support ETBs in this work. As indicated in response to Recommendation B.7 above, as part of a focussed effort working with the ETBs and C&AG a range of measures were put in place to support ETBs in improving the timeliness of submission of their 2017 accounts. As of 1 April, 2018, the statutory deadline for submission to the C&AG for audit, all 16 ETBs had prepared and submitted a set of accounts to the C&AG.

Recommendation B.11

The Committee recommends that the minutes of all ETB board meetings be made available publicly and promptly through their websites following board approval.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

This is a matter for ETBs themselves in the first instance. In accordance with the ETB Code of Governance, ETBs are required to operate in an open and transparent manner. Board meetings are open, other than in exceptional circumstances where it is appropriate that an item be considered by the Board 'in camera'. Some ETBs already publish the minutes of Board meetings. In other ETBs, plans are in train to arrange for their publication. While it is not currently an explicit requirement that ETBs publish minutes, the Department intends to make this an explicit requirement in the context of its current review of the Code of Practice for the Governance of ETBs.

Recommendation B.12

The Committee recommends that the Department of Education and Skills establishes a timeline for the implementation of the recommendations and any other necessary actions arising from its statutory investigation of matters in relation to Kildare and Wicklow ETB, and that the implementation of the recommendations is given priority.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

The investigation carried out under Section 40 of the ETB Act 2013 has been completed. Under Section 41 of the Act, the Minister will consider the report of the investigation and may give direction to the Board.

When the process of consideration of the report is complete implementation of relevant recommendations and any other necessary actions will be a priority of the Department.

Recommendation B.13

The Committee recommends that outcomes be established and agreed between the Department of Education and Skills and ETBI, and all future public funding to ETBI be aligned to clear and measurable goals.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

A Service Level Agreement is in place between the Department and ETBI and there is ongoing detailed engagement on a range of areas of mutual interest. The format of engagement will be reviewed for 2019 with a view to inclusion of more measurable goals where appropriate.

Recommendation B.14

The Committee recommends that the Department of Education and Skills carries out a full assessment of the risks associated with ETB Chief Executives and Directors not being based in ETB head offices.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

The Department will undertake an analysis of the risks associated with ETB senior management teams and their office bases.

As an initial step the Department will collect further information from ETBs on how functions are managed across their offices and the location of the relevant senior personnel and will engage further as appropriate.

Department of Education and Skills

Recommendation B.15

The Committee recommends that the Department of Education and Skills urgently concludes the transfer of property from religious organisations to the State through the Redress Scheme.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

The Department of Education and Skills is actively pursuing the full completion of all outstanding contributions from religious congregations towards the costs incurred by the State in responding to residential institutional child abuse. It has set targets for the completion of most of the remaining property transfers (both under the 2002 Indemnity Agreement and the 2009 voluntary offers) by the end of 2018 – these targets have been notified to the Committee.

Recommendation B.16

The Committee notes that there are 10 properties awaiting transfer to the State under the Redress Scheme as part of the 2009 Voluntary Agreement with religious congregations. The Committee recommends that the State carries out its own independent valuation of these properties to ascertain any shortfall between current valuation and the valuation placed on the properties by religious congregations in 2009.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is partially agreed.

Additional properties were offered to the State by congregations in 2009 on a voluntary basis - these offers are not covered by any agreement.

Considerable progress is being made in relation to these transfers with 9 of the 18 properties accepted by the State being fully transferred. Work on the transfer of the remaining 9 properties is well advanced.

The value ascribed to properties in 2009 was entirely at the discretion of the transferring congregations. The Government for its part decided that the properties would be valued at the date of transfer for the purpose of reckoning the transfers as contributions. Properties are therefore being independently valued as they are transferred. The values of those properties fully transferred therefore reflect today's market conditions and have, in all cases, been lower than those ascribed to them by the congregations in 2009. As there is no agreement in place covering these voluntary transfers there is no recourse to the transferring congregations for the shortfalls in value that have arisen.

Recommendation B.17

The Committee recommends that the Department of Education and Skills publishes quarterly progress reports on the property transfer process in relation to the Redress Scheme.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

The Department of Education and Skills are preparing a progress report setting out the position as of end Q2 2018 – this is due to be published by end- July.

Recommendation B.18

The Committee recommends that the Department of Education and Skills completes and publishes the Caranua Eligibility Review forthwith.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Education and Skills that this recommendation is accepted.

The Caranua eligibility review was completed and published on 29 May 2018.

An Garda Síochána

Recommendation B.19

The Committee recommends that An Garda Síochána prioritises the implementation of outstanding recommendations from the Garda Internal Audit Service's 2017 Internal Audit Report on financial procedures at the Garda College.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and AGS that this recommendation is accepted.

As advised previously the Minister for Justice and Equality referred the Garda Internal Audit Service (GIAS) Report to the Policing Authority on 29 March 2017 under section 62O (6) of the Garda Síochána Act 2005 and requested the Authority to oversee the implementation of the Report's Recommendations and provide a quarterly update on progress in this regard.

The Minister is also informed that the Minister for Justice and Equality received the Authority's third quarterly progress report on 1 February 2018 which was laid before the Houses of the Oireachtas on 5 March 2018.

The Authority's third report records that 11 out of 19 recommendation are complete / closed. The Authority is satisfied that progress has been made on the outstanding eight recommendations which broadly relate to the transfer of lands from the Sportsfield Co to the OPW and the winding up of the company, regularisation of the status of the employees attached to the College restaurant and the closing of certain bank accounts. The Authority

has acknowledged that there are complex legal and practical issues relating to the transfer of lands from the Sportsfield Co to the OPW and the winding up of the company.

The Minister is further informed that AGS has indicated that the implementation of the eight remaining recommendations of the Garda Internal Audit Report is a priority for the organisation. Considerable progress has been made since the Authority's third report in implementing the remaining eight recommendations and AGS expects that all but three recommendations will be completed by the time of the Authority's next report which is expected in mid to end July 2018. These recommendations relate to the transfer of lands and the winding up of Sportsfield Co as well as the completion of additional internal auditing work.

Recommendation B.20

The Committee recommends that An Garda Síochána presents to the Public Accounts Committee and to the Policing Authority the implementation plan for the outstanding recommendations of the 2017 Internal Audit Report on financial procedures at the Garda College. This should be done promptly.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Justice and Equality and AGS that this recommendation is accepted.

The Minister for Finance and Public Expenditure and Reform is further informed that AGS provided the Committee with an update on the status of the implementation of the 19 recommendations on Wednesday 30th May which outlined a plan for the implementation of the remaining recommendations with target completion dates. The implementation of the recommendations continues to be overseen by a Steering Committee chaired by the Chief Administrative Officer comprising senior Garda managers and a representative from the Department of Justice and Equality.

Department of Employment Affairs and Social Protection

Recommendation B.21

The Committee recommends that the Department of Employment Affairs and Social Protection prioritises recruitment of additional medical assessors to ensure that cases awaiting medical reviews are dealt with in a timely manner.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- The Department is currently in the process of taking in medical practitioners from the recent panel, following the PAS recruitment process in 2017, and the appointment of a further three full-time equivalent medical assessors is expected to be completed by end July 2018; and
- A further recruitment drive to establish a new medical assessor panel is proposed to commence in Q3 2018.

Recommendation B.22

The Committee recommends that the Department of Employment Affairs and Social Protection focuses its social welfare overpayment debt recovery efforts on the 5.7% of cases which constitute 60% of outstanding debt.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- This approach reflects the current focus of the Department's debt management work.
- The Department carries out a comprehensive analysis of the stock of customer debt on a monthly and quarterly basis. Informed by this on-going analysis, a targeted approach to managing outstanding debt is being implemented, with larger value cases being prioritised.
- Many of these larger value cases are the result of acts of fraud perpetrated on the Department which have been detected in recent years by the introduction of new investigation tools and systems. A significant number of cases involve fraud committed over prolonged period of time and by persons engaged in other serious and organised crime.
- As such, the potential for full recovery or recovery at an accelerated rate in these cases is somewhat limited.

Recommendation B.23

The Committee is of the view that debts owed to the Department of Employment Affairs and Social Protection which are under €100 should be written off after one year. It is the Committee's opinion that in order to improve chances of repayment, efforts need to be enhanced to ensure that debt recovery begins earlier.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- The Minister for Public Expenditure and Reform has sanctioned a programme of management actions that will see older and smaller value debts due to the Department being written-off over the course of 2018 and annually thereafter.
- Cases of debt are written-off where it is considered that there is no economic advantage to engage in further recovery actions or the costs of recovery are likely to outweigh the benefits that might be realised. This approach encompasses what the PAC has recommended.

Recommendation B.24

The Committee recommends that all future publications from the Department of Employment Affairs and Social Protection should use the phrase “suspected fraud” instead of “fraud” in instances where the burden of proof has not been met regarding fraud.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- Preventing abuse of the social welfare system is one of the main priorities of the Department.
- It should be noted that the use of the term “fraud” requires no prior criminal conviction and that its use covers a broad spectrum of behaviours, including criminal and civil actions. However, the use of the term alone may be misleading and consideration will be given to its use together with the suggested terminology recommended by the Committee.
- The Department is satisfied that the requisite elements of both criminal and civil fraud are determined in the course of making statutory decisions under the Social Welfare (Consolidation) Act.

Recommendation B.25

The Committee recommends that future public information campaigns produced by the Department of Employment Affairs and Social Protection prioritise error reduction rather than claimant fraud, as claimant and departmental error are more significant causes of social welfare overpayment than claimant fraud.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- The Department's programme of publicity campaigns is used to inform the public and highlight services offered and other important matters.
- Ensuring high levels of compliance and preventing fraud from entering the social welfare system is a key priority areas for the Department. Future campaigns will include a focus on customer information to improve compliance levels.
- While overpayments resulting for suspected fraud and fraudulent activity by customers constituted on average 39% of total overpayments in the four years 2014-2017, customer error amounted to an average of 43% over the same period with overpayments arising from errors by officials realising no more than 2.75% of overpayments in the past four years.

Recommendation B.26

The Committee recommends a detailed plan is put in place and closer cooperation between the Department of Employment Affairs and Social Protection and the Revenue Commissioners to tackle the issue of outstanding debt relating to redundancy and employers' insolvency schemes.

The Minister for Finance and Public Expenditure and Reform is informed by the Department of Employment Affairs and Social Protection that that this recommendation is accepted.

The Minister is further informed that:

- Almost two-thirds of overall employer debt currently held by the Department originated during the recession years of 2008 to 2013 and at least three-quarters of current outstanding employer debt is in respect of companies which have been verified as insolvent i.e. companies which are no longer trading. Debt relating to insolvent companies is unlikely to be recoverable.

- It is believed that a large proportion of the remaining debt is in respect of employers who are no longer trading but who have not formally declared as insolvent.
- Nevertheless, effective debt recovery is a key aspect of this Department's control policy, with the Debt Recovery and Accounting System (DRAS) providing a key resource in that regard.
- A dedicated debt management team engages directly with employers with a view to recovering debt. The team makes contact with these employers to establish their financial position and their ability to repay the debt in full or as part of an agreed debt repayment plan. Contact takes place on a structured basis, with automated reminders and annual statements on outstanding debt.
- In cases of liquidation, the Department's recourse is with the liquidator and the Minister becomes a preferential creditor against the assets of an employer. While the Department works with liquidators to maximise recoveries, this is a long process and, frequently, there are limited assets available for distribution to creditors.
- The Department works closely with Revenue's Insolvency Units with regard to cases where co-operation is mutually beneficial and a working group has been established to oversee same. While Revenue has a panel of liquidators, they are not mandated to fund liquidations where there are no Revenue concerns (i.e. no debt or compliance issues).

Department of Finance

Recommendation B.27

The Committee recommends that the Department of Finance and the Special Liquidator of the IBRC prepares and publishes a timescale and an estimated cost of completing the Special Liquidation process.

The Minister for Finance notes and accepts this recommendation.

The Minister has been advised that:

- It has been agreed with the Special Liquidators of IBRC that they will include in the next Progress Update Report on the Special Liquidation of IBRC an indicative timescale of how long it will take to complete the wind-up of IBRC and an indicative estimation of the costs that will be incurred in completing this process.
- These estimates will require a number of assumptions in relation to the resolution of outstanding litigation and other matters by the Special Liquidators which are inherently difficult to forecast and so the actual timing and estimated cost will be subject to ongoing change.

- The latest Progress Update Report now includes this information and was published on the Department of Finance website on 31st May 2018. The report can be accessed at - <https://www.finance.gov.ie/updates/fifth-progress-update-received-from-the-special-liquidators-of-ibrc/>.

Recommendation B.28

The Committee recommends consideration is given to amending legislation to enable the establishment of a Committee of Inspection for the Special Liquidation of the IBRC.

The Minister for Finance notes this recommendation and makes the following observations:

- When the Department of Finance appeared before the Committee in December it was highlighted that the Department was not in a position to discuss issues concerning the costs of the Special Liquidation or the oversight of the process as these are a matter of dispute in the High Court which awaits determination, and this remains the case.
- In this scenario the Department was not in a position to elaborate on these issues and respond to suggestions that the oversight and transparency of the liquidation would be any way enhanced through the existence of a Committee of Inspection.
- The Department is taking a proactive approach to move these proceedings on as quickly as possible. The Department is firmly of the view that the claim is allegations are without foundation and the Special Liquidation of IBRC has been conducted in an entirely appropriate manner and in accordance with the provisions of the IBRC Act. The Department has been very transparent in relation to the work of the Special Liquidators and has published four detailed reports which are available on the Department's website.
- As outlined to the Committee in December and again in April, the Department, along with the Special Liquidators, are happy to appear before the Committee to discuss this matter as soon as the ongoing litigation is resolved or progressed sufficiently to allow us to freely discuss these issues.

Recommendation B.29

The Committee recommends that a Dáil debate takes place on the utilisation of NAMA's projected terminal surplus of €3 billion in view of the fact that Eurostat and the EU have no rules on this due to the unique nature of NAMA.

The Minister of Finance notes this recommendation.

While it is currently estimated that NAMA will return a surplus of €3bn to the Exchequer, this surplus has yet to fully crystallise. It is important to note that realisation of this surplus

depends on the success of NAMA's ongoing deleveraging, its Dublin Docklands SDZ programme and residential funding programme. These activities will have to be completed for the expected surplus to be earned. This is not expected until NAMA has completed its wind down in 2020.

Any NAMA surplus paid, while Exchequer positive, will not impact the general government balance, in line with Eurostat rules. Furthermore, from a statistical perspective, once the senior debt, subordinated debt, and private investors NAMA have been repaid then the State would be the sole shareholder and the NAMA SPV would then become classified into the general government sector, having no effect on the general government balance. This is expected to occur in 2020 and at that point in time NAMA will have no debt.

It will be a decision for the Government as to how any surplus returned by NAMA will be utilised within the framework of the fiscal rules. However, the intention has always been to use such receipts from the resolution of the financial sector crisis to pay down our national debt and reduce our debt servicing costs.

Recommendation B.30

The Committee recommends that a Dáil debate takes place on the orderly wind down of NAMA or the possible consideration of use of NAMA for other specific purposes.

The Minister of Finance notes this recommendation.

It is currently expected that NAMA will complete the majority of its work by 2020. NAMA was originally mandated in late 2009 to deal expeditiously with its acquired loan portfolio and to extract best value from that portfolio. The agency reached a major milestone in October 2017 when it announced that it had redeemed all of its State-guaranteed Senior Bonds of €30.2bn, three years ahead of schedule.

However, notwithstanding the successful achievement of this primary and important objective, three years ahead of schedule, there is still a significant body of work yet to be completed by NAMA. Subject to current market conditions prevailing, this includes redemption of NAMA's subordinated debt of €1.6 billion by March 2020 and completion of its Dublin Docklands SDZ and residential funding programmes.

It is not intended to extend the current remit of NAMA beyond its expected completion in 2020 and in line with its original approval from the EU Commission in February 2010. The Commission have made it clear that any decision to alter or expand NAMA's mandate or to prolong its lifespan beyond its expected wind down in 2020/2021 could impact the terms of NAMA's existing State Aid approval. It is also important to note that once the senior debt,

subordinated debt, and private investors NAMA have been repaid then the State would be the sole shareholder and the NAMA SPV would then become classified into the general government sector.

Notwithstanding the above, the Government has proactively sought to ensure the best use of NAMA's extensive skill and expertise into the future within the constraints highlighted above. In this regard the Minister notes the proposed establishment of Home Building Finance Ireland (HBFI), which is intended to increase the availability of debt funding on market terms to commercially viable residential development projects. It is envisaged that HBFI will draw on the expertise and experience in residential development funding that currently resides in NAMA in order to efficiently deliver on its objectives.

General Recommendations

Public Sector Reporting

Recommendation 5

The Committee recommends that the Chairperson of the Board of every public body personally ensures that the financial statements for the organisation are submitted within the statutory time limit for annual audit.

The Minister for Finance and Public Expenditure and Reform accepts this recommendation.

DPER Circular [7/2015 – Timely Production and Submission of Accounts of Bodies and Funds audited by the Comptroller and Auditor General and the Laying before the Houses of the Oireachtas Special Reports of the Comptroller and Auditor General](#)¹ sets out the timelines that must be complied with regarding the production of accounts of bodies or funds and the timeframe for the laying of such reports before the Houses of the Oireachtas.

The circular highlights the need for timely production of accounts of State bodies and funds under the aegis of Government Departments and Offices and their subsequent submission to their parent Department and the timeline within which Departments should lay the audited financial statements of bodies and funds under its aegis before the Oireachtas

The timeframe within which public bodies are required to present their financial statements to the Oireachtas can vary depending on whether or not the financial statements are required to be adopted at an AGM or presented to Government in the first instance.

Ordinarily the maximum amount of time that may pass between an audited body receiving an audit certificate on their financial statements and the audited financial statements being

¹ <http://circulars.gov.ie/pdf/circular/per/2015/07.pdf>

laid before the Houses of the Oireachtas is three months. If the financial statements are required to be adopted at an AGM and the financial statements must be presented to Government the maximum amount of time that may pass between a body receiving an audit certificate and the financial statements being laid before Oireachtas extends to six months.

Circular 7/2015 highlights that every effort should be made to lay the reports before the Oireachtas as quickly as possible. Where legislation concerning the laying of the accounts of a body or fund provides for other arrangements, these other arrangements should apply as the legislative provisions prevail.

Format of Appropriation Accounts

Recommendation 6

The Committee recommends that the layout of information in Departmental Appropriation Accounts be re-appraised, and that additional note be added to the accounts clearly identifying sectors and outlining expenditure on all public service organisations.

The Minister for Finance and Public Expenditure and Reform accepts this recommendation.

The Department of Public Expenditure and Reform is currently examining the layout of the appropriation accounts with a view to enhancing the information provided to assist the readers of the accounts.

The appropriation accounts, showing the financial transactions of Government Departments and Vote Holding Offices are prepared in accordance with the Exchequer and Audit Departments Act 1866 (as amended by the Comptroller and Auditor General (Amendment) Act 1993) and with accounting rules and procedures laid down by the Minister for Public Expenditure and Reform. The accounts are a cash-based record of the receipts and payments in the year compared with the amounts provided under the Appropriation Act. The appropriation accounts also show prior year figures for comparison purposes.

At the end of the financial year, each Department/Office is required – under Section 22 of the Exchequer and Audit Departments Act, 1866, (as amended by the C&AG Amendment Act, 1993) to prepare an Appropriation Account for submission to the C&AG before the 1st April of the following year.

The statutory requirement is for the Appropriation Account to provide details of outturn (i.e., actual payments made and receipts brought to account) against the Estimate provision.

Public Sector Reporting

Recommendation 7

The Committee recommends that any engagement of consultants or professional advisors for any public contract should have a time limit attached. At the end of that period, the contract should be put up again for tender notwithstanding the ongoing nature of the work. This is necessary to ensure there is ongoing value for money and that organisations do not continue to draw from funds from the Exchequer without regular retendering processes being in place.

The Minister for Finance and Public Expenditure and Reform accepts this recommendation.

The Office of Government Procurement (OGP) publishes a standard suite of template documentation including a standard contract form on their website (OGP.gov.ie). This provides for the contract duration to be specified with a commencement and expiry date (The sample text is provided in italics below).

This Agreement shall take effect on the date of this Agreement (“the Effective Date”) and shall expire on [Insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties (“the Term”).

Delete and replace with “Not Used” if not applicable:

The Client reserves the right to extend the Term for a period or periods of up to [Insert Number] months with a maximum of [Insert Number] such extensions permitted subject to its obligations at law

All public contracts above EU thresholds are required to be published on Official Journal of the European Union (OJEU). In addition, public contracts above €25k are required to be published on the etenders portal and are subject to the standard national public procurement procedures.

Given under the Official Seal of the Minister for
Finance and Public Expenditure and Reform on this
the 25th day of July, 2018.



L.S.

A handwritten signature in black ink that reads 'Robert Watt'.

Robert Watt

Secretary General

Department of Public Expenditure and Reform

25/07/2018