

An Roinn Airgeadais  
Department of Finance



Ms. Sarah O'Farrell  
Clerk  
Committee of Public Accounts  
Leinster House  
Dublin 2

**Ref: S1522 PAC33**

5 January 2024

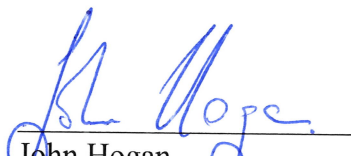
Dear Ms. O'Farrell,

I refer to your letter dated 8<sup>th</sup> December 2023 and attach my response to the issues raised by the Committee at our meeting on 30<sup>th</sup> November 2023 which I undertook to provide.

In relation to the information requested in question 4 on Public Private Partnerships (PPPs), it should be noted that primary responsibility for PPPs rests with the Department of Public Expenditure, NDP and Reform. To assist the Committee and respond on the issues raised in this question, I am happy to include information received from that Department. Furthermore, I understand that the Committee has requested further information from the Department of Public Expenditure, NDP and Reform relating specifically to the aspect of question 4 on "the projected annual reduction of costs on PPPs after 2035".

If more information or detail is required on any aspect of my responses, please do not hesitate to contact my office.

Yours sincerely,

  
John Hogan  
Secretary General

1. A note on any actions and outputs undertaken by the Department in relation to the report relevant to it and the Department of Social Protection on the topic of bogus self-employment.

“Bogus self-employment” is the description commonly given to a scenario where an individual engaged to do a job is wrongly classified as being self-employed by an employer who seeks to avoid employment-related obligations. From a tax perspective, this relates to income tax, Universal Social Charge (USC) and Pay Related Social Insurance (PRSI) (including Employer’s PRSI) collected through the PAYE system. The implication for the individuals is that they do not have the benefit of certain employment related entitlements such as rates of pay, holiday pay, sick pay and certain social welfare benefits.

### **Joint report of the Department of Finance and the Department of Social Protection 2018**

The Department of Finance, as part of a working group along with officials from the Department of Social Protection (DSP), with technical assistance from Revenue, published a report in February 2018 looked to identify and estimate any potential loss of tax and PRSI resulting from intermediary type structures and self-employment arrangements. The report is available at:

<https://assets.gov.ie/10866/71f05854b566428fa2fc2678df8e2b81.pdf>

The report was informed by a public consultation with a wide range of stakeholders. It finds that the available data does not indicate that self-employment is accounting for any significant increased share of the labour force, and accordingly the perception of the level of disguised employment may be overstated. It also notes that contract for service arrangements can provide flexibility, in many instances, for both businesses and workers, where they are freely chosen by both parties. However, the report also finds that there is an Exchequer loss attributable to the much lower social insurance contribution payable by self-employed people, as compared with the total social insurance contribution paid by and in respect of employees.

### **Determination of employment status**

Employment classification is a complex area and there is no single clear definition of the terms ‘employed’ or ‘self-employed’ in Irish or EU law. As a matter of clarification, questions of employment versus self-employment status impact the work of three different Government bodies. The DSP has responsibility for the PRSI system and determines employment status for social insurance purposes; the Workplace Relations Commission (WRC) determines employment status when adjudicating on employment rights matters; and Revenue may determine a worker’s employment status in the context of his/her treatment for income tax purposes and in allocating the income earned to the appropriate Schedule under the Taxes Consolidation Act 1997.

While in most situations involving determinations of employment status there is commonality of approach across the three bodies, the decision of one organisation is not binding on the other, and as a consequence, a determination of employment status in one context may not be the same as in another context.

There are close working relationships between the three bodies, including conducting joint compliance interventions to ensure that employers are operating employment arrangements correctly. Furthermore, in July 2021, an interdepartmental working group comprising the DSP, Revenue and the WRC further updated the *Code of Practice on Determining Employment Status* <https://www.revenue.ie/en/self-assessment-and-self-employment/documents/code-of-practice-on-employment-status.pdf>. The purpose of the revised Code is to provide an enhanced understanding of employment status, taking into account current labour market practices and developments in legislation and case law. These developments include, for example, new forms of work such as platform work and the gig economy. It is a ‘living document’, which will continue to be updated to reflect relevant changes into the future.

### **Revenue-specific actions**

There is no ‘silver bullet’ solution that would completely eradicate false self-employment. The primary way to deal with it is through inspection, compliance and deterrence.

Revenue advises that compliance interventions are undertaken by widely dispersed operational Divisions in Revenue. Despite anecdotal suggestions to the contrary, Revenue experience over the past number of years suggests that misclassification is not widespread but, rather, that targeted interventions have identified a limited number of outlier cases. Revenue applies a data-driven, risk-based approach to compliance interventions, utilising the information provided by all principal contractors on relevant contracts and payments to subcontractors to refine Revenue’s risk focus. This applies to both private and publicly funded projects.

Revenue’s 2022 Annual Report included the following information in relation to work done by its Shadow Economy Team in 2022:

*“Our Joint Investigation Unit (JIU) makes a significant contribution to our overall intervention strategy by targeting shadow economy activity. Our JIU officers conduct ‘standalone’ Revenue operations and also work very effectively with the Department of Social Protection Special Investigation Unit (SIU) officials and also, as circumstances require, with the Workplace Relations Commission (WRC), to address areas of mutual concern across a range of economic sectors. One such sector is construction.*



*The continued easing of restricted working arrangements, related to Covid-19, during 2022 facilitated an increase in our activity in the shadow economy during the year. Our JIU officers along with other Revenue staff conducted 407 Revenue 'standalone' construction site visits during the year. During these visits officers interviewed 872 contractors, sub-contractors, and employees to make them aware of their compliance and other statutory obligations. Additionally, our JIU officers carried out a further 714 construction site visits in conjunction with Department of Social Protection and interviewed a further 1,423 individuals. As a result of these activities, 76 individuals were registered as new employees for PAYE and an additional 7 sub-contractors were reclassified as employees.*

*In addition to construction site visits, our JIU officers along with other Revenue staff carried out a further 1,936 visits, either on a standalone basis or in conjunction with other agencies, across a range of businesses in connection with various forms of shadow economy activity. These visits resulted in the registration of 168 individuals as new employees for PAYE."*

It should be noted, however, that the above statistics do not represent all the compliance work that has been and continues to be carried on. As part of Revenue's risk based approach to compliance, the issue of employment versus self-employment is considered in interventions where there is an indication of risk.

The landscape for determining whether someone is employed or self-employed has welcome clarification following the recent Supreme Court judgement in the Karshan case. The judgment sets out a five step framework to assist the correct classification of individuals between employees and self-employed. In light of this decision, Revenue is currently drafting a new Tax and Duty Manual, which will provide detailed guidance on the framework to assist taxpayers in making the correct classification. Revenue is also working with colleagues in DSP and the WRC to update the *Code of Practice on Determining Employment Status*, with the initial meeting taking place Monday 4 December.



2. In relation to investments, through the Ireland Strategic Investment Fund, in companies listed on the OHCR database of business enterprises in relation to Occupied Palestinian Territory:
- Whether concerns been raised with the Department prior to the introduction of the Illegal Israeli Settlements Divestments Bill 2023,
  - Whether there had been engagement with any NGOS citing concerns about the investments in these companies;
  - The return on those investments, overall and annually, and
  - How many years those investments have been in place

No concerns were raised with the Department prior to the introduction of the Illegal Israeli Settlements Divestment Bill 2023. ISIF has engaged with Trocaire and the Global Legal Action Network (GLAN) regarding investments in companies listed in the UN Database.

ISIF does not track the returns on the individual securities as they are part of an overall return. In 2022, ISIF's investment return was -6.7%. Returns declined in 2022 on foot of market concerns regarding lower growth forecasts, higher inflation, changes to monetary policy, the Russian invasion of Ukraine and geopolitical tension. From inception to end-2022, ISIF has generated an annualised investment return of 2.9% per annum.

Since the establishment of ISIF in 2014, under the NTMA (Amendment) Act 2014, ISIF has held a wide variety of securities including some of those listed on the UN database. These securities have varied significantly over time and since the publication of the UN database in February 2020, ISIF has held on average 10 companies listed on the database. These companies have varied somewhat and changed with the variation of the database in 2023. As per the 2022 NTMA Annual Report and the 2023 updated UN database, ISIF currently holds 11 directly listed securities.

3. The earliest dates for cases being investigated in relation to the liquidation of IBRC.

Based on information provided by the Special Liquidators to the Department, the earliest case which is still ongoing was instigated in 2010. This is a case taken in Northern Ireland against Anglo Irish Bank Corporation by a former client. This case is scheduled for hearing in April 2024, although this may be delayed depending on the outcome of procedural applications. One further case was initiated in 2011, and two in 2012. The Special Liquidators were appointed on 7 February 2013.

4. A note on public-private partnerships (PPPs), including:
  - The number and cost to the state of PPPs at development stage, and those planned in the future,
  - The total capital and current costs of PPPs,
  - The projected annual reduction of costs on PPPs after 2035,
  - The reason(s) why servicing costs in respect of education PPPs have increased, and
  - A document outlining the contractual values for school bundles.

### **Overview of Public Private Partnerships**

Public Private Partnerships (PPPs) are partnerships between the public and private sectors for the purpose of delivering a project or service and is an internationally recognised model to design, build, finance, operate and maintain public infrastructure. Some of the advantages associated with PPPs are that they allow the public sector to avail of private sector expertise and innovation and the private partner assumes responsibility for a considerable portion of the risk. The contracts tend to be long term arrangements, typically spanning 25 years or more.

Construction of the first PPP project (Schools Pilot project) was completed over 20 years ago in 2002. The infrastructure is scheduled to be handed back to the State in 2027. The PPP company must comply with contractually stipulated handback requirements that necessitates the assets to be returned in a pre-agreed condition and meeting specific residual life requirements.

In total there are now 30 PPP projects in operation in the following sectors:

- Transport – 15 project
- Education – 9 project
- Housing – 2 project
- Justice – 2 project
- Health – 1 project
- OPW – 1 project

There are also a number of projects in development, procurement or pre-procurement such as Social Housing Bundle 3, 4, 5 and 6; Higher Education Bundles 1 and 2; Community Nursing Units and a Justice project comprising of the redevelopment of Hammond Lane.

Social Housing Bundles 4 and 5 were announced on 22 June 2022 with Bundle 6 announced on 9 January 2023 and Bundle 7 recently announced on 13 November. These four social housing bundles will comprise approximately 3,000 homes (depending on design development).

At end-2022 the construction capital cost of the 30 completed projects amounted to approx. €5.5 billion. The residual unitary payments for these projects amounts to €6.3 billion.

The Guidelines for the use of PPPs were reviewed and updated in 2019, with a further review carried out and published in April 2021, as part of the NDP phase 1 report.

The new PPP guidelines recommended that the capital cost of the project (both PPP and non-PPP elements) over the construction phase could be accommodated within the approved multi-annual Capital Allocations of the Sponsoring Agency and the 10% cap on PPP investment was discontinued.

This is in line with the 2006 Guidelines for the Provision of Infrastructure and Capital Investments through Public Private Partnerships, which stated that where a PPP project is to be funded through unitary payments the capital cost of the project must be capable of being met from within the capital ceiling of the Capital Envelope.

This also adapts to the IMF Country Specific report, Public Investment Management Assessment (PIMA), published in 2017, which recommended replacing the current fiscal cap on unitary/availability payments with a rule that scores the total capital cost of a PPP against Departments' capital envelopes to assess full fiscal impact.

PPP unitary payments will amount to approximately €330 million or 2.5% of the €13.1 billion capital allocation for 2024.

### **PPP Costs and Reduction in Unitary Payments beyond 2035**

Table 1 below lists out the existing 30 operational PPP's, setting out their operational date and their hand back date. As can be seen a number of projects, including the National Convention Centre, School's Bundle 1, the Criminal Courts Complex and the N6 Galway / Ballinasloe road project will reach final payment in 2035 with the remaining projects being subsequently handed back as per the year of final payment column.

In relation to specific queries on the PPP costs for the Education bundles, there has been no discernible increase in the education servicing costs as per the unitary payments required over the lifecycle. At the current point of the contract lifecycle, each of the bundles are broadly on trend with the expected cost, including the payments made to date and the remaining liability payments to be made in the future years of the contract.

Commitments for existing PPPs will cost in the region of €340 million per annum until 2034, thereafter falling to approximately €11 million by 2046. The aggregate annual funding figures for the existing 30 operational PPP projects are contained in Table 2 below. Expenditure will be met from capital allocations through unitary payments. These figures are subject to change as and when projects in development are completed and unitary payments commence. Further details of annual payments by individual project can be obtained on the [ppp.gov.ie](http://ppp.gov.ie) website.



Table 1 – Operational PPP's

Project	Operational From	Year of Final Payment	Project	Operational From	Year of Final Payment
Motorway Service Areas Tranche 1	2010	2010	Schools Bundle 3	2013	2039
M7/8 Portlaoise	2010	2022	N11 Arklow - Rathnew	2006	2040
M8 Fermoy	2006	2024	Schools Bundle 4	2016	2041
5 Pilot Schools	2002	2027	UCs Primary Care Centre	2017	2042
National Maritime College	2004	2029	M50 Upgrade	2005	2042
Cork School of Music	2007	2032	N17/18 Gort - Tuam	2017	2042
M4 Kilcock - Kinnegad	2005	2033	Courts Bundle	2018	2043
M1 Dundalk	2005	2034	Schools Bundle 5	2018	2043
National Convention Centre	2010	2035	M11 Gorey - Enniscorthy	2019	2044
Criminal Courts Complex	2009	2035	Grangegorman	2020	2045
Schools Bundle 1	2010	2035	N25 New Ross ByPass <sup>2</sup>	2020	2045
N6 Galway Ballinasloe	2009	2035	Social Housing Bundle 1	2020	2046
Schools Bundle 2	2011	2036	Social Housing Bundle 2	2021	2046
N25 Waterford	2009	2036	M3 Clonee Kells <sup>1,2</sup>	2010	2052
Limerick Tunnel <sup>1,2</sup>	2010	2038	Motorway Service Areas Tranche 2	2019	n/a

Table 2: Projected Future Unitary Payments 2035 - 2046

2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046
303m	275m	254m	256m	257m	235m	223m	188m	96m	76m	52m	11m

The table on the following pages sets out the financial data for all operational PPP's, including the future liability for each project listed.

**Exchequer Funded Financial Commitments under Public Private Partnerships and Concession Projects**  
**(rounding effects totals)**

Department/Agency	Project Classification	Operational From	Contractual Value (€m)	PPP Unitary Payments to End-2022 inclusive of VAT (€m)	Projected Future PPP Unitary Payments in NOMINAL Terms (€m)	Other PPP Payments, where available (€m)	Projected Total Cost of all PPP Payments (€m)	Year of Final Payment	PPP Company
<b>Housing</b>									
Social Housing Bundle 1	DBFM	2020	119.0	20.4	308.1	16.4	344.8	2046	Comhar Housing Consortium
Social Housing Bundle 2	DBFM	2021	129.0	11.6	265.1	17.5	294.3	2046	Torc Housing Partnership
<b>Total Housing</b>	-	-	<b>248.0</b>	<b>32.1</b>	<b>573.2</b>	<b>33.9</b>	<b>639.1</b>		
<b>Health</b>									
Primary Care Bundle	DBFM	Phased from Q3 2017	140.0	69.5	376.7	35.5	481.7	2042	Healthcare Centres PPP Limited

OPW				
National Conference Centre	DBFOM	Aug-10	189.8	
Justice				
Criminal Courts Complex	DBFOM	Nov-09	132.4	
Courts Bundle	DBFOM	2017	159.8	
Total Justice			292.2	
Education				
5 Pilot Schools	DBFM	2002	63.7	

420.8	319.1	25.6	765.5	2035	Spencer Dock Convention Centre Dublin Ltd	
282	298.2	17.9	598.1	2035	IPP CCC Partnership Ltd. Managed by amber Infrastructure Ltd.	
68.5	310.4	32.1	411.0	2042	BAM PPP PGGM consortium	
350.5	608.6	50.0	1,009.1			
226.6	57.1	N/A	283.7	2027	Schools Public/Private Partnership (Ireland) Ltd	



Schools Bundle 1	DBFM	2010	59.9
Schools Bundle 2	DBFM	2011	81.7
Schools Bundle 3	DBFM	2013	100.0
Schools Bundle 4	DBFM	2016	61.3
Schools Bundle 5	DBFM	2018	91.1
<b>Total Education</b>			<b>457.7</b>
<b>Further and Higher Education</b>			
National Maritime College	DBFM	2004	51.4
Cork School of Music	DBFM	2007	49.3
Grangegorman Campus	DBFM	2020	220.4

118.7	133	N/A	251.7	2035	MPFI Schools 1 Ltd
148.6	193.3	N/A	341.9	2036	Pymble Schools Ltd
131.1	280.5	13.9	425.5	2039	BAM PPP Ltd
49.8	159.9	11.5	221.2	2041	BAM PPP Ltd
30.6	228.7	18.1	277.4	2043	Inspired Spaces Consortium
<b>705.4</b>	<b>1,052.5</b>	<b>43.5</b>	<b>1,801.4</b>		
154.3	42.0	N/A	196.2	2029	Focus Education (NMC) Ltd.
135.3	88.9	N/A	224.2	2032	CSM PPP Services Ltd
35.7	533.9	55.7	625.3	2045	Eriugena Consortium

Total Further and Higher Education			321.1	325.3	664.8	55.7	1,045.7	
Transport Infrastructure Ireland								
M3 Clonee Kells	DBFOM	Jun-10	521.2	507.3	150.9	50.6	708.8	Eurolink Motorway Operations (M3) Ltd
Limerick Tunnel	DBFOM	Jul-10	382.5	238.8	151.2	67.0	457.0	DirectRoute (Limerick) Ltd
M50 Upgrade	DBFOM	Sep-10	219.1	298.1	600.4	94.6	993.1	M50 (Concession) Ltd
N11 Arklow/Rathnew (incl N7 Newland Cross)	DBFOM	July-15 N11 & Nov-14 N7	131.2	124.4	321.2	23.7	469.3	N11 Arklow Rathnew PPP Ltd
M17/18 Gort / Tuam	DBFOM	Sep-17	271.4	174.4	761.9	41.2	977.4	Direct Route (Tuam) Ltd
M11 Gorey / Enniscorthy	DBFOM	Jul-19	234.5	63.1	424.0	39.2	526.4	Gorey to Enniscorthy M11





N6 Galway Ballinasloe	Concession	Dec-09	297.8	331.0	20.4	22.4	373.8	2035	N6 (Concession) Ltd
M7/8 Portlaoise	Concession	May-10	300.1	79.8	0.0	5.9	85.6	2023	Celtic Roads Group (Portlaoise) Ltd
MSA Tranche 1	Concession	Sep/Oct-10	62.7	47.1	0.0	0.0	47.1	2010	Superstop Ltd
MSA Tranche 2	Concession	Mar-19	26.4	0.0	0.0	0.0	0.0	2011	Beech Hill Gateway Services DAC
<b>Total TII Concession</b>			<b>1,546.3</b>	<b>961.3</b>	<b>34.9</b>	<b>47.0</b>	<b>1,043.2</b>		
<b>Dublin City Council</b>									
Dublin Waste to Energy	Concession	2017	<b>346.0</b>	-	-	-	-	2062	Covanta
<b>Total PPP</b>			<b>3,559.2</b>	<b>3,343.8</b>	<b>6,286.1</b>	<b>589.3</b>	<b>10,219.1</b>		
<b>Total Concession</b>			<b>1,892.3</b>	<b>961.3</b>	<b>34.9</b>	<b>47.0</b>	<b>1,043.2</b>		
<b>Total</b>			<b>5,451.5</b>	<b>4,305.1</b>	<b>6,320.9</b>	<b>636.4</b>	<b>11,262.3</b>		

### **Notes**

1. Estimates of future nominal committed payments are calculated on an assumed future annual indexation of 2%.
2. Estimates of future nominal committed payments for the NCC are calculated on an assumed future annual indexation of 2.5%.
3. PPP Unitary expenditure by TII relates to construction and operation payments on Concession schemes and availability payments on PPP schemes. All figures are inclusive of VAT.
4. Other PPP expenditure includes reverse charge VAT payment on construction services, authority variations (inclusive of VAT) and traffic guarantee payments.
5. Rates payable on the NCC have been realigned and are now recorded under the PPP Unitary Payment column having previously been included in the Other PPP Payments column.
6. Rounding affects totals.

TII Note: All of the above payments relate to amounts paid to PPP Co, with the exception of VAT reverse charge payments which are paid directly to the Revenue Commissioners.

## 5. A note on debt relief payments in respect of South Sudan and Somalia.

The IMF and World Bank launched the Heavily Indebted Poor Countries (HIPC) Initiative in 1996 to address debt relief issues as part of a larger effort to address the development needs of low-income countries. For debt reduction to have a tangible impact on poverty, the additional money needs to be spent on programs that benefit the poor. Before the HIPC Initiative, on average, eligible countries were spending slightly more on debt service than on health and education combined. Since the initiative, they are spending about five times more on health, education, and other social services than on debt service.

In December 2019 and May 2021, the Managing Director of the IMF formally wrote to Governors<sup>1</sup> at the IMF to request their support for an IMF financing package for delivering debt relief to Somalia and South Sudan under the HIPC Initiative. As the IMF did not have sufficient resources, members were asked to contribute part or all of their respective shares in IMF internal resources.

In January 2020, the Minister for Finance approved Ireland's participation as part of a wider international effort in providing debt relief to Somalia, and in May 2021 agreed to provide debt relief to South Sudan. In total, Ireland agreed to a transfer of €8.3 million euro of Ireland's share of resources in IMF managed accounts to the IMF's Administered Accounts for Somalia and Sudan.

Subsequently, the European Central Bank (ECB) determined that a portion of the funding transferred had been provided to the IMF by national central banks and therefore was in breach of Article 123(1) of the Treaty on the Functioning of the European Union and warranted corrective measures. Accordingly, in light of the ECB's finding, a provision was included in the Bretton Woods Agreements (Amendment) Act 2022 to provide for a refund of up to €6.6 million from the Exchequer to the Central Bank of Ireland (CBI). A one-off payment of €6,552,103.88 – the CBI share of the IMF managed accounts – was completed in 2022.

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<sup>1</sup> Ireland's Governor at the IMF is the Minister for Finance.



6. A note on the sundry moneys account, including the reason for the significant increase in money lodged in 2020, and difficulties with transactions into the account.

### **Background**

The Sundry Monies account is an account for the temporary holding of monies before it is known, for certain, where the receipts are proper to. In most instances the monies are transferred to the Exchequer Central Fund as soon as the Department of Finance receives an accurate instruction to do so.

The Department of Finance has no control over receipts into the Sundry Monies Account. However, once received, the process of ensuring correct payment instructions are remitted to the department is labour intensive and entirely reliant on third party cooperation.

### **Pandemic Effect on Transfers**

A similar volume of receipts flows through this Sundry Monies Account on an annual basis.

However, during the pandemic, the Department focused on processing other more critical payments, such as the daily supply payment to fund voted expenditure, non-voted exchequer payments required under legislation, Social Insurance Fund Transfers and EU commission payments. This led to the account holding funds for longer than in previous years.

More recently, over €100m was received into the account during the final weeks of 2022 and it was not possible to obtain instructions, compile supporting documentation and complete transfers in this short timeframe.

### **Significant progress**

Over the past 12 months, the Department has put additional resources and significant effort into reducing the balance on the account. In fact, the balance is now at its lowest level in recent years. The below table shows this progress:

Sundry Monies	
<b>Balance @ 1st January 2023</b>	€195,200,257
<b>2023 Lodgements</b>	€693,129,111.22
<b>2023 Transfers to Central Fund</b>	€852,241,220.21
<b>2023 Transfers to third parties</b>	€22,155,656.34
<b>Balance @ 30<sup>th</sup> November 2023</b>	€16,175,433.34

As shown above, the Department has transferred close to €1 billion euro in lodgements from the account to-date this year. Notwithstanding, the account may experience a surge in receipts during the month of December similar to the one experienced in 2022, which

will unfortunately be reflected in the year-end accounts. This is entirely outside the control of the Department of Finance.

7. The manner in which housing schemes, such as long leasing, are accounted for in terms of Government spending and the general Government balance sheet.

Payments made by local authorities to property owners in respect of leased units, including long leases, are recorded as current expenditure by the Local Authorities. Such expenditure is in turn funded via allocations made by the Department of Housing, Local Government and Heritage. Specifically, under subhead A.4 Social Housing Current Expenditure Programme.

In general government terms, operational leasing of this sort from the private market is recorded as an intermediate consumption (P2) in the non-financial account with a negative impact on the General Government Balance.

Long term leasing contracts are assessed by the CSO in terms of their government accounts statistical classification. The CSO classifications guidelines sets out the procedures undertaken by the government accounts classifications division in terms of defining what is included in government finance statistics (GFS). To date, two long term social housing leasing contracts have been classified by the CSO and Eurostat as being operating leases. Accordingly, as the assets remain with the lessor, they are not included in the government balance sheet.

8. Data in relation to movement on deposit rates in the past while.

The determination of interest rates is a commercial decision for individual banks and is the sole responsibility of the board and management of each bank.

Neither the Central Bank of Ireland nor the Minister for Finance has a role in setting the interest rates offered by institutions operating in the Irish banking sector. Although the State is a shareholder in some of the banks operating in this jurisdiction, those entities are run on a commercial and independent basis as set out in the Relationship Frameworks.

Notwithstanding the above, the latest Central Bank of Ireland's Retail interest rates release was on 13 December 2023, and it can be accessed at:

[https://www.centralbank.ie/docs/default-source/statistics/data-and-analysis/credit-and-banking-statistics/retail-interest-rates/2023m10\\_ie\\_retail\\_interest\\_rate\\_statistics.pdf?sfvrsn=7e45621a\\_3](https://www.centralbank.ie/docs/default-source/statistics/data-and-analysis/credit-and-banking-statistics/retail-interest-rates/2023m10_ie_retail_interest_rate_statistics.pdf?sfvrsn=7e45621a_3)

These statistics relate to October 2023 and show that the weighted average interest rate on new Irish mortgage agreements at end October 2023 was 4.27 per cent, a decrease of 3 basis points compared to the previous month and up 170 basis points in annual terms. The equivalent euro area average rose by 7 basis points to 4.07 per cent. At end October, the rate in Ireland exceeded the euro area average by 20 basis points.

Interest rates on household overnight deposits rose 1 basis points to 0.12 per cent in October 2023. The weighted average interest rate on new household deposits with agreed maturity rose 5 basis points to 2.59 per cent in October in Ireland and now stands at the highest level recorded since January 2009. The equivalent rate in the euro area was 3.27 per cent.

Furthermore, in relation to the issue of the capping of mortgage interest rates which was raised at the meeting of the 30<sup>th</sup> November, to further address the Committee's queries, I refer the Committee to the response from the Minister for Finance to a [Parliamentary Question](#) which may provide some additional clarification on considerations in relation to the matter at that time.

#### 9. [A note on what the Department is doing in relation to protecting access to cash, and related legislation.](#)

The Retail Banking Review, which was published by the Minister for Finance in November 2022, highlighted that cash, despite the decline in its usage in previous years, remains an important element of the payments system and the broader economy. Accordingly, the Review included a number of key recommendations to ensure continued access to cash and that any future evolution of the cash infrastructure will be managed in a fair, orderly, transparent, and equitable manner for all stakeholders. To that end, it recommended that the Department of Finance should prepare heads of a bill in 2023 to provide for:

- reasonable access to cash;
- ATM operators to be authorised and supervised by the Central Bank; and
- the authorisation and supervision of cash-in-transit firms (CIT) in respect of their cash handling activities and related financial services.

The Review also recommended that a new National Payments Strategy (NPS) should be prepared by the Department of Finance in 2024. As the previous National Payments Plan was launched in 2013, it is appropriate that a roadmap should be set out for the whole area of payments, which has been subject to huge changes in the intervening years, taking account of existing and proposed EU legislative developments and the need to examine unwelcome developments in the area of fraud. Specifically, in relation to access to cash, the Review recommended that the NPS should consider how future changes should be made to the legislative access to cash criteria and, on the related issue of the acceptance of cash, whether the Minister for Finance should be given the power to require certain



Work began on Access to Cash legislation in January 2023. This initially consisted of desk-based exercises, stakeholder identification, and informal engagements. The Department of Finance then began a targeted consultation on Access to Cash in July 2023. Officials engaged with a number of key stakeholders, including: retail banks, CIT companies, Independent ATM Operators (IADs), and other key stakeholders in the cash system.

Department officials have been drafting Heads of a Bill throughout the year, in close consultation with the Central Bank of Ireland and Departmental legal experts. The Minister expects to bring the Heads of Bill to Government early in the new year to seek approval to draft the Bill. Following approval by the Government to draft the Bill, the Heads will be submitted to the Joint Oireachtas Committee on Finance, Public Expenditure and Reform and Taoiseach for pre-legislative scrutiny.

As regards the NPS, a team has been assembled in the Department and work is well underway. The terms of reference for the NPS were published on 27 June 2023<sup>2</sup> and a public consultation, which was opened on 12 December 2023<sup>3</sup>, will close on 14 February 2024.

#### Further information on the Heads of the Access to Cash Bill

As noted above, the Heads will provide for criteria to ensure reasonable access to cash, the supervision by the Central Bank of ATM operators<sup>4</sup> and Cash-in-Transit firms (CITs).

With regard to the withdrawal of cash, the Minister will prescribe:

- the percentage of the population in each NUTS3<sup>5</sup> region that should be no more than 10km from an ATM; and
- the minimum number of ATMs per 100,000 people in each NUTS3 region.

With regard to the lodgement of cash, the Minister will prescribe the percentage of the population in each NUTS3 region that should be no more than 10km from cash service points, which are locations where cash can be deposited and withdrawn during normal business hours, where in-person assistance is available. Bank branches and An Post offices satisfy this definition.

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<sup>2</sup> <https://www.gov.ie/en/publication/4af00-national-payments-strategy-2024-terms-of-reference/>

<sup>3</sup> <https://consult.finance.gov.ie/en>

<sup>4</sup> ATMs operators include the banks and independent ATM deployers, who are not currently subject to regulation.

<sup>5</sup> The NUTS classification system divides up the economic territory of the EU for statistical purposes. Ireland has 8 NUTS3 regions. These are the Border, West, Mid-West, South East, South West, Dublin, Mid-East, and the Midlands.

The legislation will set out that designated entities will be responsible for ensuring compliance with the criteria. These designated entities will be institutions that provide current accounts in the Irish market that:

- hold more than X% of current/payment accounts; and
- hold more than Y% of household deposits.

The initial access to cash criteria set by the Minister will have regard to the level of cash infrastructure at the end of December 2022, taking account of already planned changes that were subsequently implemented<sup>6</sup>. However, as the expectation is that the demand for cash will continue to decline over the medium term, the Heads provide that the Central Bank will review the Access to Cash criteria periodically and that the Minister will have the power to amend those criteria on the basis of a report submitted to the Minister by the Central Bank. The report will take into account issues such as cash demand, population changes, and financial inclusion.

Provision will also be made in the Heads to address local deficiencies, which are situations that may arise where, despite compliance with the criteria in a specific NUTS3 region, a potentially serious gap in access to cash occurs within a part of that region. A potential example could be that, following the closure of an ATM, a deficiency arises because, although the nearest alternative ATM is within a reasonably short distance, it is located on the other side of a river and there is no nearby bridge.

Consideration is also being given to the issue of ATM access fees<sup>7</sup> in the Heads. The status quo is that domestic transactions are not such to access fees and the objective will be to ensure that this remains the case.

The Heads will also provide for the registration of ATM deployers and CIT firms. This will bring both types of entities within the regulatory perimeter of the Central Bank. The Central Bank will have the power to prescribe regulations dealing with reporting and matters such as service standards including the operational availability of ATMs and denomination stocking.

#### Proposed European Legislation

On 28 June 2023, the European Commission published a number of legislative proposals in the payments policy area. These included the proposed framework for the digital euro and a separate draft regulation on the legal tender of euro banknotes<sup>8</sup>. The proposed regulation deals with the acceptance of euro banknotes and coins and with access to cash.

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<sup>6</sup> These related to the closure of Ulster Bank branches (those not transferring to PTSB), associated ATMs and KBC Hubs.

<sup>7</sup> Access fees are flat rate fees imposed by an ATM operator to use one of its ATMs. They are separate to the normal charges and fees levied by banks on their customers.

<sup>8</sup> [https://economy-finance.ec.europa.eu/system/files/2023-06/COM\\_2023\\_364\\_1\\_EN\\_ACT\\_part1\\_v6.pdf](https://economy-finance.ec.europa.eu/system/files/2023-06/COM_2023_364_1_EN_ACT_part1_v6.pdf)

The regulation proposes monitoring of the level of acceptance of euro and access to cash on an annual basis by each Member State. Where the level of acceptance is assessed by the Member State as undermining mandatory acceptance of euro banknotes and coins, the Member State must set out remedial measures it commits to take without undue delay.

With regard to access to cash, the test is whether access is sufficient and effective. As our proposed access to cash legislation should ensure that we meet this test, it is fully consistent with the draft EU regulation. The National Payments Strategy is taking account of the draft regulation in its work on the acceptance of cash.

The EU file is currently under negotiation in the Council and being considered separately by the European Parliament.