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AN COISTE UM CHUNTAIS PHOIBLÍ

Scrúdú ar an

gCuntas Leithreasa 2019 i gcomhair Vóta 13 – Oifig na
nOibreacha Poiblí

agus ar Nithe Airgeadais Gaolmhara

Bealtaine 2021

Committee of Public Accounts

Examination of the

2019 Appropriation Account for Vote 13 – Office of Public Works
and Related Financial Matters

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Office of Public Works

Meeting Date: 11 November 2020

[Link to transcript](#)

Principal Purposes of the Meeting:

- [Appropriation Account 2019 Vote 13 – Office of Public Works](#), and
- [2018 Report on the Accounts of the Public Services Chapter 6 – Expenditure under a Maintenance Contract](#)

Introduction

The Committee met with officials from the Office of Public Works (OPW) to discuss matters relating to the 2019 Appropriation Account for Vote 13 – Office of Public Works, as well as issues related to a specific maintenance contract that was examined by the Comptroller and Auditor General (C&AG) and reported on as part of the *2018 Report on the Accounts of the Public Services*.

The 2019 Appropriation Account for Vote 13 recorded approximately €455 million in gross expenditure. This was divided into the following two expenditure programmes:

- Flood Risk management - €99.3 million, and
- Estate Portfolio Management - €356 million.

At the end of 2019 the OPW recorded a surplus of approximately €8.9 million. Unspent capital allowances of €8 million, designated for flood relief projects, were carried over to 2020. The remainder was surrendered to the Exchequer. The OPW's accounts recorded the value of land and buildings held by the State at €3.3 billion at the end of 2019.

Issues Identified and Recommendations Issued by the Committee of Public Accounts

Based on its engagement with the Office of Public Works the Committee wishes to highlight the following five issues and makes five corresponding recommendations: -

Issue 1 – On-going issues with the Miesian Plaza Lease:

The Committee expressed concern and frustration that the issues regarding the Miesian Plaza lease, entered into by the OPW on behalf of a number of Government Departments, had not been resolved at the time of the meeting. The issue had been highlighted by the C&AG in the *2017 Report on the Accounts of the Public Service* and examined by the previous Public Accounts Committee in October 2018. In May 2017 the OPW entered into a 25-year lease at Miesian Plaza, Dublin 2 to primarily accommodate the Department of Health and the Department of Children, Disability, Equality, Integration and Youth. The annual contracted rent for the premises is approximately €10 million, subject to review every five years.

However, OPW's mismeasurement of the floor space for the building is expected to result in an over-payment of €10 million during the lifetime of the lease. In October 2018 the OPW stated that it was negotiating with the owner of the premises in an attempt to have the floor space measurements upon which the lease is based recalibrated. The OPW confirmed in November 2020 that these negotiations were still ongoing and that it was aiming to resolve the issue without resorting to legal action. When questioned by the Committee whether legal action on the issue was possible the OPW stated that it had received advice that it was. The Committee remains concerned that the OPW will not succeed in preventing taxpayers being exposed for an additional €10 million that is a direct result of a fundamental error by OPW. The Committee is also unsatisfied that after two years of negotiations with the landlord that no substantial developments have taken place.

Recommendation 1:

The Committee recommends that the Office of Public Works takes all necessary steps to prevent the forecasted loss of approximately €10 million and that the OPW

ensures it has appropriately qualified staff to manage its property transactions on behalf of the State. The Committee also requests that it is provided with quarterly updates in relation to this matter.

Issue 2 – Delays on Flood Relief Projects:

The OPW is the lead agency on flood risk management. It is responsible for the State's 10-year investment programme in this area. During the Catchment Flood Risk Assessment and Management (CFRAM) programme 300 communities were identified as at risk of flooding and solutions were identified for approximately 95% of properties in these areas. The OPW stated that it has identified and prioritised 115 discrete schemes as part of the programme, and at the time of the meeting approximately 80 of these were in the design and development stage.

The Committee raised queries that the total amount allocated for flood relief schemes had not been spent and referenced a number of schemes where significant delays were evident. Some schemes referred to during the meeting were initiated in 2015 but physical work had yet to begin on the projects. The Committee also raised issues around the efficacy and cost benefit project analysis of the current approach to flood management taken by the OPW. The OPW maintained that a number of reviews need to be carried out before physical work can begin, including environmental impact studies and that delays were also experienced due to the time it took to transpose new EU environmental regulations into national law. The Committee expressed concern at the management of the processes requiring preparatory work and the OPW's engagement with the Environmental Impact Service process that is undertaken before physical work can commence on flood relief projects. The Committee acknowledges the importance of this work, especially the environmental impact assessments, but remains frustrated at the considerable risk of flooding that many communities continue to live with. The Committee also acknowledges the barriers these communities face when attempting to obtain property insurance and is of the opinion that this should be taken into consideration by the OPW.

The Committee also expressed frustration at the lack of up-to-date information on costs, scheduling and project progression on individual projects that is available on the OPW's website. The Committee is of the opinion that this information would provide more transparency, accessibility, and accountability to communities in respect of the State's significant investment programme in this area.

Recommendation 2:

The Committee recommends that: -

- the OPW ensures that project progress updates are available to communities for scrutiny throughout flood relief projects and that where there is under or over-spending in budgets/contracts that the reasons for the same are published on the OPW's website on an annual basis;
- the OPW assesses where project planning may be expedited and some aspects of the processes run in parallel, or overlap where possible, to reduce delays in commencing flood relief schemes;
- where there has been a significant delay in the physical commencement of a flood relief scheme that the project is reassessed from the viewpoint of community benefits, innovative strategies, and environmental impacts; and
- the OPW provide up-to-date information on its public website in relation to flood relief schemes.

Issue 3 – Issues identified with a Maintenance Contract:

In the 2018 *Report on the Accounts of the Public Services* the C&AG examined a specific contract entered into by the OPW that resulted in a number of instances of non-compliant procurement. The C&AG explained that the OPW draws on the services of a private contractor for maintenance works under what is referred to as a "measured term" contract. This is a contract that provides for the drawdown of services within a specified period on the basis of a tendered schedule of payment rates. The maintenance contract also allowed for minor construction work up to the

value of €500,000. However, any works forecast in excess of that amount was required to be tendered for separately.

In 2014 the OPW signed a three-year contract, with an optional extension of one-year, that began in 2015. The OPW estimated that the contract would cost approximately €3 million per annum, or €12 million over a four-year period. However, the actual total cost of the contract over four years was €39.4 million, over three times more than the estimate. The C&AG also identified six instances where construction works carried out as part of the contract breached the €500,000 limit and thus were non-compliant with procurement guidelines.

The OPW re-advertised the contract during its final year with an estimate that it would cost €5 million per annum and a new three-year contract was awarded to the same company in October 2018. By the end of 2019 the maintenance contract had incurred expenditure of €34.7 million, with €22 million attributed to Brexit preparations. However, leaving aside Brexit preparations, the works carried out cost approximately €12.7 million in one year, nearly €8 million more than estimated, despite this being OPW's second attempt to accurately forecast costs.

Recommendation 3:

The Committee recommends that: -

- the OPW reviews its tender specifications for maintenance contracts to ensure that its forecasted expenditure is accurate and to prevent the State from being exposed to unexpected costs; and
- the OPW ensures that all works carried out under its maintenance contracts do not breach the financial limits specified in those contracts. Previous failures to prevent such breaches represents poor contract management.

Issue 4 – The Development of a Garda Complex at Military Road, Dublin 8

The Committee discussed the development of a new Garda complex at Military Road in Kilmainham, Dublin 8. The complex is due to be completed in quarter three 2022 and is estimated to cost €86.6 million. This is an increase of €6.6 million on the original estimate. The complex will replace current Garda accommodation on Harcourt Square which is currently occupied under a lease agreement with a commercial landlord.

As a result of delays experienced by the construction sector due to COVID-19 restrictions, the Committee questioned whether the building will be completed on time and whether a contingency plan exists to manage such delays. The OPW informed the Committee that it expects the site to be completed on time. It also confirmed that there is a contingency plan to use a number of existing Garda buildings to accommodate staff if the development is delayed. Due to the on-going pandemic the Committee is of the opinion that further delays are highly likely.

The Committee also requested information from the OPW regarding the selection process for the Military Road site and whether potential future increases in Garda personnel informed the decision. In a Policing Authority report published in 2019 the Garda Commissioner stated that the development at Military Road will not be sufficient to accommodate all units currently based in Harcourt Square. The Committee sought information from the OPW regarding this issue.

The OPW informed the Committee that, in 2016 there were 850 - 890 members of Garda personnel based in Harcourt Square and that the Military Road complex will be sufficient to accommodate the same number of staff upon completion. However, the OPW also explained that recent increases in Garda personnel, combined with changes to Garda operations, has resulted in other locations being required to house some of the units currently based in Harcourt Square. The OPW informed the Committee that these units will be based in other premises currently occupied by An Garda Síochána. However, they also explained that contingency plans are in development to accommodate anticipated further increases in Garda personnel and

operations. These contingency plans include utilising State owned and leased premises.

The Committee is of the opinion that developing a premises based on 2016 staff numbers and operational needs does not represent best practice. This is compounded by the fact that as early as 2018 the OPW and An Garda Síochána were aware that An Garda Síochána's staff numbers had increased and that the organisation had undergone organisational change. The Committee concludes that the failure to review the Military Road development in 2018 based on these factors represents poor management and has resulted in a major capital project no longer being fit for purpose.

Recommendation 4:

The Committee recommends that the OPW develops a detailed contingency plan to accommodate the staff in Harcourt Square if the Military Road development is not completed on time. The Committee requests a copy of this plan upon its completion.

The Committee further recommends that the OPW keeps all its projects in the planning stages under review to ensure that any changes, such as staff increases or operational change, are incorporated into the plans and that construction does not commence until all parties are satisfied that the project will meet the needs of the client Department, both at the time and into the future. This will help ensure that public funds expended on capital projects provide long-term value-for-money for the State and the taxpayer. Failure to proactively manage capital projects in this way can result in additional expenditure.

Issue 5 – Vacant Garda Property:

The Committee discussed the issue of vacant Garda properties, including former Garda Stations that are managed by the OPW. The OPW informed the Committee that between 2012 and 2013, 139 Garda stations were closed as part of An Garda Síochána's rationalisation programme. Between 2014 and 2016 the OPW disposed of 36 former Garda stations. However, the disposal of vacant Garda properties was paused between 2016 and 2018 due to the commencement of two Garda reviews related to the vacant properties.

The disposal of vacant Garda stations resumed in January 2019. In April 2021 the OPW informed the Committee that there were 49 vacant Garda properties that were either being prepared for disposal or under consideration for community or County Council use. Nine of the properties identified were vacant prior to 2012. The Committee is of the opinion that as some Garda properties have been vacant for up to a decade the OPW has not been pro-active enough in maximising the potential of the State's assets. However, the Committee welcomes that as of April 2021 there is a plan for the majority of the remaining 49 vacant Garda stations.

Recommendation 5:

The Committee recommends that: -

- the OPW actively works to ensure that the timelines provided to the Committee for the disposal of vacant Garda stations are met;
- any other vacant Garda property, such as former Garda residences, are reviewed and that timelines for the use or disposal of those properties are developed; and
- that decisions are made before the end of 2021 for stations under consideration for other State uses. If Garda stations under consideration for additional State use are not concluded by the end of 2021, the properties should be re-evaluated to determine whether any other State or community uses are possible.

The Committee requests that the OPW reports back to the Committee before December 2021 regarding the progress of these recommendations.

Appendix 1 Committee Membership

The following TDs were members of the Public Accounts Committee when the report was agreed:

Colm Burke	Fine Gael
Jennifer Carroll MacNeill	Fine Gael
Matt Carthy	Sinn Féin
Cormac Devlin	Fianna Fáil
Alan Dillon	Fine Gael
Neasa Hourigan	Green Party
Marc MacSharry	Fianna Fáil
Paul McAuliffe	Fianna Fáil
Imelda Munster	Sinn Féin
Catherine Murphy	Social Democrats
Verona Murphy	Independent
Seán Sherlock	Labour
Brian Stanley (Chair)	Sinn Féin (Chair)

Appendix 2 Committee Orders of Reference

Dáil Standing Order 218 – Committee of Public Accounts

- 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 each year 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 on an annual basis, together with any reports by the Comptroller and Auditor General thereon;
 - 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) In considering particular accounts pursuant to paragraph (1)(a), the Committee shall examine whether, having regard to changes in—
 - a) the volume or quality of services or other outputs delivered, and
 - b) associated expenditure, over time, it can be demonstrated that value for money has or has not been achieved.
- 3) The Committee shall bring conclusions and recommendations reported to the Dáil pursuant to paragraph (1)(a) in relation to particular accounts to the attention of the relevant Committee established pursuant to Standing Order 95.
- 4) The Committee may suggest alterations and improvements in the form of the Estimates submitted to the Dáil and shall bring any such suggestions as reported to the Dáil to the attention of the Committee on Budgetary Oversight.

- 5) 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.
- 6) The Committee shall have the power to send for persons, papers and records.
- 7) Paragraphs (4) to (9) inclusive of Standing Order 96 shall not apply to the Committee.
- 8) 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.
- 9) The Committee shall present an annual progress report to Dáil Éireann on its activities and plans.
- 10) Notwithstanding the provisions of paragraph (1) of this Standing Order, the Committee shall have the power to examine and report upon a specific matter of general public interest relating to the appropriation of public moneys, which is not comprehended by appropriation accounts or reports of the Comptroller and Auditor General within the meaning of paragraph (1), subject to—
 - a) a positive determination having been made by the Committee on Remit Oversight under Standing Order 93A pursuant to a request by the Committee of Public Accounts under Standing Order 93B for an extension to its orders of reference for the purpose of examining the matter; and
 - b) the approval of the Dáil by way of an appropriate motion under Standing Order 93B to instruct the Committee in conducting its examination of the matter.
- 11) 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; or

- 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.
- 12) 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.
- 13) The Committee shall consist of thirteen 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

The Comptroller and Auditor General Mr. Seamus McCarthy is a permanent witness to the Committee and attends all of its engagements.

The following table contains the names of witnesses who provided information to the Committee during its meeting on 11 November 2020:

Office of Public Works	
Mr. Maurice Buckley	Chairman
Mr. John Sydenham	OPW Commissioner
Mr. John McMahon	OPW Commissioner
Mr. John Curtain	Director of Flood Risk Assessment and Management
Mr. Martin Bourke	Head of Planning and Estate Management
Ms Kathryn Clifford	Principal Officer

Appendix 4 References

Information from the following sources informed the Committee’s recommendations to the Office of Public Works: -

References
Transcript 11.11.2020
Appropriation Account 2019 Vote 13 – Office of Public Works
2018 Report on the Accounts of the Public Services Chapter 6 – Expenditure under a Maintenance Contract
2017 Report on the Accounts of the Public Services Chapter 6 – Lease of Offices at Miesian Plaza
R0247B PAC33
R0537B PAC33
CPA/32/011: Periodic Report No. 5 September to November 2018

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