



Ref: S01092 PAC33

08 December 2022

Mr. Martin Hughes  
Clerk to the Committee  
Committee of Public Accounts  
Leinster House  
Dublin 2

Dear Mr. Hughes

I refer to my meeting with the Committee of Public Accounts on 20 October, 2022 and the follow up letter from the secretariat dated 24 November, 2022 requesting additional information on 11 matters.

The information requested is set out in the attached briefing note, which follows the headings set out in the letter of 24 November.

Additionally, following the discussion at the meeting on 20 October, a further note is included at Item 12 in the briefing note referencing the publication of the Indecon Report concerning the analysis of the market for data on the non-profit sector.

I trust that this information will be of assistance to the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Moloney', with a long horizontal flourish extending to the right.

David Moloney  
Secretary General

**Meeting between the Committee of Public Accounts and  
the Secretary General of the Department of Public Expenditure and Reform  
20 October, 2022**

**Follow up material for the information of the Committee**

**1. The total amount of expenditure reallocated within Government Departments by way of virement in 2021.**

Virement is the application, under the specific authority of the Minister for Public Expenditure and Reform, of savings on one or more subheads to meet excess expenditure on another subhead or subheads in the same Vote, including any new subhead opened during the course of the year. When calculating the value of the virements, only virements used to meet an excess were included. Any subheads subject to a net-surrender to the Exchequer or capital carryover were excluded.

There were 249 virements in 2021 to the value of €1.45 billion. This represents 1.7% of total gross voted expenditure of €86.6 billion. The two largest areas of virement, as referenced by the Comptroller and Auditor General in the Report on the Accounts of the Public Services 2021, were in relation to the Department of Health (€594m) and Department of Housing, Local Government and Heritage (€451m). Excluding these two Departments, results in 177 virements with a value of €403 million in 2021. This represents 0.7% of the remaining gross voted expenditure of €60 billion.

**2. Whether the Department of Housing, Local Government and Heritage was above or below profile regarding its capital expenditure in quarter one of 2022.**

The profiled capital expenditure in Quarter 1 was €247m and the actual expenditure was €140m – the variance from profile amounted to €107m or 43% behind profile.

It should be noted that the profile for carryover expenditure in the first quarter was €0m; however, carryover expenditure in the quarter was actually €46m. Capital Carryover expenditure was due to commence in April, but the Deferred Surrender Order was signed earlier than anticipated on 22 February and this impacted on the variance versus profile.

**3. A note on any recommendations the Secretary General can make regarding better oversight of local authorities' expenditure.**

It is important to recognise at the outset that local authorities are constitutionally recognised, independent statutory bodies with their own democratically elected councils and governance structures.

There are number of components and layers to the governance arrangements in place within the local government system, including reporting, accountability and performance measurement. This robust framework of governance for local government is set down in legislation, which was further enhanced by the Local Government Reform Act, 2014.

Those governance components are:

- **The Elected Council**, which is akin to that of a board of directors served by a full time Chief Executive. The elected Council determines the policy of the local authority, subject to relevant legislation. The Chief Executive therefore operates within a framework of policy laid down by the elected members and supports the Elected Council in the performance of its reserved functions. The Elected Council has extensive powers to request information, issue directions, and oversee the work of the Chief Executive, so performs the primary oversight role in the local authority.
- **Audit Committees**, which have an independent role in advising the Council on financial reporting processes, internal control, risk management and audit matters as part of the systematic review of the control environment and governance procedures of the local authority. This role was strengthened in the Local Government Reform Act, 2014.
- **An Internal Audit function**, which each local authority is required to maintain, in accordance with the Local Government (Financial Procedures and Audit) Regulations, 2014. An internal audit function is therefore in place in every local authority. It is a matter for each Chief Executive to ensure that there is an adequate internal audit resource in place in order to fulfill such requirements.
- **The Local Government Audit Service (LGAS)**, which performs the independent, external audit of local government, providing independent scrutiny of local authority finances. The Local Government Auditor sets out (in the form of a management letter) to the Chief Executive any issues raised as part of the audit. The audit report, including the Chief Executive's response, is published on both the local authority and Department of Housing, Local Government and Heritage websites. The Local Government Auditor attends a meeting of the Audit Committee in order to clarify the contents of the Audit report. The Audit Committee then prepares a report to the elected Council on its consideration of the Audit report and the Annual Financial Statement. The Elected Members receive a copy of the audited Annual Financial Statement, the Audit report and a report prepared by the Audit Committee, which are duly considered by the elected Council.
- The **National Oversight and Audit Commission (NOAC)**, which is a further layer of scrutiny introduced in the Local Government Reform Act, 2014 to provide independent oversight of the local government sector (local authorities and associated bodies). NOAC's functions involve the scrutiny of performance generally and financial performance specifically. It produces an annual report on local authority performance indicators, which is used to compare and contrast performance. NOAC holds scrutiny meetings with local authorities where their performance on the range of indicators is discussed in detail. It also has a role in supporting best practice, overseeing

implementation of national local government policy and monitoring and evaluating the implementation of corporate plans, adherence to service level agreements and public service reform by local government bodies.

### **The role of the Department of Housing, Local Government and Heritage**

Although not part of the governance structures described, the Department of Housing, Local Government and Heritage ensures that local authorities' finances are, as far as is practicable, on a sustainable footing; that local authorities operate to the highest possible standards of financial management and accountability; and that local government has an appropriately structured funding system to meet existing and emerging challenges.

The Department relies on the audited annual financial statements, auditor's reports and in-year information derived from the quarterly reports submitted by local authorities to underpin this oversight and monitoring role.

The accounts of the Local Government Fund are audited by the Comptroller and Auditor General and are presented to the Houses of the Oireachtas.

The LGAS provide a copy of the audit report of each local authority to the Department and the Comptroller and Auditor General, and publishes them on the Department's website.

### **Suggestions for strengthened governance**

While it is recognised that there are sound, statutory-based governance systems and procedures in place at the level of local government, some practical measures could be taken to ensure that those arrangements are as robust and effective as possible.

These measures might include:

- The introduction of a Code of Governance for Local Authorities to include a requirement for a governance compliance checklist and statement of internal control. Such a Code would bring local authorities fully into line with similar requirements on Government Departments and State Bodies. Work is progressing in this regard within the Department of Housing, Local Government and Heritage, with local government stakeholders, with a view to the introduction of a Code of Governance for Local Authorities next year.
- The establishment of an Audit Committee Chairs Network, which would encourage a sharing of peer-to-peer best practice and standardisation of procedures. Additional capacity building for Audit Committee members could also be undertaken. These initiatives are planned to be progressed the Department of Housing, Local Government and Heritage during 2023.
- A strong focus on the professional development and training of local authority elected members, to ensure that they are aware of and fully equipped to carry out their vital governance functions. The Review of the Role and Remuneration of Local Authority Elected Members (Moorhead Review), published in 2020, highlighted that elected members could benefit from further tailored induction training. Acting on the

Moorhead Review recommendations, a Training and Professional Development stakeholder working group, chaired by the Department of Housing, Local Government and Heritage, and including representatives of the Association of Irish Local Government (AILG) and the County and City Management Association (CCMA), was established last year to review training delivered to elected members. It is intended that this review will identify current gaps in training provision and explore how a structured programme of training can be developed to ensure a comprehensive and consistent approach, particularly for newly elected members. This would match training requirements to tailored training programmes.

- In relation to the Internal Audit functions of local authorities, good practice guidelines, including in relation to staffing arrangements, transparency and accountability of output, could be agreed with local authorities.
- The Department of Housing, Local Government and Heritage is to carry out a review and update of the Codes of Conduct for Councillors (last updated in 2019) and Local Authority Employees (last updated in 2007), in consultation with Department of Public Expenditure and Reform and the Standards in Public Office Commission (SIPO). This will be important, in particular, in the context of the work of the Department of Public Expenditure and Reform in relation to new Standards in Public Office legislation.

**4. Regarding the business case for the National Maternity Hospital, and specifically relating to the single lot multi-supplier framework for sourcing independent reviews, whether there is a schedule of preferred providers? If so, who is on that list and how does a company get onto the list?**

As part of the NDP review, the Department of Public Expenditure and Reform committed to strengthening the scrutiny of major public investment proposals. International evidence suggests that the single most effective guard against major project failure is the incorporation of an independent external review prior to project commencement. The External Assurance Process (EAP) involves independent external reviews to inform Government consideration at Preliminary Business Case (Approval in Principle) and Pre-Tender Approval. The reviews focus on costings, delivery feasibility, governance and consideration of risk and procurement. These reviews replaced the technical reviews conducted by DPER of business cases at Decision Gates 1 and 2.

The Minister for Public Expenditure and Reform approved the publication of the Request for Tenders (RFT), dated 8 July, 2021, to establish a Multi Supplier Framework Agreement for the provision of Subject Matter Experts to undertake reviews under the External Assurance Process for major public investment projects. This was an open tender procedure with a deadline for responses set for 20 August, 2021. Following an evaluation against the criteria set in the tender documentation, 13 tenderers were approved to join the framework of suitable suppliers (listed below). The contract notice appointing these tenderers was published on 26 October, 2021 consisting of suppliers who can provide a range of independent external expertise, specialising in major capital projects to conduct reviews.

All the details relating to this contract are published on the eTenders website. The framework is in place for a period of three years. Approving Authorities (mainly Government Departments) are required to issue competitive Supplementary Requests for Tender (SRFTs) to the companies on this framework to carry out an External Assurance review of major projects at Preliminary Business Case stage and Pre-Tender stage, as required under the Public Spending Code.

**5. In relation to the €230 million reallocated within the Department of Housing, Local Government and Heritage in 2021 to local government functions, a briefing note to include the following:**

**Which housing projects did not go ahead as a result**

A total of €171 million in capital and current funding was vired from within the Housing Subheads to support the Local Government Rates waiver in 2021. The breakdown of the source of the reallocation between the capital and current Housing subheads is as follows:

CAPITAL virement - Housing Programme €m		
A.10	Mortgage to Rent	8.0
A.15	Estate Regeneration/Remedial Works	25.0
A.16	Energy Efficiency - Retrofitting	4.5
A.17	Repair and Leasing Scheme	6.7
A.18	Private Housing Grants	6.0
A.21	Infrastructure Fund	6.3
A.22	Pyrite and Mica Remediation	5.0
A.28	Affordable Shared Equity and Cost Rental	100.7
<b>TOTAL</b>		<b>162.2</b>
CURRENT virement - Housing Programme €m		
A.6.	Housing Assistance Payment	4.6
A.8.	Capital Loans and Subsidy Scheme	0.6
A.20	Affordable Housing/Shared Ownership subsidy	1
A.23	Housing & Sustainable Communities Agency	1.4
A.25	Rented Accommodation Inspection	1
A.26	Approved Housing Bodies Regulatory Authority	0.2
<b>TOTAL</b>		<b>8.8</b>

2021 was a very challenging year for the housing sector with delivery of capital programmes impacted by Covid-19 restrictions introduced to protect public health. The Department continued to work very closely throughout the year with the local authorities and other stakeholders to maximise delivery across all programmes and to ensure continuity of Housing funding throughout Covid-19.

Nevertheless, the impact of the Covid-19 restrictions meant that underspends occurred across a range of capital subheads.

The bulk of the capital funding reallocated towards the Local Government Rates Waiver came from Subhead A.28 Affordable Shared Equity Scheme and Cost Rental and Subhead A.15 Regeneration. Expenditure under both subheads was impacted by Covid-19 restrictions.

Subhead A.28 provided funding for the Affordable Shared Equity scheme (now known as the First Home scheme) and the Cost Rental Equity Loan (CREL) scheme. Delivery of CREL homes is subject to construction schedules, which together with housing projects more generally, were impacted by Covid-19 delays at the beginning of this year. As AHBs sought to use CREL funding to allow developers to construct homes that may otherwise not have been delivered, the commencement of construction on these specific units, was, in most cases, not possible until the lifting of relevant restrictions.

€9.25 million of CREL funding was allocated to AHBs for the completion of three of the eight projects approved in 2021. This amounted to the completion of 65 CREL funded Cost Rental units in 2021, with the balance of 325 units to be delivered in 2022.

In relation to the First Home Scheme, the 2021 funding was not utilised as the process of stakeholder engagement was extended. Extra time was required to engage with the European Commission and thereafter to establish the legislative, regulatory and IT / administrative platform for the scheme which has been operational since July 2022.

The Regeneration subhead was also affected by Covid-19 site shutdowns and supply chain issues encountered by local authorities and also the inability of local authorities to secure contractors to carry out works within the year they were sanctioned.

No projects did not proceed due to the reallocation of the unspent funding, rather the delays incurred in housing projects meant that funding was available for reallocation. Housing expenditure not incurred due to delays in projects in 2021 would be incurred in 2022 as the projects were advanced.

#### **What the additional money for local authorities was used for.**

A total of €558.9m was allocated to Local Authorities in 2021 for a Covid-19 Support package. This provision was made up as follows:

- a Substantive Supplementary Estimate on the Vote amounting to €197.3m;
- virement of €310m from savings arising from across the Vote due to the impact of Covid-19 on construction during 2021;
- €13.2 Local Government Fund Reserve; and
- €38.4m from savings arising from the 2020 Waiver.

This allocation comprised of the following:

- €435m for the commercial rates waiver Q1-Q3, €62.3m for limited rates waiver for Q 4;
- €10m for an exchequer contribution for Covid-19 related expenditure Q1-Q3; and
- €56.6m to cover lost income due to Covid-19 for Q1-Q3.



Of this allocation, €545.24m was spent, and the remainder was carried over to be used towards the Covid-19 Rates Waiver Q1 2022.

**The subheads from which money was vired (pgs. 28-29).**

Source	Amount €m
current	12
capital	298.0
<b>Total</b>	<b>310</b>

<b>CAPITAL virement for LG Commercial Rates Waiver €m</b>		
v & vi	Administration	<b>3.9</b>
A.10	Mortgage to Rent	8.0
A.15	Estate Regeneration/Remedial Works	25.0
A.16	Energy Efficiency - Retrofitting	4.5
A.17	Repair and Leasing Scheme	6.7
A.18	Private Housing Grants	6.0
A.21	Infrastructure Fund	6.3
A.22	Pyrite and Mica Remediation	5.0
A.28	Affordable Shared Equity and Cost Rental	100.7
B.4	Rural Water Programme	2.5
B.5.2	Irish Water	30
B.7	Legacy Water Environmental Issues	4.5
C.4	Fire and Emergency Services	2.5
D.9	URDF	40.4
D.12	Land Development Agency	50
D.16	Cork Events Centre	2
<b>TOTAL</b>		<b>298.0</b>

<b>CURRENT virement for LF Commercial Rates Waiver €m</b>		
A.6.	Housing Assistance Payment	4.6
A.8.	Capital Loans and Subsidy Scheme	0.6
A.20	Affordable Housing/Shared Ownership subsidy	1
A.23	Housing & Sustainable Communities Agency	1.4
A.25	Rented Accommodation Inspection	1
A.26	Approved Housing Bodies Regulatory Authority	0.2
B.8	Marine Environment	1.2
F.5	Natural Heritage (NPWS)	2
<b>TOTAL</b>		<b>12</b>



**6. A detailed note on the tendering of Public-Private Partnership (PPP) contracts, and the Competition and Consumer Protection Commission's (CCPC) view thereof, in relation to the following points:**

**The number of PPP contracts that the six Spanish construction firms fined by the Spanish regulator are engaged in in the State**

The following outlines instances where named Spanish construction companies were part of successful tender submissions on Irish PPP and recent major roads schemes.

By way of background, a decision was made by Comisión Nacional de los Mercados y la Competencia (CNMC) in Spain in July 2022 to issue six Spanish construction companies with fines totalling €203.6m “for altering the competitive process in infrastructure construction tenders”.

The CNMC issued the fines against the six construction companies, namely (i) Acciona Construcción S.A., (ii) Dragados S.A., (iii) FCC Construcción, (iv) Ferrovial Construcción, (v) Obrascón Huarte Lain S.A. and (vi) Sacyr Construcción S.A (Sanctioned Companies) and found that the sanctioned companies had engaged in anti-competitive practices over a period of 25 years. The CNMC concluded that in the period from 1992 to 2017 the sanctioned companies met on a weekly basis and decided on the public contracts on which they would share technical work in their bids. They also exchanged information on their bidding strategy for public tenders. At the meetings, the sanctioned companies also decided on the tenders in which they would share part or all of the work that would make up the technical bids for the tenders and also exchanged sensitive commercial information (other than that necessary to share their work). For example, they would share their intention to bid or not to bid for tenders, or their intention to form temporary joint ventures and the members who would be part of them<sup>1</sup>.

The activities engaged in were found to breach public procurement rules as well as against Article 101 of the Treaty on the Functioning of the European Union in that they had as their object or effect the restriction, prevention or distortion of competition. Transport Infrastructure Ireland (TII) does not have full details of actions by sanctioned companies in contesting the findings or appealing the fines imposed by CNMC. However, TII understand that Obrascón Huarte Lain S.A. are appealing the matter to Spain's National High Court. In addition, TII is not aware whether any evidence was found by CNMC that the anti-competitive practices included competitions for contracts outside of Spain.

Details of the eight schemes where sanctioned companies (or subsidiaries thereof) formed part of a successful bid leading to the award of PPP contracts are detailed hereunder in Table 1 (highlighted #). It confirms that five separate Sanctioned Companies were successful in submitting bids for the award of PPP contracts in Ireland. The contracts were awarded in the

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<sup>1</sup> The CNMC press release relating to this is available at [https://www.cnmc.es/sites/default/files/editor\\_contenidos/Notas%20de%20prensa/2022/20220707\\_NP\\_Sanccionador\\_ObraCivil\\_2\\_en\\_GB\\_0.pdf](https://www.cnmc.es/sites/default/files/editor_contenidos/Notas%20de%20prensa/2022/20220707_NP_Sanccionador_ObraCivil_2_en_GB_0.pdf)

period 2003-2016 and in each case the Spanish entity jointly tendered with an Irish contractor.

TII confirms that as part of the procurement of all PPP schemes it engaged a range of advisors, including financial and technical (comprising a joint venture between KPMG and Babbie Group) and legal (McCann Fitzgerald and Bruckhaus Deringer jointly). In addition, TII has benefitted from financial advice provided from NDFA on certain projects since 2007.

**Table 1**

<b>Scheme name</b>	<b>Construction contractors</b>	<b>Scheme opened</b>	<b>Financial Close</b>
N25 New Ross Bypass	New Ross N25 Bypass DAC - BAM Civil Limited - Dragados Ireland Limited #	2019	2016
M11 Gorey-Enniscorthy	Gorey-Enniscorthy M11 PPP Limited - BAM Civil Limited - Dragados Ireland Limited #	2019	2015
M6 Galway/Ballinasloe	N6 (Concessions) Limited & N6 (Construction) Limited - PJ Hegarty & Sons - Sacyr SAU # - FCC Construction SA #	2009	2007
M7/M8 Portlaoise/Cullahill	Celtic Roads Group (Portlaoise) Limited - Dragados SA # - Ascon Limited	2010	2007
M50	M50 (Concession) Limited - FCC # - Itinere - PJ Hegarty	2007	2007
N25 Waterford City Bypass	Celtic Roads Group (Waterford) Limited - Dragados SA # - Ascon Limited	2009	2006
M1 Dundalk Western Bypass	Celtic Roads Group (Dundalk) Limited - Dragados Obras y Proyectos S.A # - Ascon Limited - Edmund Nuttal Limited	2005	2004
M4/M6 Kilcock/Kinnegad	Eurolink Motorway Operation Limited - Ferrovial (Agroman) Ireland Limited # - SIAC Construction	2005	2003

*Involvement of Spanish contractors in Exchequer funded major roads projects*

Details of the three recent major road schemes where Sanctioned Companies (or subsidiaries thereof) formed part of a successful bid leading to the award of contracts are also detailed in Table 2 hereunder (highlighted #). The contracts were awarded in the period 2007-2013.

**Table 2**

Scheme name	Construction contractors	Scheme opened
N1 Border/Dundalk scheme	Joint venture between - SIAC - Ferrovial #	2007
M50 Phase 1	Joint venture between - SIAC - Ferrovial #	2008
Belturbet bypass	Joint venture between - Ferrovial Aggroman # - P.T. Mc Williams	2013

**The awarding of big contracts**

For completeness, it should be noted that the Irish transport PPP projects are not within the remit of procurement or contract management by the National Development Finance Agency (NDFA) and their understanding is that these projects are being addressed by the Department of Transport.

As stated above, Spain's National Commission for Markets and Competition ("CNMC") published a resolution (Resolución Obra Civil 2 S/0021/20) on 5 July, 2022 (the "Resolution"), imposing fines for infringement of Spanish and European competition laws on six Spanish construction companies.

The NDFA have advised the Department that as they understand from correspondence with Obrascon Huarte Lain S.A. ("OHL") (one of the affected Spanish companies), the Resolution is being appealed to Spain's National High Court by OHL.

**Operational PPP contracts**

The NDFA has 15 Public Private Partnership ("PPP") operational contracts under its remit of contract management, 10 of which it has procured and five of which were procured by other Contracting Authorities. This note addresses only the 10 PPP contracts procured by the NDFA.

Of the 10 projects procured by the NDFA, two projects were awarded to consortia that included one of these Spanish construction companies. OHL was part of the consortium for the Social Housing Bundle 2 project and Fomento de Construcciones y Contratas S.A. ("FCC") was part of the consortium for the Technical University Dublin, Grangegorman project.

Construction on both of these projects is fully complete and the projects are currently operational<sup>2</sup>.

### **Projects in Procurement**

The NDFA has two PPP projects currently in procurement. None of the contractors named in the Resolution are currently involved in these PPP projects.

Separately, it is noted that OHL is participating in the NDFA tender competition for the (traditionally funded/non-PPP) second Exchequer Funded Schools Building Programme (also known as the Devolved Schools Building Programme or “DSBP2”) Design & Build Contractor Framework, as part of a joint venture with an Irish registered building and civil engineering contractor.

NDFA procurements, whether PPP or Exchequer Funded (that are above certain monetary thresholds), are conducted in accordance with the European Union (Award of Public Authority Contracts) Regulations, 2016 (the “Procurement Regulations”)<sup>3</sup>. Regulation 57 of the Procurement Regulations enables a contracting authority in certain circumstances to exclude bidders from procurement procedures for matters such as corruption (Regulation 57(1)(b)), grave professional misconduct (Regulation 57(8)(c)) and agreements with other economic operators aimed at distorting competition (Regulation 57(8)(d)). In deciding whether or not to invoke such exclusionary rights in any particular case, a Contracting Authority must consider all relevant factors, including any remedial measures undertaken by a bidder.

Based on relevant information provided, the NDFA has not sought to invoke Regulation 57 to date. However, the matter will be kept under review if and as any developments arise.

**Whether the Department received correspondence in 2016 from the then chairperson of the CCPC in relation to public contracts, PPPs, and the potential for establishing a new database for same. If so, what arose from the correspondence, and what improvements have been made to systems relating to PPPs and public contracts.**

The Office of Government Procurement (OGP), which is a division of the Department of Public Expenditure and Reform, received, and engaged in, correspondence with the then chairperson of the CCPC in relation to public contracts, PPPs, and the potential for establishing a new database for same.

The then Minister (Paschal Donohoe) and Minister of State (Eoghan Murphy) met with the CCPC Chairman (Isolde Goggin), along with OGP Staff in early September 2016. The following elements arose in the meeting:

- The CCPC were advised to progress their request for system funding through the Department of Enterprise, Trade and Employment (then the Department of Jobs, Enterprise and Innovation) and that it would be considered in due course by the Department of Public Expenditure and Reform when they came seeking the funding.

<sup>2</sup> OHL has a small equity stake in the Irish project company operating the Social Housing Bundle 2 project and therefore will remain involved in its capacity as a minority shareholder for the duration of the project, unless the structure of the ownership of the Irish project company changes.

<sup>3</sup> The Procurement Regulations transpose into Irish law Directive 2014/24/EU on public procurement.

- The CCPC identified at the meeting that legislation would be required to give them the powers necessary to progress their proposals. This legislation would need to be progressed via their Minister.
- The resources necessary to gather and provide the data being sought were discussed.
- It was agreed that notwithstanding the need for legislation, that CCPC would work with OGP to support increased awareness training for procurement officials on fraud prevention and detection in bids.

Following on from the meeting, the CCPC and the OGP engaged in further correspondence in order to draw up a protocol or memo of understanding in relation to queries, advice and reporting between the organisations. Progress on this matter stalled after a few years but has recently recommenced. The most recent engagement between the CCPC and the OGP is as follows:

In August 2022, the OGP met with the CCPC's Digital Investigations Unit to discuss options for collaboration as part of a broader exploratory phase. The purpose of the meeting was to help the CCPC team understand how OGP systems are used to store tendering related data and to enable them to consider how they might leverage it from a technical perspective.

The CCPC Digital Investigations Unit's main objective is to identify what relevant data sources exist and to what extent they are technically suitable for carrying out automated screening to identify signs of potential collusion and cartels. The meeting concluded with the CCPC expressing the view that the data available via eTenders was not suited to processing by their screening tools. This was mainly due to the fact that only a subset of the overall tendering activity that is processed via eTenders and as such, there are multiple potential other sources of tendering data that would be needed to form an holistic view for the CCPC's screening process and tools purposes. In addition to this, much of the most relevant information (e.g. pricing) for the CCPC's screening process is submitted by bidders to Contracting Authorities via the eTenders system within unstructured documents (e.g. PDFs, spreadsheets). These type of unstructured data formats are not considered suitable for processing by CCPC's screening tools.

The OGP's Operational Excellence Unit and the CCPC's Digital Investigations Unit have agreed to remain in contact and share any relevant technical developments and information in this space.

**7. To engage with the Department of Housing, Local Government and Heritage in relation to the current practice of issuing letters to landlords continually on a monthly basis in relation to the non-payment of rent, where the landlord has experienced no such issues.**

The Housing Assistance Payment (HAP) scheme started in 2014 and at the end of Q2 2022, there were more than 60,700 households actively in receipt of HAP support and over 32,400 separate landlords and agents providing accommodation to households supported by the scheme.

Tenants in the HAP scheme are required to sign a rent contribution agreement to pay a weekly rental contribution to the relevant local authority, in line with the local authority's differential rent scheme. As set out in the rent contribution agreement, this weekly rental contribution must be paid by them so that they remain eligible for the HAP scheme. The HAP Shared Services Centre (SSC) manages the collection of all HAP tenants' differential rents, on behalf of the relevant local authority, and the payment of all HAP rents to landlords on behalf of tenants supported by the HAP scheme.

The HAP SSC follows a clear communication policy if rental arrears issues arise. This policy includes regular and early written communication with tenants, landlords and the relevant local authority. As the differential rent payment is paid directly to the HAP SSC, the landlord would not know if this payment was received or if rental arrears issue had arisen, unless notified by the HAP SSC.

The approach taken by the HAP SSC has been very effective with minimal levels of rent arrears arising for tenants. At Q2 2022, the scheme had a 97% differential rent collection rate.

The Department of Housing, Local Government and Heritage has not received any contact in relation to this issue. Should the Committee require further follow up with the Department on this issue, please e-mail [HAP@housing.gov.ie](mailto:HAP@housing.gov.ie) and they will assist with any further queries.

## **8. A note on the savings generated by the Department in 2021.**

The Office of Government Procurement (OGP) commenced operations in 2014 and has two primary functions.

Firstly, as the national authority on public procurement, the OGP advises the Minister for Public Expenditure and Reform on public procurement policy for goods, services and works across the entire public sector. In this role, OGP maintains and develops the National Procurement Policy Framework. The framework supports better procurement practice, including strategic, green and socially responsible procurement, as well as managing the legislative and policy matters, providing the national tendering platform, and providing support services to public bodies.

Secondly, the OGP and four other Central Purchasing Bodies (CPBs) in the Health, Education, Local Government and Defence sectors, have responsibility for establishing central procurement solutions for goods and services on behalf of the public sector.

Each central solution ensures value for money is achieved, Government policy delivered, and is attractive to the economic operators ensuring fair, transparent and open competition while sustaining and developing markets. The understanding of the market dynamics of each marketplace is of primary importance to establishing effective central procurement solutions.

The Guidance on Procurement Savings Measurement in the Irish Public Sector (2016) sets out the methodology to track the procurement benefits of each central solution. Based on the guidance, savings are calculated and reported as Forecast Secured Savings (FSS). It should be

noted that is only possible for CPBs to estimate savings achieved given the number of factors involved, such as the number of public bodies practicing procurement, the variation in existing terms and conditions, the volume of items and services involved.

CPBs calculate procurement savings / benefits against all quantifiable factors relating to the supply of goods and / or services, such as price, volume, discounts, rebates, delivery costs and handling costs. These calculated savings figures are reported across the CPBs. €653m FSS have been calculated and reported across all CPBs.

In addition to the savings / benefits outlined in the Guidance on Procurement Savings Measurement in the Irish Public Sector (2016), other non-quantifiable benefits accrue from central solutions such as:

- Consistent implementation of Government Procurement Policy, including Green and Social considerations;
- Transparent and open processes that facilitate SME access to Government Contracts;
- Administrative savings and process efficiencies; and
- Improved risk management.

**9. To ask the Department of Housing, Local Government and Heritage to provide a note on the potential for mass-producing properties, particularly in social housing, to a larger scale, while having regard for quality and affordability.**

Housing for All provides four pathways to achieving four overarching objectives:

- Supporting Homeownership and Increasing Affordability;
- Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion;
- Increasing New Housing Supply; and
- Addressing Vacancy and Efficient Use of Existing Stock

Innovative residential construction strategies are central to these pathways, and a number of actions to advance such innovations are detailed below:

**Modern Methods of Construction (MMC)**

Modern Methods of Construction has been identified as a key measure to address the different housing needs in Ireland and methods to support the development of MMC in Ireland are set out in *Housing for All* Pathway 5 Section 5.3.2.

Modern methods of construction have the potential to help boost productivity and increase efficiency (avoid waste) in the construction sector. The coordination of activities to promote MMC adoption is being led by the Department of Enterprise, Trade and Employment (D/ETE).

D/ETE has recently overseen the establishment of an interdepartmental MMC Leadership and Integration Group.



This Group will ensure the cohesive integration and coordination of the various government supported MMC-relevant initiatives – to support innovation in the construction industry.

Such initiatives include:

- The Construction Technology Centre, consortium led by the University of Galway;
- The Demonstration Park for MMC at Mount Lucas, operated by Laois Offaly Enterprise and Training Board, (D/FHERIS, SOLAS);
- The National Construction Training Centre at Mount Lucas, operated by LOETB, (D/FHERIS, SOLAS);
- The *Build Digital* project (led by DPER); and
- The *Built to Innovate* awareness campaign run by Enterprise Ireland.

The Housing for All Update and Q3 Progress Report, published in November 2022, includes an action to develop an incremental roadmap with targets for compliant MMC adoption in publicly procured residential construction, working with the OGP, to include inter alia - consideration of the tender and evaluation process; design standardisation; skills development and the sharing of best practice; project aggregation; further MMC test projects; and sustainability and circular economy principles. The provision of a public procurement roadmap for MMC will build capacity in the supply chain with resulting delivery and cost reduction benefits.

### **National Demonstration Park for MMC**

A National Demonstration Park for MMC is being established to showcase innovations.

Laois and Offaly Education and Training Board (LOETB) are leading on the delivery of the Demonstration Park for MMC.

The Demonstration Park is scheduled to become operational in Q4 2023.

### **Construction Technology Centre (CTC)**

A Construction Technology Centre (CTC) has been established to increase industry-academic collaboration. The selection of a consortium led by University of Galway (formerly NUIG) to establish the CTC was announced the Tánaiste on 20 July, 2022.

In line with the Government's *Housing for All* strategy, the new Centre will have a particular focus for its first three years on advancing innovation and productivity in residential construction.

A team of researchers from across the Construction Technology Centre consortium, with expertise in the main areas of digital adoption, modern methods of construction and sustainability will be organised under five pillars to address the urgent areas of:

- Productivity, Affordability & Cost;
- Quality and Safety;
- Sustainability;
- Skills and Training; and

- Collaboration.

### **Built to Innovate**

Earlier this year, the Department of Enterprise, Trade and Employment expanded the role of the enterprise agencies to provide firm-level financial support for productivity enhancement and innovation in the domestic residential construction sector. Enterprise Ireland has launched the *Built to Innovate* campaign to drive awareness of these opportunities in the construction sector. Enterprise Ireland seeks to support companies in the construction sector who wish to pursue:

- Enhanced usage and implementation of MMC
- Implementation of Lean training in both manufacturing and off-site environments
- Improving the use of digital tools that can bring productivity benefits
- Funding for research concepts or process innovative ideas

### **New Energy Efficiency Standards for New Buildings:**

Since 1 November, 2019, new dwellings typically require a Building Energy Rating (BER) of A2. A BER Certificate shows a building's energy performance.

New dwellings with this high level of energy performance are called Near Zero Energy Buildings (NZEB). NZEB homes emit 70% less carbon dioxide than those built under 2005 Building Regulations standards.

### **Compliance with Building Regulations**

All new dwellings must comply with building regulations, the aim of which is to provide for the safety and welfare of people in and about buildings, and in addition achieve a 60-year durability for all key elements

Part D of the Building Regulations sets out the legal requirements for materials and workmanship. It requires that all works must be carried out:

- using “proper materials” which are fit for the use for which they are intended and for the conditions in which they are to be used; and
- in a workmanlike manner

to ensure compliance with the Building Regulations.

For new innovative products or systems, not covered by existing standards, compliance with the Building Regulations can be demonstrated by third party certification by an independent approval body, such as National Standards Authority of Ireland (NSAI) Agrément.

The process of Agrément certification applies to those products and processes which do not fall within the scope of existing construction standards, either because they are innovative or because they deviate from established norms. NSAI Agrément assesses, specifies testing, and where appropriate, issues Agrément certificates confirming that new building products, materials, techniques and equipment are safe and fit for purpose in accordance with the Irish

Building Regulations and with the terms of the certificate. Such certificates may be in addition to, but not conflict with CE marking.

**Agrément Certification-National Standards Authority of Ireland (NSAI):**

Fundamental to MMC is compliance and certification according to robust and rigorous standards. In order to demonstrate compliance with the Irish building regulations innovative systems, such as modular and MMC, must comply with Agrément certification or its equivalent.

Agrément certification is designed specifically for new building materials, products and processes that do not yet have a long history of use and for which published national standards do not yet exist. Agrément certification bodies assess, specify testing, and where appropriate, issue Agrément certificates for such products. The criteria upon which Agrément certification is based vary from product to product, taking into account construction standards across a range of measures such as: safety, habitability, durability, maintenance, practicability, and the national legal framework.

**State's response for Beneficiaries of Temporary Protection using Rapid Delivery Homes**

As part of the State's humanitarian response to the Ukrainian crisis, the Government is rolling out a rapid build housing programme to provide accommodation for families fleeing the war in Ukraine. A rapid build home is a high-quality dwelling that is mostly built off-site from the planned location and then delivered and finished on site. This means they can be put in place quicker than standard accommodation and there is less construction disruption to the area. The Office of Public Works (OPW), working with the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), has responsibility for delivering the Programme.

Arising from a Memorandum from the Minister for Housing, Local Government and Heritage, considered on 26 April, the Government decided on a range of measures to boost the supply of accommodation for refugees arriving from Ukraine. These measures included a rapid build, volumetric modular units, option the evaluation of which was to be led by the OPW.

The OPW, in conjunction with the Construction Industry Federation (CIF) representing specialist modular manufacturers and main contractors, developed an exemplar design and specification to ensure Building Regulation compliance. The design is based exclusively on rigid frame volumetric structures which represents the best method, having regard to the need for quality, speed, and simplicity of design and production, to achieve the scale of programme required.

The modular prototype that has been designed is a highly energy efficient (BER A2) durable single storey unit (with a useful life of 60 years). The 60 year lifespan was chosen to be consistent with housing standards and to maximise the long-term value to the exchequer, of the significant upfront investment involved, by providing units that can meet future accommodation needs, once the humanitarian crisis, induced by the War in Ukraine, has passed.

On 28 June, 2022, the Government authorised the roll-out of a modular homes programme to provide accommodation for 2,000 Ukrainians, predominantly women and children, in 500

family units at several sites across Ireland. Since then the Department of Children, Equality, Disability, Integration and Youth, as the Lead Department, and a range of other bodies such as the Department of Housing, Local Government, and Heritage, local authorities, Irish Water, ESB networks and Open Eir have been working collaboratively to deliver the modular housing programme.

The successful delivery of these units will meet the Government's objective to provide new sources of accommodation, as part of the State's humanitarian response to the Ukrainian crisis, and will also provide the Department of Children, Equality, Disability, Integration and Youth with a flexibility of response to accommodation demand that is not currently available.

**10. A note on the additional resources provided to An Bord Pleanála, and any communications from the Board in that regard.**

The allocation to An Bord Pleanála in 2021 was €17.127m.

The allocation increased by €5.039m or 29.5% to €22.166m in 2022.

The allocation for 2023 is increasing by €4.713m or 21.3% to €26.879m. The increase in 2023 reflects the full time costs of additional staff resources identified under Phase 1 of ABP's Workforce Plan 2022-2023 and immediate posts under the Maritime Resourcing Plan which relate to the new functions being assigned to the Board under the Maritime Area Planning Act. Additionally, there is increased funding for legal fees due to the high level of judicial reviews.

There has been no direct communication between the Department of Public Expenditure and Reform and the Board in this regard. The allocations have been negotiated directly with the Department of Housing, Local Government and Heritage.

**11. A detailed note on the Department's view of the Minute of the Minister of 7 October 2022, having regard for the instructions on completing same as outlined in Circular 01/2011.**

The Department of Public Expenditure and Reform (D/PER) views its role in ensuring that the Public Accounts Committee's recommendations are responded to correctly and appropriately in line with Circular 01/2011 as a critical support to the Committee's oversight role regarding public finances.

D/PER discussed compliance with the provisions of Circular 01/2011 with the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (D/TCAGSM) prior to the issuing of the Minister's Minute.

As the Committee noted, the D/TCAGSM response was exceptional in not explicitly accepting or rejecting the Committee's recommendations. However, as outlined in the responses, the provisions of the Broadcasting Act, 2009 ensure independence is afforded to RTÉ in the

pursuit of its public service objects, and that such independence extends to RTÉ's day-to-day operational activities. As a consequence, D/TCAGSM had significant difficulties in accepting or rejecting recommendations made by the Committee given the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media has no role to play in the day to day functions of RTÉ.

By staying within the provisions of the legislation pertaining to RTÉ, D/TCAGSM believed they acted most appropriately in not explicitly accepting the recommendations in that they would have exceeded the Department's authority with regard to the independence of RTÉ. However, D/PER notes that D/TCAGSM did communicate and agree to continue to engage with RTÉ on the Committee's recommendations, thereby supporting the Committee's work. The responses also set out that with regard to the Report of the Future of Media Commission, this had been published by Government since the Committee had made its recommendation, and that Government had set out its policy with regard to considering the future funding of RTÉ and public service media in general.

The Department will do its upmost to ensure that all future responses from other Departments to the Committee's recommendations are explicitly accepted or rejected in line with the Circular.

## **12. Discussion on Benefacts and the Indecon report at the PAC on 20 October, 2022.**

In addition to the material requested in the PAC secretariat's letter dated 24 November, 2022 and provided at Items 1 to 11 above, the Department wishes to advise the Committee that in respect of the termination of funding to the Benefacts service, the [Indecon report concerning the analysis of the market for data on the non-profit sector](#) was published on the Department's website on 2 December, 2022, in accordance with the commitment given at the meeting on 20 October, 2022.

ENDS