An Roinn Leanaí
agus Gnóthaí Óige
Department of Children
and Youth Affairs

Ref: PAC32-I-1768

Ms Eilis Fallon,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.

10th January 2020

Dear Ms Fallon,

Further to your letter of 18th December 2019, please find attached the Department's responses to a number of queries which were raised at the Committee meeting on Thursday 12 December 2019.

I trust that the material attached is helpful, but please let me know if any further information is required.

Yours sincerely

Fergal Lynch

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Secretary General

Designated Public Official under the Regulation of Lobbying Act 2015

Oifig an Ard Rúnaí, An Roinn Leanaí agus Gnóthaí Óige, Bloc 1, Plaza Miesach, 50-58 Sráid Bhagóid Íochtarach, Baile Átha Cliath 2. D02 XW14
Office of the Secretary General, Department of Children and Youth Affairs, Block 1, Miesian Plaza, 50-58 Baggot Street Lower, Dublin 2. D02 XW14
T +353 1 647 3000 | secgensoffice@dcya.gov.ie
www.dcya.gov.ie

Additional Information relating to Programme B – Sectoral Programmes for Children and Young People

Pobal appeared before the Committee on 12th December 2019 regarding its 2018 Financial Statements. While Pobal operates under the aegis of the Department of Rural and Community Development, the Department of Children and Youth Affairs was also represented at this meeting due to the fact that it utilises Pobal for the administration of a number of its schemes and initiatives.

The Committee subsequently requested the following further information directly from the Department of Children and Youth Affairs in correspondence dated 18th December 2019:

1. A note on the implementation of a reliable methodology in relation to monitoring overpayments, to include details on the completion of the pilot phase.
2. A note on recommendations made by C&AG and timescale for matters relating to the Vote.
3. A note on the level of outstanding debt in relation to funding by Pobal, to include details of repayments and recoupments.

The information that has been requested is provided below. It was agreed that the Department of Children and Youth Affairs would provide this information by January 10th 2020.

1. A note on the implementation of a reliable methodology in relation to monitoring overpayments, to include details on the completion of the pilot phase

It is understood from the transcript of the meeting dated 12th December 2019, that the attendees were referring to two separate matters, which are referenced in the query above.

The matters pertain to the Department's implementation of recommendation 16.4 from Chapter 16 of the Report on Public Services for 2018, as below:

> *'Pobal should develop a reliable methodology to enable it to estimate and monitor the underlying level of over-claims arising on individual early learning and childcare programmes. This might include compliance visits and/or audits selected on a random basis.'*

However, we also refer to 16.2 which refers to implementing a formal risk rating model to calculate the required level of compliance activity and deployment of resources on the basis of risk. DCYA and Pobal are working towards this, particularly for the National Childcare Scheme (NCS). In the interim, Pobal has assessed the higher risk services and are focusing resources on those, and within them, the larger providers.

In specific regard to recommendation 16.4, as part of Pobal's administration of the Department's Early Learning and Care (ELC) and School-Aged Childcare (SAC) funding programmes, its Compliance, Audit and Risk Directorate (CAR) undertakes compliance visits to check providers' compliance with scheme rules. Compliance visits are the primary means of assessing adherence to scheme rules. These compliance checks assist in identifying and preventing overclaims by providers. A key element of compliance visits is to ensure that services are claiming the correct level of funding. Funding for the Department's ELC and SAC programmes is based on child attendance. Where Pobal CAR identifies an overclaim, funding for the year is adjusted to correct it. The Department and Pobal operates the Compliance Framework (currently on a pilot basis) to address instances of persistent major non-compliance. The Department receives regular reports on the outcomes of the compliance function, which inform future actions. During the 2018/19, Pobal CAR undertook 1,220 visits to funded services.

The compliance function is agreed every programme year between the Department and Pobal. As part of the 2019/20 compliance function, a change to the agreed programme of work is that Pobal CAR will visit a random sample of 5% of services in addition to other compliance work. Pobal has informed the Department that a 5% level of random testing is an equivalent figure to that used by Pobal when administering schemes on behalf of other Government Departments, and is a standard audit benchmark which stems from financial management and control procedures governing EU funding.

The results of the visits to the random sample of services will be reported to the Department separately to the results of other visits. This will allow the Department and Pobal to monitor the level of overclaiming

(and other forms of non-compliance) in respect of the individual programmes in line with the Comptroller and Auditor General recommendations. This more representative sample will also assist the development of a formal risk rating model in addition to other measures to be used in deploying resources for 2020/21.In relation to the administration of the Department's capital funding programmes, Pobal conduct verification visits on 10% of successful services to verify adherence with the rules of the capital programmes. The 10% are drawn on a sample basis, selected on geographical location, as well as an appropriate mix of contract values.

The service is informed of the outcome of the visit and Pobal follow up on verification recommendations. Learning from these visits is used to improve and enhance current processes and systems

Recommendation 16.4 also refers to audits being used along with compliance visits.

DCYA and Pobal are currently further developing the governance, audit, and risk function. An initial step on the development of this approach is the use of a 'pilot' phase of 10 services which occurred in Q4 of 2019. This pilot conducted an audit of 10 services which helped to provide information which was used to develop a governance checklist. Once complete, this checklist will be circulated to Community Services, and will inform them of what will be expected of them in relation to good governance in the future. This initiative will not only introduce a sound process for assessing providers governance and financial procedures, but is part of a co-operative approach to developing good governance practice in the sector, for example, to improve standards in record keeping, financial performance and cash-flow management. This is a key element of the Department's ongoing development of a governance, audit, and risk function, distinct to the existing compliance function. It is expected that this Pilot scheme will be extended to Private services in 2020.

2. Update on Recommendations in the C&AG Special Report

The Comptroller and Auditor General released his Report on Public Services for 2018 on 30th of September 2019. Chapter 16 of the Report comprised an examination of this Department's delivery of the early learning and childcare programmes, following an audit of the Early Childhood Care and Education, Community Childcare Subvention, & Training and Employment Childcare schemes over Q1-Q3 of 2019.

The Chapter set out 7 recommendations in total, 5 of which were directed to and accepted by the Department of Children and Youth Affairs, while 2 pertained to and were accepted by Pobal in its capacity as administrator for these programmes. Both the Department and Pobal have subsequently been working to implement these recommendations in the 12 week period since the conclusion of the Chapter.

Key Points:

- €394m was allocated to these programmes in 2018, providing for c. 180,000 cumulative child registrations through c. 13,000 contracts with the sector. The audit and chapter therefore covered 81% of the Early Years allocation, or 52% of the Department's overall Voted allocation in that year. DCYA provided over 250 pages of information in response to c. 90 audit queries.
- The Department was afforded the opportunity to comment on the draft C&AG Chapter prior to its finalisation. This included providing contextual information regarding ongoing reform in the area, and the progress already made with a number of issues that had been identified by the C&AG. This information may be of value to the Committee and is therefore included below.
- The Department is fully committed to implementing the recommendations identified in the Chapter, and has provided the Committee with the below updates in this regard.

Update on Recommendation 16.1 (pg. 262):

"The Department of Children and Youth Affairs should ensure that the service level agreement with Pobal is revised to include specific objectives, planned outputs and key performance indicators for all early years funded programmes."

Overview

Pobal is a not-for-profit company not limited by guarantee which operates under the aegis of the Department of Community and Rural Development. However, the organisation also provides a number of services on behalf of the Department of Children and Youth Affairs, including scheme design, scheme administration, and in 2020 the onwards distribution of c. €0.5bn in childcare funding. The Department therefore accepts the need for strong oversight and governance of Pobal, and is committed to continuing a record of strong progress in this respect.

The relationship between the DCYA and Pobal is governed by a multi-level governance framework, informed by the Code of Practice for the Governance of State Bodies. This framework has been incrementally strengthened in recent years, in line with the increasing level of services provided by Pobal and enhanced internal resources in the Department.

Currently, the framework comprises a range of formal agreements between the two organisations designed to ensure appropriate oversight, good governance and high performance, including:

- A multi-annual Service Level Agreement establishing the terms of the overarching relationship;
- A Performance Delivery Agreement for the new National Childcare Scheme;

- An annual Programme of Work outlining detailed outputs that Pobal will deliver across the other Early Years programmes in a given year.

These agreements are supplemented by an established reporting framework and timetable of governance and operational meetings.

Progress on the Recommendation

The elements set out in the Code of Practice for the Governance of State Bodies prescribe arrangements between Government Departments and State bodies under their aegis. The C&AG noted on pg. 243 of the Chapter that key principles under the Code therefore serve as a useful benchmark of good practice in the development and operation of such arrangements, including in the case of the procurement relationship between DCYA and Pobal.

Of the 6 good practice requirements for Performance Delivery Agreements (PDAs) that had been identified by the C&AG as set out in the Code, it was found that 2 were currently fully in place between DCYA and Pobal, while 4 were partly in place. The Department accepted these findings and the associated recommendation (16.1), and has taken the following corrective steps in partnership with Pobal:

- A suite of Key Performance Indicators (KPIs) were agreed in August 2019. Pobal now report against KPIs on a quarterly basis, with the first report occurring in Q3 2019.
- The Department will ensure existing plans to put in place a suite of Performance Delivery Agreements occur over the course of 2020. These Performance Delivery Agreements will include specific objectives, planned outputs and key performance indicators as outlined in the recommendation.
- The 2020 Programme of Work contains a schedule for the Department and Pobal's delivery of these PDAs over Q1 & Q2 of 2020. In the interim, the 2020 Programme of Work document was revised to include specific objectives and KPI's in cognisance of the findings within the Chapter.

The Department is also planning to review the SLA in 2020 and therefore the Department expects to be fully compliant with the outlined recommendation in 2020.

Update on Recommendation 16.2 (pg. 263):

"In conjunction with the Department, Pobal should implement a formal risk rating model and use it to calculate the required level of compliance activity (including audits, compliance visit and verification checks) and to ensure compliance resources are deployed on the basis of risk."

In the 2018/19 and 2019/20 programme years, compliance activity has been cognisant of risk, with resources being deployed to safeguard Exchequer funding to the maximum based on a series of identified risks.

Department officials and representatives from Pobal are currently working together to develop options for the development of an appropriate formal Risk Rating Model. It should be noted that this process involves the identification of areas of risk, and the design of an IT system, which have significant planning, resource, and regulatory approval requirements.

The Risk Rating model's scope will cover the new National Childcare Scheme and other schemes.

Update on Recommendation 16.3 (pg. 264):

"The Department of Children and Youth Affairs should schedule a review to assess the effectiveness of the new compliance framework."

The Compliance Framework, which aims to address persistent non-compliance through a series of incremental sanctions and supports, has been in operation on a pilot basis (focussing on attendance record keeping and failures to facilitate compliance visits) since the 2017/18 cycle. Attendance record keeping was chosen as the focus for the pilot due to its importance in conducting valuable compliance visits, and the critical link between use of Exchequer funding and the attendance of specific children for specific hours. The operation of the Framework has led to considerable improvement in compliance among the services who have been on it. However, in light of its pilot status, and with the introduction of the National Childcare Scheme, a review is underway.

The review will be operated in 2 parts. Part 1 of the review will be delivered in Q1 2020 and will consider the operation of the Framework. Part 2, which is scheduled for Q2 2020, will examine the future operation of the Framework and will be completed in tandem with the development of the compliance function for NCS.

Part 1 of the review focusses on the operation of the Framework so far, assessing its successes and challenges. It will make recommendations on how to improve the Framework's operation. Part 1 of the review of the Framework is due to be completed by February 2020. Any recommendations for operational improvements will be implemented immediately.

Part 2 of the review will make suggestions for how the Compliance Framework might be amended in the future. Future amendments will also be subject to the introduction of the National Childcare Scheme (NCS) and the development of a formal risk-rating model. This means that the Framework may need substantial revision.

While the review and revision of the Framework are in train, the Framework will continue to operate, subject to any improvements that can be made.

Update on Recommendation 16.4 (pg. 265):

"Pobal should develop a reliable methodology to enable it to estimate and monitor the underlying level of over-claims arising on individual early learning and childcare programmes. This might include compliance visits and/or audits selected on a random basis."

The implementation of this recommendation is discussed in detail above under the Department's response to Query 1: 'The implementation of a reliable methodology in relation to monitoring overpayments, to include details on the completion of the pilot phase.'

Update on Recommendation 16.5 (pg. 265):

"The Department of Children and Youth Affairs should agree formal protocols for data sharing with other inspection bodies."

DCYA has developed a formal communications protocol (including data sharing) with the Tusla Early Years Inspectorate that will be operational from January 2020. In addition, governance agreements between DCYA and the DES Inspectorate (in the form of a Memorandum of Understanding) and Pobal (in the form of a Performance Delivery Agreement) include provisions in relation to data-sharing. Through the DCYA chaired Operations and Systems Alignment Group (OSAG) with Tusla, Pobal and the DES, the DCYA is currently working to ensure that all necessary formal communications and data-sharing protocols are in place between all the relevant bodies.

Update on Recommendation 16.6 (pg. 266):

"As the provider of significant State funding to the early learning and childcare sector, the Department of Children and Youth Affairs should, subject to compliance with GDPR requirements and with due regard to the independent roles and statutory responsibilities of different entities, provide for the collation of the results of all inspection types to identify service providers who are persistently non-compliant across the three inspection regimes. Such information sharing could support more informed risk-profiling by the different bodies."

Compliance with each individual inspection regime serves its own individual purpose and although collation across the three may provide useful data, there can be no presumption that weaknesses identified across the different inspection types will be correlated.

The Department is addressing this recommendation through the Operations and Systems Alignment Group (OSAG) mentioned under recommendation 16.5. An action plan has been developed and an initial action

for 2020 is to map the current referral pathways between each inspection regime with a view to identifying any necessary changes to strengthen risk profiling across the inspectorates.

A further action which will be progressed in early 2020 is the establishment of a working group to examine the complexities involved with collation of inspection reports, including GDPR requirements and ICT infrastructure.

Update on Recommendation 16.7 (pg. 267):

"In order to facilitate evaluation of early learning and childcare programmes, the Department of Children and Youth Affairs should develop high level goals supported by measurable objectives in the form of specific targets and key performance indicators."

The implementation of this recommendation is discussed above under Recommendation 16.1. The DCYA Accounting Officer's response contained within the Chapter also outlined measures to be implemented by the Department, as follows:

"One of the major objectives of the First 5 Strategy is 'a strong national infrastructure for research and data that is used to inform policy and practice, alongside an ongoing programme of monitoring and evaluation'. The Department currently takes steps to monitor and evaluate individual early learning and childcare programmes, and report on performance indicators and targets, both national and international.

The new National Childcare Scheme has already put in place a substantial performance delivery agreement which operates in tandem with the Scheme's monitoring and evaluation framework. Building on this, and delivering on a First 5 action, the Department has committed to developing a robust national monitoring and evaluation framework for early learning and childcare, including identification of a set of agreed indicators on the quantity, quality and targeting of provision, and regular publication of a national monitoring report. This will build on the "EU Quality Framework on Early Childhood Education and Care."

3. A note on the level of outstanding debt in relation to funding by Pobal, to include details of repayments and recoupments

Compliance and Overclaims

Subsidies for the Department's ELC and SAC programmes are based on child attendance. Providers must register child attendance sessions required by parents/children on PIP (Pobal's IT system), and are required to keep PIP registrations up-to-date to reflect actual patterns of attendance. Money is disbursed on the basis of those registrations. If registration levels exceed actual attendance levels, an overclaim can arise.

During compliance visits, Pobal compares actual child attendance patterns with registrations on PIP. Where Pobal discover that a child's actual attendance does not match its registrations on PIP, the service provider must correct PIP registrations for that child. PIP then automatically recalculates the total value of the registration and overall service contract for the year and adjusts future funding to the service accordingly. This adjustment offsets previous payments that had been inflated by the incorrect registration, against future payments, thereby ensuring that the sum of payments to the service across the year as a whole is correct.

In some cases, it is not possible to recoup overclaims before the end of the programme year, leading to recoupment being required in future years. This can happen for the following reasons:

(i) The overclaim value exceeds the total value of remaining payments for the year on that programme. In this case, payments can be netted off other programmes for that provider or can be transferred to payments for the next programme year.

(ii) Reducing payments due could create sustainability and/or cashflow issues for a community service. In this case, a repayment plan can be agreed with the service to spread repayments over a longer period, ensuring the service's viability.

Debt Management

The previous section has outlined the approach taken by this Department and Pobal in dealing with compliance matters and overclaimed funding. It is important to distinguish between this compliance function and the debtor management and recovery process that Pobal also operates in respect of the funding it has disbursed on behalf of the Department of Children and Youth Affairs.

As outlined above, funding that has been found to have been overclaimed by service providers, following a compliance visit, is primarily recouped through 'offsetting' against future beneficiary funding that would

otherwise have been due to that provider in that programme year. Overclaimed funding is therefore only elevated to debt management in certain circumstances, for example, should the provider close.

Pobal's debt management process includes the management of debt in relation to capital and beneficiary programmes (e.g. ECCE, CCS, TEC), as well as debts that have accrued historically in respect of legacy programmes that are no longer in operation (e.g. EOCP & NCIP). These debts can accrue for a number of reasons, including:

- De-committal of grant funding;
- Liquidation of the service provider;
- Contract closure;
- Over-payment;
- Results of an audit/compliance visit.

The Department and Pobal initiated an assessment of the debt management process in October 2019, with a view to updating the approach taken to any debts that have been identified as irrecoverable. This review is anticipated to conclude prior to the end of January 2020. Currently, Pobal's debt management process comprises the following high-level activities:

- Recording of any outstanding debts owed by beneficiaries;
- The recording of receipts of funding relating to these outstanding debts;
- The recording of outstanding balances;
- The recording of repayment plans agreed, and;
- The operation of the recovery process.

Initially, there are three options available to a beneficiary organisation with outstanding debt:

1. Repayment of monies in full by the beneficiary,
2. The agreement of a repayment plan (between Pobal and beneficiary) or
3. The net-off by Pobal of monies owed against other grants issued to the beneficiary.

If none of the above options are actioned by the specified reply date stated in the initial request, Pobal's Financial Compliance Team will commence the beneficiary debt recovery of funds process. Funding is recovered to Pobal's accounts, and subsequently returned to the Department following a reconciliation process. In some instances, such as where a beneficiary organisation has ceased operations and is undergoing liquidation, debts may be deemed irrecoverable.

Quantification of Debts:

Table 1: Pobal debtor balances pertaining to DCYA: 2016-2019

	2016	2017	2018	2019 (End Q3)
Debtors	€3,916,564	€4,136,820	€5,139,044	€3,926,505

At the end of each financial year, Pobal account for the net debt position across all DCYA funded programmes and schemes. While the position for 2019 has yet to be finalised, at end-September 2019 the net debt balance stood at €3.9m

It is noted that this debt does not pertain solely to funding distributed in 2019, and has instead accrued over a number of years. A majority (74%) of the debt pertains to two legacy programmes which are no longer in operation; the Equal Opportunities Childcare Programme (EOCP) and National Childcare Investment Programme (NCIP) programmes.

The EOCP ran from 2000 to 2006, and made capital grants available to support community based childcare services to establish a new childcare service, or upgrade an existing facility or service. A total of €257m was distributed under the EOCP scheme. Of this, €1.9m (0.7%) remained a debtor balance at end-September 2019, as outlined in Table 2 below.

The NCIP ran from 2006 to 2010, and set out to further increase the number of childcare places available in Ireland. A total of c. €178m was awarded under the programme, and of this, €1m (0.6%) remained a debtor balance at end-September 2019.

The remainder of the debtor balance relates to the existing beneficiary programmes (€734,100 18.7%) and the ongoing Early Years and School Age Capital Programmes 2012-2018 (€266,318 6.78%)

Programme	Value of Debt
EOCP	€ 1,914,829
NCIP	€ 1,011,258
CCS	€ 643,886
TEC	€ 71,774
ECCE	€ 18,440
Early Years and School Age Capital 2012-2018	€ 266,318
Total	**€ 3,926,505**

Overall, the €3.9m debtor balance at end September 2019 represents c. 0.1% of the level of funding that was disbursed to the Early Years sector between 2000 and 2019.