



Your ref: PAC32-I-1008

16 July 2018

Ms Margaret Falsey  
Committee of Public Accounts Secretariat  
Committee of Public Accounts  
Leinster House  
Dublin 2

Dear Ms Falsey,

I refer to your letter of 4 July, following the Committee's examination of the C&AG Report 2016 and the Appropriation Accounts 2016 as relating to the Tax Appeals Commission (TAC).

Further to questions raised by members of the Public Accounts Committee (PAC) at the meeting of 28 June 2018 and subsequent correspondence, please find below details of:

1. Staffing requests received from the TAC and the responses from the Department of Finance.
2. Information in relation to other resourcing requests.

I understand that the Office of Public Works intend to write separately to the PAC with regard to the references during the Committee hearing to accommodation matters.

### Background

The Tax Appeals Commission (TAC) was established in March 2016 as part of the reform of the tax appeals system introduced under the Finance (Tax Appeals) Act 2015. The Commission was set up as an independent body with its own vote and Accounting Officer and is a body under the aegis of the Department of Finance. It replaced the Office of the Appeal Commissioners, which operated within the Office of the Revenue Commissioners.

Significant additional resources have been applied to the TAC since its inception, with the staffing levels more than doubling over its first two years of operation. Where additional resources have been sought to date, the Department of Finance (D/Finance) have engaged with each request received. The budget for the TAC when compared to The Office of The Appeals Commissioners has almost quadrupled between 2014 and 2018. In 2016 and 2017 the TAC did not spend its full budget allocation.

### Staffing requests received from the TAC

The TAC commenced operation on 21 March 2016, taking over the functions of the former Office of the Appeal Commissioners. At the time of establishment, the staff consisted of two recently appointed Commissioners, Commissioners O'Mahony and Gallagher, and 4 administrative staff. The administrative staff included an experienced Principal Officer seconded from D/Finance to assist with the administrative and governance requirements of establishing the TAC.

Since the establishment of the TAC in March 2016 the Department has seconded 2 Principal Officers (one to replace the other) to assist with setting up the organisation. It has also facilitated the transfer of an experienced staff member at HEO level. Guidance and assistance has been provided to TAC with writing job specifications for specific roles and making arrangements with PAS for recruitment campaigns.

It was anticipated that the establishment of the TAC as an independent body would give rise to additional staffing requirements and D/Finance indicated a positive disposition to dealing with such requirements. Proposals were to be made by the TAC based on their experience of the workload and requirements of the new body.

#### June 2016

In June 2016 the Commissioners proposed the re-engagement of two former Commissioners on a temporary basis. This was followed in July 2016 by a request to recruit two additional temporary clerical staff.

The re-engagement of the former Commissioners was not considered to be in keeping with the mandate of openness and transparency, so in July 2016 **sanction** was given for the appointment of 5 temporary Appeal Commissioners, to be appointed by a competitive process, and 2 fulltime clerical staff.

It is specified in the TAC Act that Appeal Commissioners are appointed by the Minister, so D/Finance managed the recruitment process for the temporary commissioner posts with the Public Appointments Service (PAS). The Commissioners had input into the recruitment criteria, shortlisting process and interview process. D/Finance was also involved in these processes, and in addition undertook the necessary administrative engagement with PAS and engagement with the Attorney General's office on matters of employment law.

#### August 2016

An amended request was received from the TAC in August 2016 for 4 clerical staff (to include the 2 clerical staff sanctioned in July), and this was **sanctioned** in August 2016.

#### February 2017

In February 2017, following the return to D/Finance of the seconded Principal Officer, the TAC requested the secondment of another experienced Principal Officer. This was **sanctioned/approved** and the position was filled by the appointment of another experienced Principal Officer on secondment from D/Finance in May 2017.

#### August 2017

In August 2017 a request was made by the TAC for 2 additional tax qualified staff at Assistant Principal (AP) level to act as case managers and this request was **sanctioned**.

In parallel to commencing the recruitment process via PAS the TAC requested that the Department of Finance consider filling some of these positions by sending further staff to the TAC on secondment. This was not possible as D/Finance was dealing with the very significant staffing challenges caused by an annual turnover rate of over 23% (a figure which includes resignations, retirements and staff that have moved to other Departments through promotions etc.). Members of the PAC have noted and commented on the high vacancy and turnover rates in D/Finance on previous occasions.

D/Finance officials offered assistance with the process of recruitment via PAS, including the provision of interview board members if required.

The TAC also suggested that, as an alternative to recruitment via PAS, D/Finance would conduct the recruitment process for TAC staff, with a view to accelerating the recruitment process. In this regard it should be noted that:

- All D/Finance recruitment is conducted via PAS, as is the case for the vast majority of Government Departments. D/Finance has very demanding resourcing requirements and it does not have the capacity or scale within its own resources to make this feasible.
- With regard to timing, normal recruitment requirements such as advertising periods, interviews, Garda clearance and notice periods apply equally to direct recruitment, therefore the recruitment process would not be materially accelerated.
- D/Finance has 17 Bodies under its aegis that vary in size. All are independent like the TAC and D/Finance does not, and could not, provide HR services to them. As the bodies are independent there is also a risk that such a role would undermine that independence.

D/Finance has an experienced HR manager and the assistance of this individual to provide advice and guidance was offered to the TAC, but the TAC to date have not availed of this offer.

#### September 2018

The TAC's 2018 Estimates were submitted to the Department of Public Expenditure and Reform (DPER) in September 2017, noting that the required additional staffing from January 2018 would be 2 Assistant Principal case managers (the 2 case managers requested in August for which recruitment had commenced), 1 Assistant Principal, 1 Higher Executive Officer and 1 temporary Clerical Officer.

This request was **sanctioned**, and D/Finance also facilitated the transfer of an experienced Higher Executive Officer on secondment to the TAC in October 2017. It is understood that two Assistant Principal case managers were appointed in January 2018.

#### November / December 2017

The TAC did not submit any amended 2018 budget / staffing requirements during the Revised Estimates process in November / December 2017. Therefore the 2018 estimate is based on the needs identified by the Commissioners in September 2017.

#### February 2018

In February 2018, the Accounting Officer of the TAC submitted a request to the D/Finance for significant additional resources to meet the increased caseload of the Commission, including an additional 10 administrative staff ranging in grade from Assistant Secretary to Clerical Officer. The addition of these resources would involve an effective doubling of the Commission's budget for 2018 from €1.626 million to an estimated €3.226 million which includes extra resources for ICT and new office space.

Due to the substantial increase in public resources now being sought by the TAC, D/Finance officials requested further information to support the resource request to ensure that the proposed balance of administrative staff and the existing Commissioners would be effective in addressing that workload. The TAC informed D/Finance in early March of this year that it had commenced commissioning a review of its resources and operations. I have been informed that this review is ongoing and as of this date has not yet been received.

Following a meeting with the 2 Commissioners in early May, the Minister for Finance commissioned an independent reviewer with significant experience of civil service bodies and operations to assess the current position and advise how best to address the TAC's resource needs. This review has been expedited in order that resourcing decisions, based on a sound business case for the resolution of the current backlog, can be made as soon as possible.

## TAC Budgets, 2016 to 2018

In 2015, the revised estimate for the Office of the Appeal Commissioners (OAC) was €823,000. At the time the OAC was independent in its governance and in its decision making with regards to appeals, but its administrative staff were seconded from Revenue and service level agreements with Revenue were in place for IT support etc.

In 2016, the year that the TAC was formally established, the revised estimate for the TAC (Vote 10) was €1,500,000. This figure is an increase of 82% from 2015's estimate, in view of the transition from the OAC to the TAC. Much of the increase was to account for increased office equipment and external IT equipment/services costs as the TAC moved to a new office. There was also an increase in the provision for salaries, wages and allowances of 25%. After year's end, the TAC surrendered €596,000 of its 2016 Estimate to the Exchequer.

The following year (2017), the revised estimate for the TAC was €1,684,000. This figure is an increase of 12% on the 2016 estimate, and an increase of 105% on the 2015 estimate. Between 2016 and 2017, the provision for salaries, wages and allowances in the TAC's estimate increased by 57%. After year's end, the TAC surrendered €528,000 of its 2017 Estimate to the Exchequer.

In 2018, the revised estimate for the TAC is €1,707,000. This figure is an increase of 1.4% on the 2017 estimate; an increase of 13.8% on the 2016 estimate, and an increase of 107% on the 2015 estimate.

### Summary of the TAC's Budget information (OAC in 2015)

Year	Revised Estimate*	Percentage increase from previous year	Amount returned to the Exchequer after year end
2015**	€823,000	61.7%	N/A
2016	€1,500,000	82%	€596,000
2017	€1,684,000	12%	€528,000
2018	€ 1,707,000	1.4%	N/A

\* Includes Appropriations in Aid (see below)

\*\*This Estimate was for the Office of the Appeal Commissioners, which the Tax Appeals Commission replaced in 2016.

### Summary of TAC Budget Allocations (OAC in 2015)

	2015*	2016	2017	2018
	€000	€000	€000	€000
Facilitations of Hearings	823	1,500	1,684	1,707
Less: Appropriations in Aid	(48)	(60)	(79)	(81)
<b>Net Programme Expenditure</b>	<b>775</b>	<b>1,440</b>	<b>1,605</b>	<b>1,626</b>
Salaries, Wages, Allowances	654	820	1,284	1,307
Travel & Subsistence	44	50	70	70
Training, Development, Incidental	26	35	30	30
Postal & Telecommunications	20	25	30	30
Office Equipment & External IT	20	500	200	200
Office Premises Expenses	59	70	70	70
<b>Total Budgeted Expenditure</b>	<b>823</b>	<b>1,500</b>	<b>1,684</b>	<b>1,707</b>
Returned to Exchequer		(596)	(528)	
<b>Expenditure</b>		<b>904</b>	<b>1,156</b>	

\* These budget figures relate to the former Office of the Appeal Commissioners

With regard to expenditure in the year 2018 to date, expenditure returns to end June 2018 indicate TAC expenditure of €708,000 against a budget profile of €944,000 (gross). This includes expenditure on salaries, wages and allowances of €505,000 against a budget profile of €624,000.

I trust that the above is in order. If the Committee members have any further queries, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Derek Moran', written over a horizontal line.

Derek Moran  
Secretary General