



Tithe an
Oireachtais
Houses of the
Oireachtas

An Coiste um Chuntais Phoiblí

Scrúdú ar an

gCuntas Leithreasa 2019 i gcomhair Vóta 10 – An Coimisiún um
Achomhairc Chánach, agus ar nithe airgeadais gaolmhara

Deireadh Fómhair 2023

Committee of Public Accounts

Examination of the
2019 Appropriation Account for Vote 10 – Tax Appeals
Commission, and related matters

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Tax Appeals Commission

Meeting Date: 08 July 2021

[Link to transcript](#)

Matters for examination:

- Comptroller and Auditor General's Appropriation Accounts 2019:
 - [Vote 10 - Tax Appeals Commission](#)
- Comptroller and Auditor General's 2019 Report on the Accounts of the Public Service:
 - [Chapter 14 – Management of Tax Appeals](#)

Introduction

The Tax Appeals Commission (the Commission) was established in 2016 as an independent statutory body under the Finance (Tax Appeals) Act 2015. Its primary function is to make determinations on appeals by taxpayers against decisions of the Office of the Revenue Commissioners (Revenue) concerning taxes and duties.

The 2019 Appropriation Account for the Commission (Vote 10) recorded gross expenditure of €1.77 million of its €3.3 million estimate. Most of the surplus of almost €1.5 million arose from delays to the recruitment of additional staff. The Comptroller and Auditor General (C&AG) issued a clear audit opinion in relation to the account.

Chapter 14 of the C&AG's 2019 Report on the Accounts of the Public Service concerns the Management of Tax Appeals. The chapter made five recommendations, three of which are addressed to the Commission.¹ These relate to:

1. improving the timeframe for the disposal of cases and the development of escalation procedures when delays arise;
2. the setting of time targets for the issuing of a determination following a hearing; and

¹ The other two recommendations in the chapter are addressed to the Revenue Commissioners, and an update on their implementation was provided to the Committee in advance of the engagement – see reference [R0714 PAC33](#).

3. a review of the Commission's requirements in advance of the procurement of a new case management system.

The Committee welcomed the Commission's confirmation that these recommendations have been implemented.

The Committee also acknowledged the significant improvement in the operation of the Commission since its appearance before the last Committee of Public Accounts in June 2018. The Committee made three recommendations in its report on that engagement, two of which were directed to the Commission²:

1. timely implementation of the 21 recommendations of a workload and operations review of the Commission³ (also known as the O'Donoghue Report, published in October 2018); and
2. that measurable targets be set for the progressing and finalising of tax appeals.

These recommendations have also been implemented.

² [Committee of Public Accounts of the 32nd Dáil: Periodic Report no. 4](#)

³ [Review of the Workload and Operations of the Tax Appeals Commission](#)

Issues identified and recommendations made by the Committee of Public Accounts

Issue One – Alternative Dispute Resolution

The Commission confirmed that the 21 recommendations in the O'Donoghue report have been implemented⁴. While not part of the recommendations, the report briefly compared alternative dispute resolution processes (ADR) across tax systems in the United Kingdom, New Zealand and Australia. The report defines ADR as the use of processes, other than judicial determination, in which an impartial person assists those in a dispute to resolve issues between them.

While the Office of the Revenue Commissioners provides a facility for taxpayers to seek a review of the handling of their tax affairs preceding an appeal to the Commission, the facility was availed of in only 56 cases from 2016-2019, and found in favour of the taxpayer in just 6% of cases. The O'Donoghue report highlighted the greater uptake of internal review mechanisms within the taxation authorities in the United Kingdom, New Zealand, and Australia. The report also found a lack of confidence from stakeholders in current review system within Revenue, citing 'the remit of the review system is constrained and there is a "high bar" for finding against Revenue.'

During her engagement with the Committee, the Commission's Chairperson voiced her support for ADR, such as mediation, and stated that the Commission has raised the matter with the Department of Finance and the Irish Tax Institute. While ADR processes take place between Revenue and taxpayers, there is no facility for the Commission to facilitate or direct them.

The Commission told the Committee during the meeting that holding case management conferences (CMCs) for larger cases had made the appeals process more efficient, as it can assist settlements and thus avoiding the time and expense associated with a full hearing.

⁴ [Review of the Workload and Operations of the Tax Appeals Commission](#)

In correspondence to the Committee in August 2023⁵, the Commission stated that while the CMC process was ‘very helpful in 2016 to 2019’, scheduling a hearing (rather than a CMC) is ‘more expeditious, cost effective and results in appeals being concluded efficiently’ for cases under €5,000.

The Commission informed the Committee in August 2021 that CMCs have been held in respect of 54% of appeals received with a value greater than €5,000 since 2016⁶. However, this figure dropped to 32% as of August 2023.

The Committee is of the opinion that the Commission should have as many options as possible when hearing and adjudicating tax disputes to ensure potential liabilities to the Exchequer are resolved efficiently.

Recommendations:

1. The Committee recommends that the Department of Finance provides the Committee with a report by end January 2024 detailing its considerations of alternative dispute resolution processes, and any developments in this regard in relation to the Tax Appeals Commission.
2. The Committee recommends that the Commission includes, in all future annual reports, an additional breakdown of the number of appeals received in a given year for which a hearing or a case management conference has been held.

⁵ **R2134** – Update from the Tax Appeals Commission to matters raised during its engagement with the Committee

⁶ **R0761** – Response from the Tax Appeals Commission to matters raised during its engagement with the Committee

Issue Two – Staffing and case load at the Commission

At end-2019, the Commission employed 29 full-time staff members, which is an increase of 15 from end-2018. The Chairperson informed the Committee that, as of 8 July 2021, the Commission had further increased its staffing to 33.5 full-time equivalents, comprising 28 administrative staff, 4.5 appeal commissioners, and the Chairperson.

The Chairperson advised the Committee during the meeting that the Department of Finance had sanctioned the Commission's business case to move to a tiered commissioner structure to match the appeals base. Under this structure, commissioners are appointed at different salary grades with cases assigned accordingly.

As of 30 August 2023, the staffing complement at the Commission has decreased to 32. While 2.5 new appeal commissioners have been appointed, the Commission has lost two statutory term appeal commissioners and two administrative staff since July 2021. The Commission has stated that four additional appeal commissioners have been sanctioned, with a recruitment process for same to commence in October 2023.

At the end of 2019, there were 3,357 open appeal cases, with a combined value of €3.8 billion. The average time that cases had been under appeal at that date was around two years. Almost a quarter of cases, accounting for €508 million in value, had been in the appeal system for three years or more.

While the Commission is making inroads into the number of outstanding appeals – the Chairperson stated that, as of 8 July 2021, there were 2,906 appeals on hand with a quantum of €4.2 billion – the need for additional commissioners to deal with the volume of appeals more efficiently was highlighted during the meeting.

Given the number and quantum of appeals at issue, it is important that the Commission has sufficient resources to determine appeals within the timeframes it has set. The timely receipt by the Exchequer of funds arising from the Commission's determinations is dependent on how efficiently the Commission progresses its caseload.

The Committee welcomes the significant decrease, from July 2021 to August 2023, in the number of appeals on hand (from 2,906 to 1,218) and the quantum of the appeals on hand (from €4.2 billion to €720 million), alongside other improvements at the Commission.

The Committee further welcomes confirmation from the Department of Public Expenditure, NDP Delivery and Reform that it has granted a business case from the Commission, which includes the appointment of additional appeal commissioners⁷.

Recommendation:

3. The Committee recommends that the Department of Finance ensures that the recruitment of the four additional appeal commissioners is prioritised, in order that the Commission is able to continue to reduce the number of appeals on hand, and the quantum thereof.

⁷ **R2138** – Update from the Department of Public Expenditure, NDP Delivery and Reform to matters raised during its engagement with the Committee

Appendix 1 Committee Membership

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

John Brady	Sinn Féin
Colm Burke	Fine Gael
Cormac Devlin	Fianna Fáil
Alan Dillon	Fine Gael
Alan Kelly	Labour
Paul McAuliffe	Fianna Fáil
Imelda Munster	Sinn Féin
Catherine Murphy	Social Democrats
Verona Murphy	Independent
Marc Ó Cathasaigh	Green Party
James O'Connor	Fianna Fáil
Brian Stanley (Cathaoirleach)	Sinn Féin

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 8 July 2021:

Tax Appeals Commission	
Ms. Marie-Claire Maney	Chairperson
Mr. Paddy O’Keeffe	Access Officer

Appendix 4 References

Information from the following sources informed the Committee’s recommendations: -

References
Transcript 08.07.2021
Appropriation Account 2019 Vote 10 – Tax Appeals Commission
2019 Report on the Accounts of the Public Service, Chapter 14 – Management of Tax Appeals
R0709 – Tax Appeals Commission briefing to the Committee
R0714 – Revenue Commissioners briefing to the Committee
R0761 – Tax Appeals Commission – August 2021 update

R2134 – Tax Appeals Commission – August 2023 update

R2138 – Update from the Department of Public Expenditure, NDP Delivery and Reform

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