

**Report of the Working Group on the  
Accountability of Secretaries  
General and Accounting Officers**

**July 2002**

## **Foreword**

The Working Group examines issues concerning the accountability of Secretaries General and Accounting Officers, an aspect of which involves appearances before Oireachtas Committees. The Decision of the Supreme Court on the Abbeylara appeal which included 7 judgements was given towards the end of the Group's deliberations. The Decision was specific to the Abbeylara appeal but the Group notes that there were issues addressed in the course of the judgements that may prove to have a bearing on aspects of the Group's report. In view of the importance of the judgement and its complexity as well as the number of parties potentially affected by it the Group felt that it would be inappropriate for them to seek to address separately the implications of the judgements, if any, for the Accounting Officer and Secretary General functions.

Where Departments have been named in the report they refer to the Departmental structure up to 6 June 2002 with the exception of those mentioned in paragraph 1.3.

The Group would like to record its appreciation of those who made submissions to it and those who met with it during the course of its deliberations.

It would like to thank officials from the Treasury Office of Accounts team (UK Treasury), the Treasury Board of Canada and the Canadian Auditor General's Office as well as the Finnish Ministry of Finance and the State Audit Office, who met with sub-groups of the Working Group and who provided much useful documentation.

In particular, the Group would like to thank the Office of the Attorney General for its comprehensive response to requests for legal advice from the Department of Finance on the Group's behalf.

Finally, the Group would wish to acknowledge the outstanding contribution which our Secretary, Mary Golden, has made throughout our deliberations. The quality of thought, resourcefulness and reliability which she brought to her role have been of the highest order, and have been critical to our work at all stages.

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1. The high level Working Group on the Accountability of Secretaries General and Accounting Officers (hereafter referred to as “the Group”) was established by the Minister for Finance, following a Government Decision of 30 May 2000, to examine the authority, responsibility and accountability of Secretaries General and Accounting Officers in relation to financial management in the context of the Performance Management Initiative within the overall Strategic Management Initiative. On the basis of that examination the Group was asked to prepare rules of good governance for the consideration of the Government taking account of the complexities and sensitivities of the relationship between Secretaries General and Ministers as well as the specific functions exercised by Secretaries General who are Accounting Officers. The Terms of Reference of the Group are set out in Chapter 1. This is a summary of the Group’s report to the Minister for Finance.

### **Overview of the Secretary General and Accounting Officer Roles**

2. Both the Secretary General (originally Secretary) and Accounting Officer functions are long established. They are key elements in the system of public administration. The Secretary General is the civil service head of the Department with responsibility, under the Minister, for a wide range of functions including managing the Department and implementing Government policy. Normally, a Secretary General is also the Accounting Officer for the Department with statutory responsibility for preparing the Appropriation Accounts of the Department and giving evidence before the Committee of Public Accounts in relation to the stewardship of public funds. The Accounting Officer role has its origins in the reform of British financial administration in the 1860’s. [1.12 - 1.16]
3. The Group found that while both roles are long-established, they have developed as the complexity of government has grown during the course of the 20th century. Developments in governance have also led to a greater expectation of scrutiny in respect of the discharge of statutory responsibilities. An extensive period of public service reform has clarified issues of responsibility and accountability and has brought into greater focus the importance of accountability to citizens both as users of public services and as taxpayers who finance the expenditure required to ensure the delivery of these services. [1.17]
4. A number of principles emerged during the course of the Group’s work that are reflected in the Group’s conclusions and recommendations. They are
  - ◆ The need for clarity in relation to responsibility and accountability, and the constitutional and legal basis for same, in both existing and new State entities.
  - ◆ The need for a rounded, multi-dimensional view of the Secretary General/Accounting Officer roles that would include service delivery, value for money, compliance and organisational improvement.
  - ◆ The desirability of making full use of existing accountability mechanisms.
  - ◆ The requirement that the existing system provide for an increasing focus on the performance of the Secretary General/Accounting Officer.
  - ◆ The importance of having management and governance systems balanced to support constructive review and continuous improvement while having the capacity to deal with serious issues as they arise. [1.19]

### ***The Secretary General Role***

5. The legal basis for the establishment of the Irish system of public administration is the Constitution and the *Ministers and Secretaries Act, 1924* (the 1924 Act). The role and status of Ministers in relation to Departments and their responsibility to Dáil Éireann are set out in the Constitution and in that Act. [2.2]
6. The 1924 Act created the Departments of State and provided that the Government, on the recommendation of the Minister, appoint the *principal officer* of the Department, then known as Secretary of the Department. The position of Secretaries General differs from that of other civil servants who are appointed by their Minister. [2.2]
7. As part of the process of civil service modernisation the *Public Service Management Act, 1997*, (the 1997 Act) has provided greater clarity in relation to the authority, responsibility and accountability of Secretaries General. Specific duties are assigned to the Secretary General within the Department, including managing the Department, implementing Government policies appropriate to the Department, delivering outputs as determined with the Minister, providing advice to the Minister and using resources so as to meet the requirements of the *Comptroller and Auditor General (Amendment) Act, 1993* in relation to regularity and propriety as well as to economy, efficiency and effectiveness. The list of duties specified in the 1997 Act while extensive, are not necessarily exhaustive and the Secretary General may also be required, under the Act, to carry out other functions on behalf of the Minister. [2.9 - 2.10]
8. The 1997 Act does not diminish the constitutional and statutory role and responsibility of Ministers who remain responsible for the functions of the Department pursuant to the 1924 Act and amendments thereto. The management structures set out in the 1997 Act, operate ‘under the Minister’ and contain a number of safeguards that are designed to maintain the authority of the Minister in relation to the Department. Nor does the Act supplant the Carltona Doctrine whereby the powers of a Minister are normally exercised under the authority of the Minister by responsible officials of his or her Department save in respect of certain powers and issues of significant importance where the Minister is required to act personally. [2.7]
9. The 1997 Act contains a number of new elements in relation to the Secretary General function which are given added weight by being put on a separate statutory basis. These include the preparation of Strategy Statements by the Secretary General which should set out the key objectives, outputs and related strategies (including the use of resources) to be pursued by the Department. This requires the Secretary General to specify how government policy will be implemented in his/her Department. The Strategy Statement is submitted to and approved by the relevant Minister (with or without amendment) who arranges for it to be laid before the Oireachtas. There is also a requirement to prepare progress reports (annual reports) on its implementation. The objective in building the concept of outputs into the departmental Strategy Statement and in making them subject to consideration by Oireachtas Committees was to broaden the scope of accountability beyond the focus on inputs to include a greater emphasis on the outputs and performance of public services. [2.12 - 2.13]
10. One of the objectives of the Strategic Management Initiative is to promote the devolution of responsibility within Departments. The 1997 Act provides a statutory framework for the assignment of specific functions for which the Secretary General is responsible to officers or grades of officers within Departments. Officers within Departments who are assigned functions are accountable to the Secretary General. The Act also gives the Secretary General responsibility for managing all matters relating to appointments, performance, discipline and dismissal of staff below the grade of Principal in the civil service (subject to amendments, inter alia, to the *Civil*

*Service Regulation Act, 1956 and the Civil Service Commissioners Act, 1956* currently under review by the Department of Finance). [2.13 - 2.14]

#### *Accountability of Secretaries General to the Minister*

11. Secretaries General are accountable to the Minister for carrying out the duties specified in Section 4 of the 1997 Act in accordance with directions issued from time to time by the Government. A Government Direction issued in 1997 stated that the framework of accountability of Secretaries General under the Act should comprise the departmental Statement of Strategy and progress reports thereon. While the Group considers that the Strategy Statement and the progress reports constitute a very important framework for accountability, the Secretary General is also accountable to the Minister for all the functions set out in Section 4 of the Act including the financial management responsibilities set out in that section. [2.16 - 2.17]
12. As noted in paragraph 10, an important element in the *Public Service Management Act, 1997* is the assignment of functions to other officers within the Department. The Secretary General retains concurrent power with the person to whom the performance of functions has been assigned to carry out the task in question. As such, the Secretary General is still responsible to the Minister for the adequate carrying out of the function. In an environment of increased devolution of responsibility, there is an onus on the Secretary General to ensure that officers to whom responsibility for the performance of functions has been assigned are competent to perform their duties and that s/he is supported by adequate management control and review systems within the Department. [2.25 - 2.26]

#### *Relationship with the Minister*

13. The working relationship between the Secretary General and the Minister who is in charge of the Department is a key factor in the effective administration of Government Departments. The constitutional, legislative and administrative framework within which Departments operate necessitate that civil servants operating under the authority of the Minister implement Government policy set by the Minister. Within the statutory framework, Secretaries General have considerable authority within Departments of State subject to the overriding authority of the Minister. They have a pivotal role in providing independent advice to the Minister and in managing the interface between the Department and the Minister. In their capacity as managers of Departments they have a responsibility to ensure that the systems and procedures are in place to enable it to perform its functions within the resources available and to enable the Minister to answer for the performance of those functions to the Dáil. This requires the Minister to place trust and confidence in the Secretary General. The distinctive relationship of trust and confidence between the Minister and the Secretary General is crucial to the effective administration of Departments of State and places the Secretary General in a different position to other civil servants. The relationship extends beyond the Minister and requires the Government as a whole to place confidence in the Secretary General. [2.31 - 2.38]
14. Secretaries General in their Accounting Officer capacity are answerable to the Committee of Public Accounts (the PAC), which in turn reports to the Dáil, in respect of their stewardship of public funds. The nature of the Accounting Officer's responsibilities has implications for the relationship between the Secretary General and the Minister in relation to the areas for which the Accounting Officer has a specific responsibility. [2.31]

### *Appearance before Oireachtas Committees*

15. Secretaries General, in common with other senior officials, may be required to appear before Oireachtas Committees (apart from the PAC in their Accounting Officer capacity) on a variety of issues relevant to the Department including departmental Strategy Statements. The capacity in which Secretaries General (or other civil servants) appear before Oireachtas Committees (other than as Accounting Officers before the PAC) is on behalf of the Minister as part of the Minister's constitutional responsibility. Reflecting the different responsibilities of Ministers and civil servants there is a statutory prohibition on civil servants expressing an opinion on the merits or the merits of the objectives of a particular policy. [2.19 - 2.23]

### ***The Accounting Officer Role***

16. There is a long-established system of accountability for public money (dating back to UK reforms of the system of financial administration and parliamentary scrutiny of public funds in the 1860s). This arose from public and parliamentary expectations as to the manner in which taxpayers money is accounted for. Of particular relevance in that regard is the requirement for an open and transparent system for scrutinising the manner in which funds have been utilised having regard to established principles such as regularity and propriety and, in more recent times, value for money. [3.5]
17. Key elements in the accountability framework are the *Committee of Public Accounts* which undertakes the scrutiny of public funds and reports to Dáil Éireann; scrutiny by the PAC is based on audits and examinations carried out by the *Comptroller and Auditor General*, on behalf of the Dáil; the *Department of Finance* which has statutory responsibilities, under the *Ministers and Secretaries Act, 1924* for the administration and business generally of the public finances of Ireland; and the *Accounting Officer*, who is appointed under warrant by the Minister for Finance. [3.9 - 3.25]
18. The Accounting Officer concept, a key element in the system of accountability for public money in the UK since the late 19th Century, was adopted by the new State on its establishment. Traditionally, the civil service head of the Department has been appointed Accounting Officer because s/he alone has sufficient authority within the Department to discharge the responsibilities attaching to the role. Although of very long-standing, the term "Accounting Officer" was defined for the first time in legislation in the *Comptroller and Auditor General (Amendment) Act, 1993*. [3.26 - 3.32]
19. Under that Act, the Accounting Officer gives evidence before the PAC on the regularity and propriety of the transactions in the Appropriation Accounts bearing his/her signature and in other accounts which s/he or the Department is required, under statute, to prepare. Reflecting the expansion in the scope of public audit in the later decades of the 20th century, the Accounting Officer's responsibilities under the Act also encompass giving evidence on economy and efficiency in the use of resources and on the systems, practices and procedures used by the Department for the purpose of evaluating effectiveness (VFM). S/he may also be required to give evidence on matters affecting the Department in reports of the Comptroller and Auditor General in respect of audits, examinations or inspections carried out under the 1993 Act or any other enactment. [3.33]

20. Apart from the statutory provisions, Accounting Officers operate within established principles and conventions that are derived from the Constitution and from the institutional and financial relationships that have developed between Parliament and the Government over the years. The reports and recommendations of the PAC are one of the main sources of these principles and conventions. The principles of Government Accounting are set out in the guide *Public Financial Procedures* which is prepared by the Department of Finance as part of its executive function. [3.35]
21. The responsibilities of the Accounting Officer set out in *Public Financial Procedures* are extensive. They include:
- ◆ The safeguarding of public funds and property under the Accounting Officer's control.
  - ◆ Ensuring that all relevant financial considerations are taken into account and, where necessary, brought to the attention of the Minister where they concern the preparation and implementation of policy proposals relating to income or expenditure for which s/he is Accounting Officer.
  - ◆ Economy and efficiency in the administration of the Department including having adequate financial management systems in place.
  - ◆ The adequacy of arrangements within the Department to ensure the correctness of all payments; and the efficient recovery and bringing to account of all receipts connected with the Vote, or with any fund for which the Department is responsible; and ensuring that Finance sanction for expenditure has been obtained.
  - ◆ Responsibilities in respect of internal audit with a view to ensuring that s/he is getting the desired quality of assurance in relation to the Department's internal control system.
  - ◆ Responsibilities in respect of grants-in-aid to outside agencies.
  - ◆ The Accounting Officer also has responsibilities for ensuring that there is a clear framework for control and accountability of public funds in bodies operating under the aegis of the Department. [3.36]
22. Issues may arise from time to time as to the extent of Accounting Officer's responsibilities, particularly in respect of bodies under the aegis of the Department which are in receipt of public funds. This issue presents challenges to accountability not only in Ireland but also abroad, particularly in regard to achieving a balance between allowing the body concerned the freedom to perform its functions effectively while at the same time meeting accountability requirements for public funds. The Group considers that good governance arrangements in the bodies concerned are one of the most important elements in any arrangement to safeguard public funds. In that connection the Group welcomes the *Code of Practice for the Governance of State Bodies* issued recently by the Department of Finance. In so far as Accounting Officers are concerned the Group considers that they should satisfy themselves, through the reporting arrangements, that the requirements of the Code of Practice are being implemented in State bodies under their aegis; and that, if reports indicate a problem has emerged, appropriate corrective action is taken by the body as soon as possible. [3.48]
23. The Group recommends that

*In the interest of more clearly defining the responsibility of the Accounting Officer and of the Chief Executive Officer, or equivalent, in respect of bodies under the aegis of the Department, which are in receipt of Exchequer funds, their respective roles and the framework and processes of accountability should be set down in writing. This would be facilitated by the preparation of guidance by the*

*Significant features of the Accounting Officer role*

24. A significant feature of the Accounting Officer role is the personal responsibility of the most senior official for the regularity and propriety of the transactions in the accounts for which s/he is answerable, the control of assets held by the Department, economy and efficiency in the use of the Department's resources and for the systems, practices and procedures used to evaluate the effectiveness of its operations. The concentration of responsibility in one individual differs from arrangements in the private commercial sector where responsibility normally rests with the Board. [3.52 - 3.56]
25. The fact that Accounting Officers have a particular responsibility to see that appropriate advice is tendered to the Minister on, inter alia, matters of financial propriety means that the role is seen as a personal responsibility to safeguard the interests of the taxpayer. It is also an important tool for accountability within Departments and can help to produce the necessary incentives to ensure that Departments carry out their functions with due regard to regularity, propriety and value for money. [3.59]

*Appearances before the Committee of Public Accounts*

26. The Accounting Officer system is unusual in that, while being accountable as Secretary General to the Minister for managing the Department and for the other duties under the 1997 Act the Accounting Officer is also personally answerable to the PAC for regularity, propriety and value for money (in the terms set out in the *Comptroller and Auditor General (Amendment) Act, 1993*). [3.56]
27. In appearing before the PAC the Accounting Officer appears in his/her own right rather than as a representative of the Minister as part of the Minister's constitutional responsibility. The duties of the Accounting Officer are thus outside the normal system of civil service delegation where, in general, civil servants act in the name of the Minister. [3.57]

*Dual Responsibility of Secretaries General and Accounting Officers*

28. There are significant overlaps between the responsibilities of the role of Secretary General and that of the Accounting Officer. The Group found that the financial management responsibilities of the Accounting Officer also necessarily constitute part of the general management responsibilities of the Secretary General. [4.5 - 4.6]
29. While many aspects of the role of the Accounting Officer can also be seen as an important part of the role of the Secretary General, Accounting Officers have statutory responsibilities to prepare the Appropriation Accounts and to give evidence to the PAC on issues arising from the C&AG's audits and examinations. These functions are not assigned to Secretaries General under the 1997 Act nor was it intended that they should be. [4.10]

30. The Accounting Officer's responsibilities are personal to that role. For that reason the relationship between the Accounting Officer and the Minister is somewhat different from the relationship that which otherwise exists between a Minister and his/her Secretary General. This is emphasised by the fact that while there are procedures that enable the Minister to override the Accounting Officer in relation to an area for which the Accounting Officer has a responsibility, in these circumstances the papers are sent to the Comptroller and Auditor General. This procedure, while rarely used, is an important component in the checks and balances in the system of accountability for public money. It would also be a matter for the PAC to examine any issue brought to its attention, on foot of this procedure, by the C&AG. [4.11]
31. There are also important synergies arising from the dual role. The responsibilities of Accounting Officers give them considerable authority within the Department, particularly in relation to advice given to the Minister, while at the same time maintaining the ultimate authority of the Minister who is in charge of the Department. The requirements on Accounting Officers also provide an important focus for managerial accountability for regularity, propriety and value for money within the Department. [4.15 - 4.16]
32. In view of the significant overlap in functions, the improvements in systems and structures recommended below should contribute to the discharge of both the Secretary General and the Accounting Officer responsibilities.

### **Recommended Improvements to Systems/Structures to Support the Discharge of the Secretary General and Accounting Officer Responsibilities**

33. The complexity of modern Government means that the Secretary General cannot be expected to be familiar with every action or decision taken in the Department. For that reason Secretaries General, including in their Accounting Officer capacity, must have systems and procedures in place to enable them to discharge their responsibilities. The Group focused on two main areas - (i) the processes introduced under the Strategic Management Initiative and (ii) Internal Control and Internal Audit - as areas which can contribute significantly to the discharge of both the Secretary General and the Accounting Officer role.

### ***Contribution of the Strategic Management Initiative***

34. The Strategic Management Initiative (SMI) is significant from an accountability perspective because it makes more explicit what Secretaries General (and other officers) are responsible for and to whom they are accountable. It also provides a framework, through the processes introduced, to facilitate the discharge of these statutory accountabilities. [5.1]
35. The Group sees developments under the Strategic Management Initiative (including Freedom of Information, the Quality Customer Service Initiative, the preparation of Strategy Statements and business plans as well as the Performance Management and Development System) as having a significant contribution to make to strengthening the general control framework within Departments. [5.4 - 5.7]

36. Within Departments there are now integrated processes involving the setting of high level goals/objectives, proactive management on the basis of business plans prepared at section/divisional level, and aligning individual and team performance with the goals of the organization through the Performance Management and Development System. [5.8]

#### *Strategy Statements and Progress Reports*

37. The Group sees the Strategy Statement and the progress reports as part of the process of providing information to the Oireachtas and to citizens on the objectives of Departments and the progress in achieving them. It concluded that the Strategy Statement and the progress reports provide an ideal opportunity to review plans and to assess progress. There is already a mechanism whereby Joint Oireachtas Committees may consider Strategy Statements. The Group would welcome more use by the Oireachtas of this mechanism as it considers that this would, in turn, provide a further incentive for results-based management. [5.17]

#### *Financial Management*

38. The Group is strongly of the view that the *Management Information Framework (MIF)* initiative under the *SMI* is a key element in supporting both the Secretary General and the Accounting Officer. It has the capacity to enable them and other officers to discharge their responsibilities for financial management as well as other management responsibilities. It should also improve the link between financial analysis and decision-making. [5.19 - 5.23]

For that reason the Group recommends that

*Secretaries General should give priority to the implementation of the MIF in their Departments.* [5.24]

39. The Group sees other elements of the reform process such as the *Expenditure Review Initiative* as continuing to provide an important mechanism in the evaluation of programme efficiency and policy effectiveness. [5.25]
40. While Secretaries General, including in their Accounting Officer capacity, can secure significant benefits from the SMI, they also have responsibilities for ensuring that the initiatives are successfully promoted and embedded in the organization. The Group has, in chapter 5 of the Report, identified a number of factors that it considers important in relation to the reform of the financial management systems. [5.31 - 5.32]

#### *Internal Control and Internal Audit*

41. The requirements of parliamentary accountability has resulted in a strong emphasis on internal control, particularly internal financial control, in Departments. More recently the focus of internal control internationally has been widened to encompass the systems and procedures used to secure the achievement of an organisation's objectives. As part of best management practice internationally, risk management, which consists of an evaluation of the risks to the achievement of objectives across a range of categories including financial risk, is being put on a more formal and systematic footing. [6.1]

42. The Group makes a number of recommendations in regard to internal control. In so doing it is conscious of the need to avoid overload in Departments/Offices that are implementing the various initiatives under SMI as well as dealing with the normal requirements of public business. The timescale for implementing the recommendations is dealt with in Chapter 8.

#### *Internal Financial Control*

43. Internal financial control is a key element in the safeguarding of public funds.

For that reason the Group recommends that

*Accounting Officers evaluate their systems of internal financial control with a view to ensuring that they have:*

- ◆ *Clearly defined responsibilities at management level with corresponding accountability.*
- ◆ *Clear reporting arrangements at all levels where responsibility for financial management has been assigned.*
- ◆ *Staff in Finance Units/Accounts Branches with skills commensurate with their responsibilities.*
- ◆ *Staff throughout the Department who are appropriately trained in the management of public funds (including the requirements of public financial procedures) and, when they become available, in the use of management accounts.*
- ◆ *Appropriate controls including the segregation of duties particularly where the processing of transactions/receipts is involved; systems of delegation including authorisation limits for the making of payments.*
- ◆ *Documented procedures for internal financial control (including desk instructions for staff that translate statutory and other requirements into a set of operating procedures).*
- ◆ *Adequate systems for budgetary control (including systems for comparing results with budgets throughout the year).*
- ◆ *Systems for monitoring the effectiveness of internal financial control including internal audit and audit committees, management reviews etc.*
- ◆ *An assessment of significant financial risks. [6.20]*

44. The Group also recommends that

*Accounting Officers, submit with the Appropriation Accounts, a descriptive Statement on Internal Financial Control, broadly similar to the format required for the Chairperson of State Bodies. The Statement should be reviewed by the Comptroller and Auditor General for consistency with information of which he was aware from the audit of the financial statements.*

*Any such statement would have to be qualified to the effect that the systems of internal financial control can provide only reasonable and not absolute assurance against material error. [6.22]*

#### *Internal Control*

45. Internal control in the wider sense is a management responsibility primarily concerned with ensuring that the business of the organisation is carried out efficiently, that management practices are adhered to, that assets are secured and that records are accurate and complete. A sound system of internal control should provide reasonable

assurance (no system can provide absolute assurance) that the actions taken by the organisation will achieve their objectives. A sound system of internal control, because it relates to all the activities of the Department, is particularly relevant to the management responsibilities of Secretaries General. [6.25 - 6.26]

46. Historically, Government Departments have had procedures in place to manage financial risks particularly in so far as they relate to the stewardship of public funds. Systematic risk management across a range of risks (strategic, operational, financial and reputational) is becoming recognised as an increasingly important part of the internal control framework as the identification and management of risk is seen as necessary to maximize the achievement of desired outcomes. [6.29 - 6.32]
47. The Group considers that risk assessment and management are important elements in a robust system of internal control which should be integrated into the management processes of Departments. It recommends that the following approach be adopted in introducing a formalised risk management system:

- ◆ *Central guidance on the development of a risk strategy, appropriate to Government Departments, should be prepared by the Department of Finance. This should address the principal elements of the risk identification and management process.*
- ◆ *Within Departments the risk management system should concentrate on the principal risks to the organisation as well as the principal risks arising from its relationship with other organisations. The risk assessment and management process should be integrated into existing management systems and should be kept as simple and straightforward as possible.*
- ◆ *In introducing a risk management programme full use should be made of existing systems, processes and procedures. For example, Audit Committees could advise on Departmental risk management strategies. Risk assessment should also be formalised into the processes for the preparation of the Strategy Statement, business plans, PMDS and annual reports.*
- ◆ *Risk management should feature on the agenda of divisional meetings and of the meetings of the Management Advisory Committee. [6.32]*

#### *Internal Audit*

48. Internal audit is an important element in providing assurance to the Accounting Officer on the system of internal control. By providing independent opinion on systems, procedures and controls, internal audit assists both the Accounting Officer and the Secretary General functions in discharging their respective responsibilities in relation to the reliability and integrity of the systems underlying the financial transactions and the financial statements of the organisation. [6.40]
49. Internal audit has a role in relation to the systems and procedures for securing value for money. It can also contribute to providing assurance or otherwise on the systems of internal control in the wider sense including the adequacy or otherwise of the systems in place to assess and manage risk. [6.42 - 6.44]
50. For these reasons the Group regards internal audit as a very important function in the governance arrangements of Government Departments.

It recommends that



- (i) *Departments/Offices should have either (a) a fully functioning, adequately resourced internal audit unit (capable of undertaking broad audit coverage of the organisation) whose staff are appropriately trained, preferably to an appropriate professional standard, or (b) where the size or the risk to the Department/Office does not warrant a separate unit that they have access to such a unit through a joint venture or client arrangement with another Department; or some other appropriate arrangement.*
- (ii) *The information on internal audit in the Statement on Internal Financial Control to be signed by the Accounting Officer should include appropriate information on the unit.*
- (iii) *The Internal Audit Unit, including the head of Internal Audit (who should not have other responsibilities), should have sufficient status and access within the organisation to promote the unit's independence and to ensure follow-up on its recommendations.*
- (iv) *Consideration should be given to further developing the Department of Finance's central role in (i) co-ordinating issues relevant to the development of the internal audit function (ii) the training of internal auditors leading to appropriate professional qualifications and (iii) promoting best practice in Internal Audit in conjunction with Internal Audit Units, Accounting Officers and the Office of the Comptroller and Auditor General. [6.46 & 6.48]*

#### *Audit Committees*

51. Audit Committees are becoming an increasingly important part of the corporate governance framework in both the public and private sectors. They can perform a number of very useful functions including acting as another source of independent advice to the Accounting Officer, reviewing the plans and reports of the internal audit unit, and quality assuring the work of the unit. [6.49 - 6.51]
52. The Group considers that audit committees, particularly if they have external representation, can make a valuable contribution to strengthening internal control in Departments.

It recommends that

*There be a formally constituted Audit Committee in each Department/Office (or in the case of small Offices which would not justify a separate committee, that there be a separate committee that covers a number of the smaller Offices).*

*Each Audit Committee should*

- ◆ *Operate under a written charter.*
- ◆ *Have significant external representation (at least 2 members), including, in the normal course, representatives from the private sector with appropriate expertise. The Chairperson of the Committee should come from outside the Department.*
- ◆ *Prepare an annual report to the Accounting Officer reviewing its operations.*
- ◆ *Invite the Comptroller and Auditor General, or his nominee, to meet the Committee at least once a year. [6.53]*

#### *Rules and Standards*

53. The Group recommends that

- (i) *A separate Accounting Officer Memorandum should issue to Accounting Officers on appointment. The memorandum should be an expanded version of the material contained in Public Financial Procedures and drawing, where relevant, on the clarifications and contents of this report.*
- (ii) *An explanatory document should be drawn up, from time to time, by the Department of Finance of the most serious common failings, inadequacies, issues etc. identified in recent reports of the C&AG and of the PAC and the categories within which they fall (failure to observe rules; inadequate financial controls etc.). This should provide greater clarity to newly appointed, as well as existing, Accounting Officers as to the issues of concern to the PAC and the standards expected of them. [6.57]*

### **Governance Arrangements for Secretaries General/Accounting Officers**

54. Apart from improvements to systems and structures within Departments, the Group examined the governance arrangements in place for Secretaries General. It considered issues of performance and discipline and whether there should be any change to the existing arrangements.
55. In considering these issues the Group was influenced by a number of factors arising from its examination of the Secretary General and Accounting Officer roles. These included:
- ◆ The nature of the governance arrangements in the civil service where the Minister is the political head of the Department and the Secretary General is the managerial head of the Department under the Minister makes the relationship between the Secretary General and the Minister one that is crucial to the effective working of Departments of State.
  - ◆ The complexity of the Secretary General role which encompasses a range of issues such as performance in meeting objectives, management skills, compliance with relevant statutory and other requirements and value for money. The complexity of the role is given added emphasis by the Accounting Officer function particularly in the light of the Accounting Officer's personal responsibility for the safeguarding of public funds under his/her control and the specific statutory responsibility to give evidence to the PAC. [7.2 - 7.3]

#### *Performance Evaluation and Management (including discipline)*

56. Under the SMI there is a strong emphasis on improving performance at all levels in the civil service including the management of individual performance within Departments through the Performance Management and Development System. While elements of the PMDS are in place for Secretaries General, formal review mechanisms to evaluate the extent to which Secretaries General are achieving their objectives are still relatively underdeveloped. [7.7]
57. There are aspects of a Secretary General's functions that do not lend themselves readily to objective external review and evaluation such as giving advice to the Minister. There are, however, mechanisms in place that can be used to review the performance of the Department under the leadership of the Secretary General, in particular the Progress Reports on the Strategy Statement. In that regard the Group sees the review of progress by Oireachtas Committees as an important element in

evaluating a Department's performance. They also provide a mechanism for the Minister to assess the performance of the Department and that of the Secretary General, as principal officer of the Department, within the context of the range of duties for which the Secretary General is accountable to the Minister under Section 4 of the 1997 Act. As regards the Accounting Officer function there is rigorous independent examination of regularity, propriety and value for money by the Comptroller and Auditor General and by the PAC. [7.9 - 7.12]

58. The Group also examined civil service disciplinary provisions as they apply to Secretaries General. In so doing the Group would make a distinction between, on the one hand, serious or repeated cases of negligence and an action taken by a Secretary General in the knowledge that it is wrong and a failure in management systems on the other. In the first case, the personal culpability of the Secretary General, including in his/her Accounting Officer capacity, would be a very serious issue. A failure in systems may be less clear-cut and it would be a matter of judgement, in individual cases, as to whether it would warrant disciplinary action against the Secretary General/Accounting Officer. [7.14]

The Group concluded as follows:

- (i) The Government is the appropriate authority in relation to any disciplinary issues relating to Secretaries General.
- (ii) In the case of any very serious issue arising in the exercise of either the Secretary General or the Accounting Officer<sup>1</sup> function which results in the officer concerned losing the confidence of the Government, the Government may dismiss him/her as Secretary General providing it acts fairly and meets the requirements of natural justice.
- (i) Secretaries General are not subject to the disciplinary measures, short of dismissal, provided for in Section 15 of the *Civil Service Regulation Act, 1956*. The introduction of disciplinary measures, short of dismissal, for Secretaries General would be a matter for the Government and might require legislation. The Group would, however, tend to the view that the efficacy of introducing formal disciplinary measures, short of dismissal, for Secretaries General would be open to question given the nature of the relationship between the Secretary General and the Minister and the consequences for that relationship and for the authority of the Secretary General within the Department, were a Secretary General to be subject to disciplinary action, short of dismissal, in the same manner as other civil servants. Conduct that might merit demotion or reduction in pay in the case of a civil servant of a lesser rank could irreparably damage the relationship between the Secretary General and the Minister, and the authority of the Secretary General, to the extent that the Government, might consider it necessary, provided it acted fairly, to dismiss him/her. [7.42]

#### *Use of Existing Mechanisms in relation to the Accounting Officer function*

59. The Group also found that there was scope for using existing mechanisms more fully to encourage the more effective discharge of the Accounting Officer function.
60. The PAC, while it does not have executive responsibilities, exercises considerable influence because of the weight given to its conclusions and recommendations by the Government. The fact that it can revisit issues also provides a powerful incentive for

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<sup>1</sup>In the event of the Minister overriding an Accounting Officer in writing on an area for which the Accounting Officer has a responsibility the Accounting Officer sends the papers to the C&AG.

the Accounting Officer, as principal witness before the Committee, to ensure that action is taken on those recommendations. [7.40]

61. There is also scope for the Committee to make recommendations in relation to serious regularity issues that might arise in the course of its examination of the Appropriation Accounts and the Comptroller and Auditor General's reports thereon. Specifically, while the procedure does not appear to have been used for sometime, the PAC has recommended in the past that expenditure be disallowed in serious cases. If the Minister for Finance agreed with the Committee's recommendation, the normal practice was for the sanction of the Dáil to be sought by way of a Supplementary Estimate designed to regularise the matter. While it is a matter in the first instance for the PAC to decide what approach it wishes to adopt, a recommendation to disallow expenditure does offer the opportunity to bring a serious regularity issue to the attention of the Dáil. [7.41]
62. Apart from such regularity issues, the PAC is in a position to bring serious issues emerging from its scrutiny of public funds to the attention of the Dáil by means of its reports. While the reports are not normally the subject of a debate, it is open to the Dáil to debate them. [7.44]
63. The Group considered whether the Minister for Finance could separately remove a person as Accounting Officer, as a disciplinary measure, while s/he would remain as Secretary General. While individual circumstances would have to be taken into account it concluded that removal of an Accounting Officer, following the identification of a serious issue in the exercise of that role, would be so serious a reflection upon a Secretary General, that it would be very difficult for a him/her to remain as Secretary General having lost the role of Accounting Officer. [7.23]
64. The Group also considers that it would not be practical to introduce disciplinary measures, short of dismissal, separately for Accounting Officers as a very serious issue which might arise in the exercise of the Accounting Officer function would have implications for his/her position as Secretary General. [7.43]
65. Having considered the existing system for performance evaluation (including discipline) the Group considers that there is adequate scope within the system to provide for an assessment of the performance of the Secretary General/Accounting Officer functions, balanced to support constructive review and continuous improvement, and to deal with serious issues as they arise. [7.45]

## CHAPTER 1

### BACKGROUND AND OVERVIEW

#### Background

- 1.1 The Working Group was established by the Minister for Finance following a Government Decision of 30 May 2000 that a High Level Working Group should be established to examine the authority, responsibility and accountability of Secretaries General and Accounting Officers in the context of developments which are taking place under the SMI. The decision was taken in the wider context of international developments in governance generally and in public sector accountability to Parliament.
- 1.2 The Terms of Reference of the Group were as follows:
- (i) to examine the authority, responsibility and accountability of Accounting Officers in relation to financial management in the context of the Performance Management Initiative within the overall SMI.
  - (ii) On the basis of this examination, to prepare for the consideration of the Government new rules of good governance taking account of
    - (a) the complexities and sensitivities of the relationship between Secretaries General and Ministers, and
    - (b) the specific functions exercised by Secretaries General who are Accounting Officers
  - (iii) to consider whether separate arrangements should be put in place in relation to Accounting Officers and, if so, what these might be; and
  - (iv) to report to the Minister for Finance within 12 months of its establishment.

#### Membership of the Group

1.3 The members of the Group were

Mr Paddy Mullarkey, former Secretary General, Department of Finance  
(chairperson),  
Mr Tom Considine, Secretary General, Department of Finance,<sup>2</sup>  
Ms Margaret Hayes, Secretary General, Department of Community, Rural and  
Gaeltacht Affairs,<sup>3</sup>  
Mr Roger Kenny, Advisory Counsel, Grade 1, Office of the Attorney General,  
Mr Dermot McCarthy, Secretary General, Department of the Taoiseach and Secretary  
to the Government,<sup>4</sup>  
Mr Lauri McDonnell, former Comptroller and Auditor General,  
Dr Edmond Molloy, Independent Consultant,  
Professor Kathy Monks, Dean, Dublin City University Business School,

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2On appointment to the Group Mr Considine was Secretary General, PSMD, Department of Finance.

3On appointment to the Group Ms Hayes was Secretary General, Department of Tourism, Sport and Recreation.

4On appointment to the Group Mr McCarthy was Secretary General to the Government.

Mr Eddie Sullivan, Secretary General, Public Service Management and Development, Department of Finance.<sup>5</sup>

- 1.4 The Group had its first meeting in September 2000. It met 20 times in total. The Group secured from the Minister for Finance an extension of the period for submitting its report.

### **Approach adopted by the Group**

- 1.5 The Group invited written submissions from interested parties in October 2000 (a list of the submissions received is at Appendix 1).
- 1.6 The Group met during the course of its work with the Comptroller and Auditor General.
- 1.7 It received presentations from various parties on aspects of its work. These included a presentation from Robson Rhodes, a UK partnership of chartered accountants and management consultants, in relation to internal control/risk management. It also received a presentation from the Department of Agriculture, Food and Rural Development on their experience in implementing systems and structures designed to improve financial management within the Department.
- 1.8 The Group examined accountability in systems broadly comparable to the Irish system and undertook field visits to the UK, Canada and Finland to examine their arrangements for financial management, with particular emphasis on accountability to Parliament.
- 1.9 The Group examined the authority, responsibility and accountability of Secretaries General and Accounting Officers including issues of performance. It examined “corporate governance” issues relevant to the exercise of these roles as well as the contribution of SMI relevant to the issues being considered by the Group.
- 1.10 The outcome of the Group’s deliberations are set out in this report as follows:

Chapter 2 examines the role of the Secretary General with particular reference to the duties and statutory accountability of the Secretary General. It also looks at the distinctive character of the relationship between the Secretary General and the Minister who is head of the Department.

Chapter 3 examines the role of the Accounting Officer within the system of accountability for public money and, in particular, the duties of the Accounting Officer in giving evidence to the Committee of Public Accounts (the PAC), which reports to the Dáil, in relation to the stewardship of public funds.

Chapter 4 looks in greater depth at the dual role of the Secretary General who as principal officer of the Department is accountable to the Minister, and who as Accounting Officer is also answerable to the PAC, for financial management.

Chapters 5 and 6 look at organisational developments and how they can contribute to the discharge by Secretaries General and Accounting Officers of statutory accountabilities. Chapter 5 examines developments in governance with particular

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<sup>5</sup>On appointment to the Group Mr Sullivan was Secretary General, Department of Social Community and Family Affairs.

reference to those aspects of the Strategic Management Initiative (SMI) which are relevant to the Terms of Reference of the Group. It assesses their contribution to strengthening the discharge of the accountabilities of both the Secretary General and the Accounting Officer, with particular reference to financial management. Chapter 6 looks at the developments in corporate governance internationally, including developments in the private sector, and examines the contribution that these developments can make to both improvements in internal financial control and the achievement of organisational objectives.

Chapter 7 looks at mechanisms which may be used where specific issues arise in relation to the discharge of the Accounting Officer and Secretary General function.

Chapter 8 suggests a timescale for implementation of the recommendations contained in this report.

- 1.11 The work of the Group is set within the context of existing statutory accountabilities but the Group would hope that its conclusions and recommendations would be sufficiently robust to accommodate any future extensions of the accountabilities of Secretaries General and Accounting Officers.

## **Overview of Context**

- 1.12 The roles of Secretary General and Accounting Officer are pivotal in the Irish system of public administration. The statutory basis for the appointment of Secretaries General is the *Ministers and Secretaries Act, 1924* (the 1924 Act). The Act created the Departments of State and assigned functions to them. It also provided that the head of each Department shall be the Minister. Section 2.2 of the Act provides that the Government, on the recommendation of the Minister, shall appoint the “*principal officer of each of the...Departments*”. More recently, the *Public Service Management Act, 1997*, while not amending the 1924 Act as regards the responsibilities of Ministers, has formalised the process for assigning responsibility and accountability within Departments. The Secretary General is accountable to the Minister for the exercise of his/her duties under the Act. The Secretary General, as the civil service head of the Department, is at the interface between the Government and the Administration and is responsible as the *principal officer* of the Department for a wide range of functions including managing the Department.
- 1.13 The Secretary General is also the Accounting Officer for the Department and as such s/he is answerable to the PAC, which in turn reports to the Dáil, for the proper expenditure of money voted by the Dáil for which s/he has responsibility. Traditionally, the civil service head of the Department has been appointed Accounting Officer because s/he alone had sufficient authority within the Department to discharge the responsibilities attaching to the role. The role of Accounting Officer has long been regarded as one of the linchpins in the financial administration of the State, particularly in relation to the accountability for moneys voted by the Oireachtas. The role of Accounting Officer is a long-standing feature of financial administration in the Irish civil service which predates the foundation of the State. It had its origins in nineteenth century reforms of the British civil service and, in particular, financial reforms introduced by Gladstone in the 1860s. These reforms included measures to improve the parliamentary scrutiny of the public finances which resulted in the establishment of the Committee of Public Accounts in 1861. A short time later the *Exchequer and Audit Departments Act, 1866* (the 1866 Act) set down the principles of financial administration which continue to underpin the present system. The Act

required all Departments to produce annual accounts, known as the Appropriation Accounts, for the first time. It established the position of Comptroller and Auditor General (C&AG) with responsibility, inter alia, to audit the accounts of Government Departments and report to Parliament accordingly. It also introduced a framework of accountability in which senior officials were designated Accounting Officers by the Treasury and were charged with the responsibility to prepare the Appropriation Accounts. By virtue of this responsibility they were also required to give evidence before the PAC in relation to the accounts.

- 1.14 Accounting Officers have wide-ranging responsibilities for financial management. In particular they are responsible for the safeguarding of public funds and property under their control and for the regularity and propriety of transactions in the Appropriation Accounts bearing their signature as well as any other account, subject to audit by the Comptroller and Auditor General, which they or the Department are required to prepare under statute. Arising from changes in the scope of public audit in recent years, the Accounting Officer also has responsibilities for value for money in the terms provided for in the *Comptroller and Auditor General (Amendment) Act, 1993* (the 1993 Act). The term “Accounting Officer” was also defined for the first time in the 1993 Act.
- 1.15 In addition to preparing the Appropriation Accounts Accounting Officers have, when requested to do so, to give evidence to the PAC on the regularity and propriety of the transactions in the accounts which they or the Department is required under statute to prepare; the economy and efficiency of the Department in the use of its resources; and the systems, procedures and practices used by the Department for the purpose of evaluating effectiveness (VFM). The Accounting Officer may also be required to give evidence on any matter affecting his or her Department in so far as it relates to regularity, propriety or VFM referred to in any special or other reports of the C&AG arising from audit, examinations or inspections carried out by him under the 1993 Act or any other enactment (the bodies that come within the audit scope of the C&AG include Health Boards, VECs, non-commercial State bodies, Third level Educational Institutions and bodies who have requested the C&AG to act as auditor). The statutory duties of Accounting Officers in giving evidence before the PAC are set out in Section 19 of the 1993 Act.
- 1.16 The areas for which the Accounting Officer is answerable to the PAC also necessarily constitute a central part of the responsibilities of the civil service head of the Department in his/her capacity as Secretary General of the Department.

### ***Accountability in a changing environment***

- 1.17 Accountability can have a number of different dimensions. These can range from simply a requirement to provide information, to an obligation, at the other end of the spectrum, to explain and bear the consequences for the manner in which responsibilities have been carried out. For the purposes of its work the Group defined accountability as encompassing the obligation to explain, answer for and accept responsibility for the manner in which duties have been discharged; functions have been fulfilled; and resources utilised. It also encompasses provision for corrective action and improvement. As outlined above, the accountability of the Secretary General to the Minister and the fact that the Accounting Officer is answerable to the PAC, which in turn reports to the Dáil, is long established. It is also clear that these functions are now being discharged in an environment which is different to that

pertaining when these duties and responsibilities were first conceived. The more significant of these developments include:

- ◆ The increasing complexity of Government in terms of range and cost of operations for which Departments are responsible and the complex regulatory environment (including that arising from our membership of the European Union) in which they now operate.
- ◆ Increased media and public interest in the activities of Government, often arising from issues which are the subject of Parliamentary Committees and various Parliamentary Inquiries.
- ◆ Growth in litigation and judicial review in recent years which has exposed Government Departments, amongst others, to the risk of large claims with significant implications for public expenditure.
- ◆ Developments in governance and accountability including:
  - The *Ombudsman Act, 1980* and the *Freedom of Information Act, 1997* which subject the actions and decisions of public servants to more rigorous public scrutiny.
  - Issues concerning standards in public life including legislative requirements in the *Ethics in Public Office Act, 1995* and the *Standards in Public Office Act, 2001*.<sup>6</sup> Under the latter Act a new Standards in Public Office Commission has been established with wide investigative powers in relation to complaints about acts or omissions in public life. It also provides for the development of codes of conduct to apply to Office Holders, members of the Oireachtas and employees of public bodies generally.
  - A more results-based approach to public service management together with an increased emphasis on service delivery driven by the Strategic Management Initiative (SMI). The SMI is establishing an integrated structure for defining and publishing objectives (the Strategy Statement) and a process for achieving those objectives (the business planning process) and reporting on progress (the annual report). Individual's contributions to the achievement of strategic objectives are also being formalised through the Performance Management and Development System.
  - Assignment of responsibility for the performance of functions to officers or grades of officer has been formalised in the *Public Service Management Act, 1997* which provides a structure for assigning responsibility and accountability within Government Departments.
  - Establishment, in a number of areas, of executive agencies to deliver services hitherto provided by Government Departments.
  - Developments in Corporate Governance in the private sector which emphasise, inter alia, the responsibilities of Directors; the importance of having a robust system of internal control across the range of a company's operations (financial and non-financial); and the need for overall and systematised risk management within this framework.
  - Expansion of the remit of the Comptroller and Auditor General beyond regularity and propriety into Value for Money issues as provided for in the *Comptroller and Auditor General (Amendment) Act, 1993*.

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<sup>6</sup>Construed together as the Ethics in Public Office Acts 1995 and 2001

- Expansion of the Oireachtas Committee system generally, in particular, the Select and Joint Committees which consider matters relevant to individual Government Departments.

1.18 The Group saw as its main purpose to examine accountability of Secretaries General and Accounting Officers in relation to financial and overall management with a view to preparing new rules of good governance for the consideration of the Government.

***General Principles emerging from the Group's deliberations***

1.19 As the work of the Group progressed principles emerged which are reflected in the Group's conclusions. They are as follows:

- ♦ The need for clarity in relation to responsibility and accountability and the constitutional and legal basis for same in both existing and new State entities.
- ♦ The need for a rounded, multi-dimensional view of the Secretary General/Accounting Officer roles to include service delivery, value for money, compliance and organisational improvement.
- ♦ The desirability of making full use of existing accountability mechanisms.
- ♦ The requirement that the existing system provide for an increasing focus on the performance of the Secretary General/Accounting Officer.
- ♦ The importance of having management and governance systems balanced to support constructive review and continuous improvement while having the capacity to deal with serious issues when they arise.

## CHAPTER 2

### ROLE, RESPONSIBILITIES AND ACCOUNTABILITY OF SECRETARIES GENERAL

- 2.1 The role of the Secretary General operates within a statutory framework. The following chapter looks at the role of the Secretary General having particular regard to that framework, setting out the responsibilities of the Secretary General for managing a Government Department and providing advice to the Minister and the relationship between the Secretary General and the Minister. It also examines the accountability of Secretaries General.

#### **The Statutory Framework**

##### ***Ministers and Secretaries Act, 1924***

- 2.2 The Secretary General is the civil service head (principal officer, see below) of a Department. The *Ministers and Secretaries Act, 1924* which created the Departments of State and assigned functions to them also provided for the appointment of the civil service head of Department. Section 2(2) of the Act provided that the Government on the recommendation of the Minister shall appoint the “*principal officer of each of the said Departments*” (until the *Public Service Management Act, 1997* the head of the Department was styled Secretary of the Department). Unlike other civil servants, who are appointed by the Minister, it is the Government, on the recommendation of the Ministerial head of the Department, who appoints the Secretary General.
- 2.3 One of the objectives of the 1924 Act was to ensure accountability for administrative activities to the Oireachtas. The Act established the Departments of State. Each Department comprises the “administration and business” of its functional area as well as all the *powers, duties and functions* connected with the same.<sup>7</sup> Each Minister who is the head of the Department is individually responsible to Dáil Éireann for the administration of the Department or Departments of which s/he is the head.
- 2.4 By virtue of the Constitution as well as the 1924 Act Ministers are responsible for the administration of Departments of State. However, the functions of Government are so complex that the powers and duties of Ministers are normally exercised under the authority of the Minister by responsible officials of his or her Department save in respect of certain powers and issues of significant importance where the Minister is required to act personally: this is known as the Carltona Doctrine which has been confirmed by the Supreme Court to be an accurate statement of the law.<sup>8</sup>
- 2.5 Prior to the enactment of the 1997 Act, the legal basis for the Secretary General in exercising his/her functions in administering the Department was the 1924 Act.

##### ***The Public Service Management Act, 1997***

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<sup>7</sup>Section 1 of the *Ministers and Secretaries Act, 1924*.

<sup>8</sup>TANG -v- Minister for Justice, Ireland and the Attorney General (1996) 2LRM 46 at pages 60-61 and Devaney -v-Shields (1998) LRM 81 at 106.

- 2.6 An extensive process of reform has been undertaken in recent years as part of the Strategic Management Initiative (SMI). The *Public Service Management Act, 1997* is one of the key elements of these reforms. The stated purpose of the Act was to provide for a new management structure to enhance the management, effectiveness and transparency of the operation of Departments of State and certain Offices and increase the accountability of civil servants while preserving the discretion of the Government in relation to their responsibility to Dáil Eireann.
- 2.7 One of the main purposes of the 1997 Act was to put the administrative arrangements on which the ordinary business of the civil service had hitherto been carried out onto a specific statutory basis. To that end the Act sets out a formal structure for assigning responsibility and accountability within the civil service without amending the 1924 Act as regards the responsibility of Ministers. Section 3 of the 1997 Act reaffirms that, notwithstanding any assignment of functions in the Act, a Minister of the Government retains overall control of his/her Department of State and is responsible and accountable to the Oireachtas for the administration of that Department. The 1997 Act does not amend the 1924 Act as regards the responsibility of Ministers and provides that they remain responsible for all matters concerning their Departments. Nor does the Act supplant or affect the Carltona doctrine (see paragraph 2.4 above).

#### *Responsibilities of Secretaries General under the 1997 Act*

- 2.8 The Act provided for the new title of Secretary General to replace that of Secretary. The definition of Secretary General makes it clear that there is only one such officer in the Department to whom the relevant assignment of functions under the Minister will be given i.e. it is to the Secretary General who is the principal officer of the Department. This covers situations where there is more than one officer of Secretary General rank in a Department. The Act also clarified managerial responsibility for Offices by providing for the assignment of managerial responsibility to the Heads of those Offices mentioned in the Schedule to the Act.
- 2.9 Section 4 of the 1997 Act provides that *'except as otherwise directed by the Government or provided for under any other Act, the Secretary General of a Department or the Head of a Scheduled Office shall subject to the determination of policy by the Minister of the Government having charge of the Department or Scheduled Office or by the Government, have the authority, responsibility and accountability for carrying out...the duties in respect of the Department or Scheduled Office'*. These duties set out in Section 4(1) of the Act, are:
- ◆ Managing the Department or Office, implementing Government policies appropriate to the Department or Office, monitoring Government policies appropriate to the Department or Office and delivering outputs (defined as the goods and services including the standards of service) as determined with the Minister, that are a consequence of the activities of the Department or Office.
  - ◆ Preparing and submitting a Strategy Statement to the Minister every 3 years, or earlier on the appointment of a new Minister, and providing annual progress reports to the Minister on the implementation of the Strategy Statement. Under Section 5 of the Act the Strategy Statement has to comprise the key objectives, outputs and related strategies (including use of resources) of the Department or Office. The form and manner of the Strategy Statement has to be prepared in accordance with directions issued from time to time by the Government.

- ◆ Providing advice to the Minister on any matter giving rise to material expenditure chargeable to its Appropriation Account.
- ◆ Preparing an outline of how specific responsibilities are to be assigned to other officers within the Department/Office so as to ensure that functions performed on behalf of the Minister are performed by an appropriate officer; and then making such assignments.
- ◆ Making sure arrangements are in place to maximise efficiency in cross departmental matters.
- ◆ Ensuring the resources of the Department/Office are used in a manner that is in accordance with the *Comptroller and Auditor General (Amendment) Act, 1993*, with a view to enabling the matters referred to in Section 19 of that Act to be appropriately addressed by the Department/Office.
- ◆ Examining and developing the means of improving the provision of cost effective public services.
- ◆ Managing all matters relating to the appointment, performance, discipline and dismissal of staff below the grade of Principal or equivalent (this is subject to certain amendments being made to, inter alia, the *Civil Service Regulation Act, 1956* and the *Civil Service Commissioners Act, 1956*).

2.10 The above list is not intended to be exhaustive. Section 4(2) of the Act provides that the Secretary General may carry out on the Minister's behalf any other functions of the Minister.

#### *Key elements of the 1997 Act in relation to Secretaries General*

2.11 The 1997 Act contains a number of key elements in relation to the exercise of the Secretary General function(s). In the first place it assigns specific powers, duties and responsibilities to the Secretary General, under the Minister, for the day to day management of Departments of State. Thus it places on a statutory footing what had previously been administrative practice. It also makes more explicit the duties of Secretaries General and their accountability for the exercise of those duties. Secondly, it introduced a number of new elements in relation to the duties of the Secretary General. The key elements in that regard are –

#### *The Strategy Statement*

2.12 A Strategy Statement has to be prepared by the Secretary General and submitted to and approved by the relevant Minister who, in turn, arranges for it to be laid before each House of the Oireachtas. The Strategy Statement comprises the key objectives, outputs and related strategies (including the use of resources) of the Department or Office concerned. The Strategy Statement requires the Secretary General to specify how s/he will implement policy.

#### *Exercise by Secretaries General of specific functions in relation to staff*

2.13 Section 4 1(h) of the Act gives the Secretary General responsibility for managing all matters pertaining to appointments, performance, discipline and dismissal of staff

below the grade of Principal or its equivalent in the Department or Office. The implementation of these changes will require amendments to, inter alia, the *Civil Service Regulation Act, 1956* and the *Civil Service Commissioners Act, 1956* which are currently under review in the Department of Finance.

#### *Assignments to other officers*

- 2.14 One of the objectives of the SMI process is to promote the devolution of responsibility within Departments. The 1997 Act provides a statutory framework for the assignment of specific functions for which the Secretary General is responsible to individuals or grades of civil servants within the Department/Office. It also provides for the further assignments to other officers or grades. These assignments are wide ranging and where appropriate include in relation to the assignment
- ◆ Providing policy advice in relation to the subject matter of the assignment and related matters.
  - ◆ Achieving the outputs specified in the assignment.
  - ◆ Assuming responsibility for the statutory schemes or programmes specified in the assignment.
  - ◆ Assuming responsibility for the delivery of quality services.
  - ◆ Ensuring that expenditure accords with the purpose for which it is chargeable to the Appropriation Account, and that value for money is obtained.
  - ◆ Performing, on behalf of the Secretary General, functions in respect of appointments, performance and discipline (other than dismissal).

#### *Power of the Minister to issue Directions*

- 2.15 The Act includes provisions designed to ensure that the Minister retains overall control of the Department, even where authority and responsibility have been assigned to a Secretary General. Specifically the Minister may give written directions to a Secretary General in relation to the obligations of the Secretary General under Sections 4 to 6 of the Act. This includes all the duties of the Secretary General under Section 4 of the Act, with the exception of the management of staffing issues below the grade of Principal.

#### ***Accountability of Secretaries General***

##### *(i) To the Minister*

- 2.16 Secretaries General are accountable to the Minister for carrying out the duties and functions referred to in Section 4 of the 1997 Act in accordance with directions issued from time to time by the Government. The Group noted that a direction was issued by the Government in 1997 concerning the accountability of Secretaries General which stated that the framework of accountability under the Act “*should comprise the Departmental Statement of Strategy and progress reports thereon*”.
- 2.17 The Group would emphasise, however, that while it considers the Strategy Statement and the progress reports thereon constitute a very important framework for accountability, the Secretary General is accountable to the Minister for all the functions set out in Section 4 of the Act.

##### *(ii) To Oireachtas Committees*

- 2.18 Accountability to Parliament is an essential feature of a modern democracy. The 1997 Act does not change the position that Ministers retain the prime democratic accountability for actions in the areas under their jurisdiction.
- 2.19 The Act does provide that the Secretary General (or any other designated officer to whom responsibility for the performance of functions has been assigned) may be required to appear before a Committee of either or both Houses of the Oireachtas in respect of the Strategy Statement which as indicated above comprises the key objectives, outputs and related strategies of the Department. The Orders of Reference of Joint Oireachtas Committees include the consideration of Strategy Statements as part of their remit.
- 2.20 It is significant that the Strategy Statement refers specifically to outputs, which are defined for the first time in the Act. It is clear from the Minister for Finance's second stage speech to the Seanad in 1997 that the Government, by building the concept of outputs into departmental Strategy Statements, hoped to broaden the balance of accountability beyond the focus on inputs to a greater emphasis on the outputs of public services.
- 2.21 Apart from the specific requirements of the 1997 Act, Secretaries General and other civil servants also appear before Oireachtas Committees on a variety of issues relevant to the work of the Department or Office.
- 2.22 As the Group has examined issues of accountability of Secretaries General and Accounting Officers, the capacity in which civil servants appear before Oireachtas Committees is relevant. Leaving aside the functions of the Accounting Officer before the PAC (which will be dealt with in greater detail in Chapter 3), the function and capacity of civil servants is to act in the name of the Minister. The capacity in which civil servants appear before an Oireachtas Committee (with the exception of the Accounting Officer at the PAC) is on behalf of the Minister as part of the Minister's constitutional responsibility.
- 2.23 In giving evidence before Committees there is a statutory prohibition on civil servants expressing an opinion on the merits of a Government policy or on the merits of the objectives of such a policy.<sup>9</sup> While civil servants can factually explain existing policies as outlined by Ministers/Government, policy determination is the responsibility of Ministers who are accountable for it to the Oireachtas.
- 2.24 Individual civil servants are responsible for the accuracy and completeness of evidence given to Committees. The Secretary General does not have any function to "review", "correct" or "validate" evidence given by another civil servant. The Group would expect, however, that the Secretary General would ensure that only officers of appropriate experience and expertise would be designated to appear before Oireachtas Committees and that in the event of it emerging that incorrect evidence has been given by any officer, the appropriate steps would be taken to correct it at the earliest opportunity.
- (iii) In respect of assignments to other officers*
- 2.25 The 1997 Act empowers the Secretary General to assign responsibility for the performance of functions to other officers (or grades of officer) under the Act. Civil servants to whom responsibility for the performance of functions is assigned are accountable to the Secretary General.

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<sup>9</sup>Section 15 of the *Compellability, Privileges and Immunities of Witnesses Act, 1997*.

- 2.26 In relation to assigned functions, the Secretary General retains concurrent power with the person to whom responsibility for the performance of functions has been assigned to carry out the task in question. As the Secretary General retains concurrent power the Group would emphasise that s/he is still responsible to the Minister for the adequate carrying out of the function.

### **The Public Service Management Act, 1997 in Context**

- 2.27 As indicated in Chapter 1, there have been a number of legislative and other developments in recent years which have implications for governance and accountability in the civil service and in the wider public service. One of the more significant of these developments is a greater focus on accountability to the citizen. The *Freedom of Information Act, 1997* provides citizens with a legal right to access personal and official information subject to certain exemptions. The Information Commissioner acts as a channel of accountability to citizens in relation to issues arising under the Act. Freedom of Information builds on earlier developments such as the establishment of the Office of the Ombudsman in the 1980s.
- 2.28 There are also greater expectations from the public that the civil service will provide it with a quality service. As part of the SMI process, subsequently reinforced in the Programme for Prosperity and Fairness, considerable attention is being paid to the development of better customer service standards set in consultation with the recipients of the service and published in Customer Service Plans.
- 2.29 These developments, and particularly, the *Freedom of Information Act, 1997* have implications for processes within Departments in terms of record keeping, ‘audit trails’ for decision-making and appeals procedures. The contribution of those elements of the Strategic Management Initiative relevant to the Group’s consideration to the discharge of statutory accountabilities is examined in Chapter 5 (in particular the Strategy Statement, the business planning process and the PMDS).
- 2.30 New governance requirements such as the *Freedom of Information Act, 1997* and the *Public Service Management Act, 1997* impinge directly on how civil servants are held accountable and “*rest alongside other channels of accountability such as the Comptroller and Auditor General and complement and develop existing arrangements with regard to Ministers and to the Oireachtas, such as the PAC*”<sup>10</sup>.

### **Overview of the Secretary General’s role and his/her relationship with the Minister**

- 2.31 The role of Secretary General is similar in many ways to that of chief executive in a private sector company although a recent evaluation of the SMI by PA Consulting commenting on the nature of leadership in the civil service notes that it is different in some respects from that which might be expected of a chief executive in a business context. In particular they comment that “*the nature of the relationship between a Secretary General and a Minister - though similar in a number of respects - is not fully akin to that of a Chief Executive and Chairman in the private sector. Ministers provide political leadership and authority in a government department. Secretaries General are expected to provide managerial leadership and authority.*”<sup>11</sup> Secretaries General are responsible for managing Government Departments many of which are large organisations with significant policy and executive responsibilities. There has

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10CPMR Discussion Paper 6 - Governance and Accountability in the Civil Service p 37.

11 Evaluation of the SMI - PA Consulting (March 2002 p. 86).

been an increasing emphasis in recent years on the management role of the Secretary General, in addition to the administrative and policy advisory skills traditionally associated with senior levels in the civil service. The Secretary General in his/her Accounting Officer role is personally answerable to the PAC for his/her stewardship of public funds. This is different to the corporate governance arrangements in private sector companies where responsibility rests with the board of the company. The personal nature of this responsibility has implications for the relationship between the Secretary General and the Minister in relation to the areas for which the Secretary General as Accounting Officer has responsibility are considered in greater detail in Chapters 3 and 4.

- 2.32 In an environment of increased delegation there is an onus on the Secretary General to ensure that officers to whom responsibility for carrying out functions has been assigned within Departments are competent to perform their duties. S/he also has a responsibility to ensure that the systems and practices in place in the organisation are adequate to enable the Department to provide a quality service to its stakeholders as well as meeting the requirements of regularity, propriety and value for money in the use of its resources.
- 2.33 Under the Minister, the Secretary General has to provide leadership within the organisation. As the principal co-ordinator of the Department's activities s/he must ensure that it operates in a coherent manner in the delivery of Government policy. This involves building up and maintaining an overview of the activities of the Department and striking a balance between priorities within the Department. The Secretary General should also be the principal agent for constructive change and continuous improvement within the organisation. In that connection, the recent Report of the Review Body on Higher Remuneration (Report 38) referred to the sustained process of structural reform that is underway in the civil service and the active role taken by senior managers in driving the change agenda.<sup>12</sup>
- 2.34 The nature of Government means that the work of Departments is constantly under public scrutiny. The Secretary General must be alert at all times to the implications for the Department's stakeholders (including the Minister, the Government and citizens) of the actions of the Department. One of the consequences of the public nature of Government business is that a significant amount of the time of the Secretary General may be taken up with sensitive operational matters. Another aspect, noticeable in recent years, is the increasing public awareness of the role of senior civil servants.
- 2.35 A key element of the role of Secretary General is the working relationship with his or her Minister. The Secretary General has to manage the interface between the Department and the Minister. The relationship is particularly important and distinctive because the Minister is the Head of the Department and is politically accountable to the Dáil for its administration. The relationship is critical to the effective administration of Departments of State.
- 2.36 The Secretary General is the chief policy advisor to the Minister. In that capacity s/he is responsible for offering independent advice to Ministers and Ministers of State on a wide range of issues relevant to the Department.
- 2.37 The normal interaction between the Secretary General and the Minister, particularly in regard to the assignment of day to day work, is carried out on an informal basis. While there is provision in the 1997 Act for the Minister to give the Secretary General directions in writing in relation to the duties specified in Section 4 of the Act, the

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<sup>12</sup> Report No. 38 of the Review Body on Higher Remuneration, p. 21

expectation is that this would not be invoked on a regular basis. It is regarded as a mechanism that would be used where informal arrangements proved inadequate to meet particular or unusual circumstances.

2.38 The nature of the working relationship between the Secretary General and the Minister appears always to have been regarded as distinctive. This is the case for a number of reasons

- ◆ The constitutional, legislative and administrative framework within which Departments operate necessitates that officials acting under the authority of the Minister implement Government policy set by him/her and the Government. The Secretary General, as the head of the Department under the Minister, has a pivotal role in providing advice, in managing the Department and ensuring that the systems and procedures are in place to enable it to perform its functions within the resources available, and enabling the Minister to answer for the performance of those functions to the Dáil. This means that the Minister must have trust and confidence in the Secretary General.
- ◆ The issue of confidence between the Minister and his/her Secretary General is crucial and is one which places the Secretary General in a different position to other civil servants. The relationship extends beyond the Minister and requires the Government as a whole to place confidence in the Secretary General. On the very rare occasions where the Government has had cause to dismiss a Secretary (General) the Taoiseach of the day made it clear that any dispute between a Minister and a Secretary (General) involved the Government as a whole. If the circumstances are such that a dispute cannot be resolved, the Minister is entitled to invoke the doctrine of collective responsibility so that the Secretary General is given the choice of complying with the wishes of the Government as a whole or dismissal or resignation.

## CHAPTER 3

### THE ACCOUNTING OFFICER FUNCTION

- 3.1 The role of the Accounting Officer is pivotal within the system of accountability for public money. The following Chapter looks at the origins of the role and at the constitutional and statutory, as well as the administrative framework, within which Accounting Officers operate. It also examines the duties of Accounting Officers with particular reference to their statutory duties to give evidence before the Committee of Public Accounts (PAC).

#### **The System of Accountability for Public Money**

##### *The Accounting Officer*

- 3.2 The Accounting Officer is a central element in the system of accountability for public money. The Accounting Officer is normally the Secretary General or civil service head of a Department/Office to whom the Minister for Finance has assigned responsibility for preparing the annual Appropriation Account for each vote under his/her charge. S/he has responsibilities, inter alia, for regularity and propriety of the accounts and for economy and efficiency in the use of resources and for the management systems used to evaluate effectiveness. When required to do so, the Accounting Officer is required to give evidence on these issues before the PAC.
- 3.3 The focus of the Group was on those areas for which the Accounting Officer has a statutory responsibility to give evidence under the *Comptroller and Auditor General (Amendment) Act, 1993* (the 1993 Act). In particular the Group focussed on the Appropriation Accounts which are the end of year accounts of a Government Department's spending of the money voted by the Dáil. Also relevant are other accounts which the Accounting Officer or the Department is required to prepare under statute, as well as economy and efficiency in the use of resources and the systems, practices and procedures to evaluate effectiveness.
- 3.4 In addition, the Accounting Officer may be questioned by the PAC on matters affecting the Department in other reports, including special reports, arising from the Comptroller & Auditor General's audits, examinations and inspections. These would include value for money reports, or matters arising from reports of the C&AG in relation to non-commercial State bodies, Vocational Education Committees, Health Boards, Harbour Authorities, Regional Tourism organisations etc. The Accounting Officer may be questioned on these issues in so far as they relate to regularity, propriety and value for money.

##### *Historical Background*

- 3.5 There is a long-established system of accountability for public money particularly in regard to the Appropriation Accounts. This arose from public and parliamentary expectations as to the manner in which taxpayers money is accounted for. Particularly relevant in that regard is the requirement for an open and transparent system for scrutinising the manner in which funds have been utilised having regard to established principles such as regularity and propriety and, more recently, value for money.
- 3.6 The present system has its origins in the reforms of the UK financial administration undertaken by Gladstone in the 1860s. One of the more important of these reforms

was the establishment of the Committee of Public Accounts in 1861 to scrutinise public expenditure. Five years later the *Exchequer and Audit Departments Act, 1866* (the 1866 Act) required all Departments to produce annual accounts, known as the Appropriation Accounts, for the first time. It established the position of C&AG with responsibility, inter alia, to audit the accounts of Government Departments and report to Parliament accordingly. It also introduced a framework of accountability in which senior officials were designated Accounting Officers by the Treasury and were charged with the responsibility to prepare the Appropriation Accounts. By virtue of this responsibility they were also required to give evidence before the PAC in relation to the accounts.

- 3.7 The Irish system of financial administration is derived from the British system. The 1866 Act remains the statutory basis for the preparation of the Appropriation Accounts and for the appointment of Accounting Officers (although the term “Accounting Officer” is not used in the Act).
- 3.8 The respective powers of the Legislature and the Government for the public finances are laid down in the Constitution.<sup>13</sup> There are certain important principles emerging from the Constitution and other statutory provisions which affect how public funds are accounted for i.e.
- ◆ The right of initiative in relation to the public finances is vested in the Government.
  - ◆ All public moneys may be appropriated (i.e. assigned for a particular purpose) only on the authority of Dáil Éireann.
  - ◆ The accounts of sums appropriated to meet public expenditure and other accounts which are audited by the C&AG and presented to the Dáil are subject to examination by the PAC which reports to the Dáil.

#### ***Key elements in the Accountability Framework***

- 3.9 The key elements in the framework of accountability for public money are the PAC, the Comptroller and Auditor General (the C&AG), the Department of Finance and the Accounting Officer.

#### ***The Committee of Public Accounts***

- 3.10 As indicated above, the PAC is the longest established of the Parliamentary Committees and is established under Standing Orders of the Dáil to examine and report to Dáil Éireann
- (a) on the accounts showing the appropriation of the sums granted by the Dáil to meet the public expenditure and such other accounts as they see fit (other than accounts in the second schedule of the *Comptroller and Auditor General (Amendment) Act, 1993*) which are audited by the Comptroller and Auditor General and presented to the Dáil, together with any reports by the Comptroller and Auditor General thereon;
  - (b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and
  - (c) other reports carried out by the Comptroller and Auditor General under the Act.

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<sup>13</sup>Details of the relevant constitutional provisions are set out in Appendix 2.

- 3.11 Historically one of the key functions of the PAC has been to examine the accounts for regularity and propriety of expenditure, which are key elements of the C&AG's certification audit. The role was formally expanded following the enactment of the 1993 Act which extended the scope of the PAC's remit to encompass the C&AG's examinations of economy and efficiency as well as the systems, practices and procedures to secure effectiveness. The PAC also examines other reports carried out by the C&AG under the Act.
- 3.12 Under Standing Orders, the Committee has the power to send for persons, papers and records as well as the power to take written and oral evidence. More recently, the Committee sought and was given additional powers to enable it to undertake an inquiry into the administration of Deposit Interest Retention Tax (DIRT).<sup>14</sup> Legislation was enacted - the *Comptroller and Auditor General and Committees of the Houses (Special Provisions) Act, 1998* - which gave the C&AG powers to conduct an investigation into the administration of the DIRT and report to the Dáil but only in relation to this particular investigation.
- 3.13 In common with other Committees the main function of the PAC is to examine and report to the Dáil and it does not have executive powers. Follow-up action on publication of the Committee's report rests with the Dáil, which may take note of, or if they consider it necessary, debate it, and with the Government to take appropriate action. While the Government is not obliged, in the last resort, to accept the PAC's recommendations they do carry a great deal of weight.
- 3.14 The Department of Finance, on behalf of the Government, prepares a formal reply to the Reports of the PAC in consultation with the Department(s) concerned, which considers and responds to recommendations in the PAC report. This is known as the "Minute of the Minister for Finance on the report of the Committee of Public Accounts".

### ***The Comptroller and Auditor General***

- 3.15 The accountability of the Government to the Dáil in relation to the public finances is based on audit and examinations carried out by the C&AG on behalf of the Dáil. The position is provided for in Article 33 of the Constitution which states that "*there shall be a Comptroller and Auditor General to control on behalf of the State all disbursements and to audit all accounts of moneys administered by or under the authority of the Oireachtas*".
- 3.16 The most significant legislation in relation to the C&AG is the *Comptroller and Auditor General (Amendment) Act, 1993*. The Act consolidated and updated existing relevant legislation in relation to the role of the C&AG. The main statutory function of the C&AG under the 1993 Act in relation to Government Departments is to audit the Appropriation Accounts. He does this from two perspectives. First, a *financial audit* which tests the accuracy of records and the reliability of the systems underpinning them as well as checking that the accounts are supported by the records. Second, a *regularity audit* which checks that expenditure accords with the intention of the Dáil, that the sanction of the Department of Finance has been obtained and that the provisions of the relevant statutes, regulations etc. have been complied with.

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<sup>14</sup> In conducting the inquiry the PAC also used powers under the (Compellability, Privileges and Immunities of Witnesses) Act, 1997.

- 3.17 The 1993 Act also conferred additional audit functions on the C&AG and significantly from the point of view of the Accounting Officer function, it gave the C&AG powers to carry out *value for money* examinations in regard to economy and efficiency in the use of resources and the management systems used to evaluate effectiveness. Other bodies audited by the C&AG (with the exception of bodies who have requested the C&AG to act as auditor) are also subject, at the C&AG's discretion, to VFM examinations. Under the new statutory mandate the C&AG carries out wide-ranging examinations on specific programmes and publishes the results of each by way of a separate report.
- 3.18 On completion of the audit of the Appropriation Account, the C&AG attaches a certificate to each account stating whether, in his opinion, the account properly presents the receipts and expenditure of the Department concerned and refers to any material case in which
- (a) the Department has failed to apply expenditure recorded in the account for the purposes for which the appropriations made by the Oireachtas were intended,
- or
- (b) transactions recorded in the account do not conform to the authority under which they purport to have been carried out.
- 3.19 Each year the C&AG prepares a report on the Appropriation Accounts which is laid before the Dáil and considered by the PAC on behalf of the Dáil. These reports deal not only with accounting issues (such as failure to observe correct procedures in the treatment of transactions) but also wider issues such as weaknesses in internal control and economy, efficiency and relevant effectiveness issues in relation to particular schemes and/or programmes. The reports may also contain informational material for the PAC on matters of public interest.
- 3.20 Apart from the Appropriation Accounts the C&AG audits a number of other accounts prepared by Departments and Offices in respect of which the Accounting Officer may be required to give evidence. These include the accounts of the Central Fund (the Finance Accounts), accounts of receipts of revenue collected by the Revenue Commissioners, manufacturing, commercial or trading accounts of Departments (e.g. the accounts of the Government Publication and Sales Office); funds under the control of Ministers or Departments; and the Guarantee section of the FEOGA Fund. These accounts are also certified following audit.
- 3.21 The C&AG also audits the accounts of Health Boards, Vocational Education Committees, non-commercial state bodies, third level educational institutions and other bodies specified in legislation. He may also audit the accounts of other bodies in receipt of State funds by agreement with the body concerned and with the consent of the Minister for Finance. He has powers of inspection in relation to harbour authorities, regional tourism organisations and persons or bodies who have received 50% or more of their gross income from public funds. He may also, if he considers it appropriate to do so, prepare special reports in relation to audits/ inspections which he has carried out.

### ***The Department of Finance***

- 3.22 The Department of Finance is responsible under the *Ministers and Secretaries Act, 1924* (as amended) for, inter alia, the *administration and business generally of the*

*public finances of Ireland and all the powers, duties and functions connected with the same.*

- 3.23 The Department has wide-ranging responsibilities to control, supervise and advise Departments in financial matters, which it does by way of official minutes and circulars to Departments<sup>15</sup>. Department of Finance sanction for expenditure is a statutory requirement under the 1924 Act.
- 3.24 The Accounting Officer for a Vote is the person appointed by the Minister for Finance under section 22 of the 1866 Act with responsibility for the preparation of the Appropriation Account(s) and for giving evidence before the PAC as required under Section 19 of the *Comptroller and Auditor General (Amendment) Act, 1993*. The issuing of instructions and guidance to Accounting Officers is part of the executive function of the Department of Finance.
- 3.25 Officers from the Department of Finance attend meetings of the PAC when Accounting Officers from other Departments/Offices are giving evidence and may be questioned by the Committee. As indicated above the Department of Finance responds on behalf of the Government to recommendations and issues raised by the PAC in its reports on the Appropriation Accounts. It also responds to Value for Money reports. This is done by way of a formal minute known as the *Minute of the Minister for Finance* to the Committee.

## **Duties and Responsibilities of Accounting Officers**

### ***Origins of the role***

- 3.26 The role of the Accounting Officer has its origins in the *Exchequer and Audit Departments Act, 1866* (the 1866 Act). Section 22 of that Act provides for the preparation of Appropriation Accounts of Departments. The duty of preparing the accounts was to “*be construed as including any public officer or officers to whom that duty shall be assigned by the Treasury*”.
- 3.27 The term Accounting Officer does not appear in the 1866 legislation. The UK Treasury proposed the term to the PAC as one which would “*clearly denote the relation in which officers appointed to render the Appropriation Accounts stand towards Parliament as responsible for the financial administration of the grant for the services under the control of their Departments while it should at the same time avoid ascribing to them a character which properly belongs only to persons possessing a technical knowledge of book keeping and Accounts*”.<sup>16</sup>
- 3.28 The first statement of the duties of Accounting Officers was in a UK Treasury Minute of 1872 which stressed the responsibility of an Accounting Officer for the safeguarding of public funds and for the regularity and propriety of expenditure of these funds. The personal responsibility of the Accounting Officer derived from his signing the account whereby “*he made himself responsible for its correctness....and is the person whom Parliament and the Treasury regard as primarily responsible for the balance in the custody of the Department, although he himself may not hold one farthing of it*”.<sup>17</sup>

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<sup>15</sup>Further information on the role of the Department of Finance is set out in Section A4 of Public Financial Procedures.

<sup>16</sup>Treasury minute 11281/72 of 14 August 1872.

<sup>17</sup>Treasury minute 11281/72 of 14 August 1872.

- 3.29 From the beginning it was considered that the best person to discharge the Accounting Officer function was the permanent head of the Department. However, it was not until the reform of the UK civil service after the First World War that it became established policy, agreed between the PAC and the Treasury, that permanent heads should be Accounting Officers. It was considered that they were the only ones with sufficient authority within Departments to discharge the role. By this stage it had also been recognised that finance was an essential element in all policy questions and that financial responsibility had wider implications for efficient management.
- 3.30 Many of the reforms undertaken at this time were reflected in the structure of the Irish administration after Independence. One of the first actions of the new Ministry of Finance was to set out the principles necessary to secure efficient financial management. One of the key elements in the new framework was the Accounting Officer.<sup>18</sup>
- 3.31 The Civil Service Head of the Department or Office is appointed Accounting Officer (in the case of some bodies where there is a separate Vote and where an Appropriation Account is prepared e.g. the Courts Service, the Chief Executive Officer, or equivalent, has been appointed Accounting Officer). In the case of other State bodies (excluding the commercial state sector), the Chief Executive Officer or other appropriate person may be given similar responsibilities although they may not be formally designated as such.<sup>19</sup>

### ***Statutory Provisions***

- 3.32 The 1993 Act defined the term Accounting Officer in legislation for the first time. The Accounting Officer is described in the Act as the “*Officer referred to in Section 22 of the Exchequer and Audit Departments Act, 1866 to whom the duty of preparing the Appropriation Accounts of a Department is assigned...*”.
- 3.33 The statutory duties of Accounting Officers in giving evidence to the PAC are set out in Section 19 (I) of the 1993 Act. The Act broadened the statutory duties of Accounting Officers to cover economy and efficiency in the use of resources and the systems, practices and procedures to evaluate effectiveness. Prior to the introduction of the Act, the C&AG had drawn attention to economy and efficiency as part of the financial audit where he would “*look behind*” certain transactions and Accounting Officers had to deal with these matters in giving evidence to the PAC. Since the introduction of the Act the Office of the C&AG has been devoting considerable resources to carrying out Value for Money examinations which result in stand alone reports dealing with economy, efficiency as well as the systems, procedures and practices employed to evaluate the effectiveness of the Department’s/Office’s operations.
- 3.34 The Act also provides a statutory basis for the accepted convention that Accounting Officers should not express an opinion on the merits of any policy when giving evidence to the PAC<sup>20</sup>. This provision is the same as that imposed on civil servants generally in appearing before Committees of the Houses of the Oireachtas. Similarly, under its Standing Orders the PAC may not enquire into the merits of a policy or

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<sup>18</sup>See Ronan Fanning - The Irish Department of Finance p 44.

<sup>19</sup>They would differ from the Accounting Officer as the latter is defined in the 1993 Act as the Officer with the duty of preparing the Appropriate Accounts.

<sup>20</sup>Section 19(2).

policies of the Government or a member of the Government or the merits of the objectives of such policies.

### ***Principles and Conventions***

3.35 Apart from the statutory provisions, Accounting Officers operate within established principles and conventions that are derived mainly from the Constitution and from the institutional and financial relationships that have been developed between parliament and the Executive over the years. The reports and recommendations of the PAC are one of the main sources of these principles. They are set out in the guide “*Public Financial Procedures*” which is prepared by the Department of Finance as part of that Department’s executive function. The 1992 White Paper on the role of the Comptroller and Auditor General which preceded the 1993 Act specifically stated that “*conventions established in regard to Accounting Officers (e.g. those set out in Public Financial Procedures) will continue to be observed by all concerned*”.<sup>21</sup>

3.36 The responsibilities of Accounting Officers are set down in Section A5 of *Public Financial Procedures* which is brought to the attention of each Accounting Officer on appointment. In addition to the preparation of the Appropriation Accounts the main responsibilities of Accounting Officers as laid down in *Public Financial Procedures* are as follows:

- ◆ The safeguarding of public funds and property under his or her control.
- ◆ Ensuring that all relevant financial considerations are taken into account and, where necessary, brought to the attention of the Minister where they concern the preparation and implementation of policy proposals relating to expenditure or income for which s/he is Accounting Officer.
- ◆ Economy and efficiency in the administration of the Department. This includes ensuring that there are adequate financial management systems in place to support the proper administration of the Department in an economic and efficient way.
- ◆ The adequacy of arrangements within the Department/Office to ensure the correctness of all payments under his/her control and the prompt and efficient recovery and bringing to account of all receipts connected with the Vote, or with any fund for which the Department is responsible.
- ◆ Ensuring that Department of Finance sanction for expenditure has been obtained and for the maintenance of a central record of both delegated and specific sanctions.
- ◆ Responsibilities for internal audit, including reviewing the internal audit function to ensure there is the desired quality of assurance on the adequacy, reliability and efficiency of the Department’s internal control system.
- ◆ Responsibilities in respect of Grants-in-Aid to outside agencies, particularly in regard to the conditions of the grant, the submission of accounts and being satisfied that the accounting systems and organisational arrangements of the grantee are adequate to ensure the proper administration of the money.
- ◆ Ensuring that there is a clear framework for control (including financial reporting) and accountability for public funds in bodies operating under the aegis of the Department.

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<sup>21</sup> White Paper on the role of the Comptroller and Auditor General, p 37.

### ***Duties of Accounting Officers before the PAC***

- 3.37 Under section 19 of the 1993 Act Accounting Officers are required to give evidence to the PAC on
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any account subject to audit by the Comptroller and Auditor General which he or the Department concerned is required by or under statute to prepare,
  - (b) the economy and efficiency of the Department in the use of its resources,
  - (c) the systems, procedures and practices employed by the Department for the purpose of evaluating the effectiveness of its operations, and
  - (d) any matter affecting the Department referred to in a special report of the Comptroller and Auditor General under Section 11(2) or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.
- 3.38 The Group considered it useful to look in more detail at the principles which underpin the Accounting Officer's duties before the PAC:

### ***Regularity and Propriety***

- 3.39 Regularity and propriety are standards against which expenditure and receipts are judged to establish whether they accord with Parliament's intentions. The concept of regularity reflects Parliament's concern that public money should be used only for those purposes approved by Parliament. The checks for regularity are set out in Section 3 of the 1993 Act where the C&AG must satisfy himself as to whether the amounts expended have been applied by the Department concerned for the purposes for which the appropriation made by the Oireachtas was intended, and whether the transactions recorded in the account conform with the authority under which they purport to have been carried out.
- 3.40 A Practice Note has been prepared by the Auditing Practices Board, which is responsible for developing and issuing standards for auditors in the UK and Ireland on the Audit of Central Government Financial Statements in the Republic of Ireland. In this note which was prepared with the support of the Office of the C&AG, propriety is defined as *“concerned with the way in which public business is conducted, including any conventions agreed with Dáil Éireann (and in particular the PAC), and any guidance issued on governance and ethics. Whereas regularity is concerned with compliance with appropriate authorities, propriety goes wider than this and is concerned more with the standards of conduct, behaviour and corporate governance. It is concerned with fairness and integrity and would include such matters as the avoidance of personal profit from public business, even handedness in the appointment of staff, open competition in the award of contracts and the avoidance of waste and extravagance”*.<sup>22</sup>
- 3.41 In appearing before the PAC the Accounting Officer has to give evidence on issues which the C&AG has identified in his reports on the accounts. The issues identified can be wide-ranging and can include

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<sup>22</sup> Practice Note pars. 36 and 37.

- ◆ Instances where financial procedures have not been complied with;
- ◆ Cases where the amount granted by the Dáil have been exceeded;
- ◆ Internal control weaknesses and their implications;
- ◆ Expenditure which has not been sanctioned by the Department of Finance;
- ◆ Instances of fraud, mismanagement, waste or uneconomic expenditure.

### ***Value for Money***

3.42 In addition to regularity and propriety the Accounting Officer has a statutory duty to answer to the PAC for value for money in the terms specified in the 1993 Act. *Value for Money* encompasses *economy* i.e. providing suitable resources for a task at the lowest cost having regard to quality and *efficiency* which relates the cost of resources to the outputs achieved. VFM also encompasses *effectiveness*. In the Irish audit context this is defined in terms of the systems, procedures and practices used by Departments and other bodies for the purpose of evaluating the effectiveness of their operations.<sup>23</sup> Value for money issues can be addressed as part of the C&AG's report on the Appropriation Accounts or they can be a subject of a separate Value for Money Report.

### ***Responsibility for other areas subject to audit by the C&AG***

3.43 The Accounting Officer may also be required to answer on other areas subject to audit, inspection or examination by the C&AG in so far as they affect the Department and relate to regularity and propriety and value for money. These can include issues raised in reports, including special reports, by the C&AG on bodies whose accounts are audited by him such as the non-commercial semi-state bodies, health boards, V.E.C's etc.

3.44 Issues may arise from time to time as to the extent of the Accounting Officer's responsibility particularly in respect of bodies under the aegis of the Department which are in receipt of public funds. This issue has become more important as more administrative functions are delegated to agencies. It is an issue which presents challenges to accountability not only in Ireland but also abroad particularly in regard to achieving a balance between allowing the body concerned the freedom to perform its functions effectively while, at the same time, meeting accountability requirements for public funds.

3.45 As a general principle Accounting Officers should satisfy themselves, in relation to all bodies under their aegis in receipt of public funds, that there are systems in place to provide relevant, accurate and timely information to the parent Department.

3.46 The Department of Finance has recently issued a Code of Practice for the Governance of State Bodies, supplementing existing statutory provisions, which include procedures relating to internal practices (including codes of business conduct for Directors and employees) and external relations with the Government, the Minister for Finance and their Departments. In addition to the annual report and accounts the Chairperson is to furnish a comprehensive report covering the Group of companies which will inter alia:

- ◆ Outline all commercially significant developments affecting the body in the preceding year as well as major issues likely to arise in the short to medium-term.

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23 See White Paper on the Role of the Comptroller and Auditor General, 1992 pp 19-22.

- ◆ Affirm that all appropriate procedures for financial reporting, internal audit, procurement and assets disposals are being carried out.
- ◆ Include a statement on internal financial control in a prescribed format.
- ◆ Explain failure to comply with any of the above and stating any corrective action taken or contemplated.

3.47 The Chairperson will also be required to confirm that the Code of Practice has been adopted and is being complied with.

3.48 The Group welcomes the Code of Practice in setting out the principles of good corporate governance for State bodies. In so far as Accounting Officers are concerned they should satisfy themselves, through the reporting arrangements, that the requirements of the Code of Practice are being implemented in State bodies under their aegis and if reports indicate that a problem has emerged, that appropriate corrective action is taken by the body as soon as possible.

### **Accountability of Chief Executive Officers**

3.49 In addition to the reporting arrangements to the Department, the issue of answerability to the PAC by bodies in receipt of public funds, whose accounts are audited by the C&AG and presented to the Dáil, also arises. The Group understands that the normal practice is for the Chief Executive Officer, or equivalent, of the non-commercial State bodies/agencies/Health Boards/third level educational institutions to appear before the Committee to give evidence on issues arising from the financial statements. A representative from the parent Department will also attend. While many Chief Executives attend before the PAC, a number do so by convention rather than as a specific statutory requirement (although as indicated in Paragraph 3.13 above the Committee does have the power under its Standing Orders to send for persons, papers and records).

3.50 The Group understands that it is Department of Finance policy in relation to any legislation establishing new bodies (other than commercial State Companies whose accounts are audited by auditors appointed by the Board) to give the Chief Executive Officer, or equivalent, the responsibility under statute to give evidence before the PAC in similar terms to the Accounting Officer under the 1993 Act (recent examples include Ordnance Survey Ireland and the Competition Authority).<sup>24</sup> Their statutory responsibility differs from that of the Accounting Officer to the extent that the latter has the duty of preparing the Appropriation Accounts of a Department. The Group supports this development as a means of providing greater clarity in relation to accountability to the Oireachtas.

3.51 The Group recommends that

*In the interest of more clearly defining the responsibility of the Accounting Officer and of the Chief Executive Officer, or equivalent, in respect of bodies under the aegis of the Department, which are in receipt of Exchequer funds, their respective roles and the framework and processes of accountability should be set down in writing. This would be facilitated by the preparation of guidance by the Department of Finance.*

### **Features of the Accounting Officer Role**

<sup>24</sup>Ordnance Survey Ireland Act 2001, Competition Act 2002.

- 3.52 The key feature of the Accounting Officer role is the personal responsibility of the most senior official (or in a few cases the Chief Executive Officer or equivalent, who has responsibility for the preparation of Appropriation Account<sup>25</sup>) for the regularity and propriety of the transactions in the accounts for which s/he is answerable, the control of assets held by the Department, economy and efficiency in the use of the Department's resources and for systems, practices and procedures used to evaluate the effectiveness of its operations.
- 3.53 Accountability is exercised by means of rigorous post factum examination of the manner in which Accounting Officers have discharged their responsibilities by means of independent audit and examinations by the C&AG, and of scrutiny by the PAC.
- 3.54 In practice, issues on which the PAC have an interest may extend well beyond the accounts and the C&AG's reports thereon with the result that Accounting Officers must be briefed on almost every aspect of their Department's operations when appearing before the Committee.
- 3.55 Accounting Officers cannot be familiar with every financial transaction on the accounts and for that reason they have a particular responsibility to ensure that the financial management systems in place in the Department are adequate to enable them discharge their accountability. Internal audit, which will be examined in greater detail in Chapter 6, has an important role in providing assurance on the system of internal financial control in the Department by providing an independent opinion to the Accounting Officer in relation to the adequacy or otherwise of the systems in place.
- 3.56 The Accounting Officer system is unusual in that, while being accountable to the Minister for managing the Department and for the other duties under the 1997 Act the Accounting Officer is personally answerable to the PAC for the regularity and propriety of transactions of the accounts for which s/he is responsible as well as for economy, efficiency and effectiveness in the terms set out in the 1993 Act. This differs from practice in the private sector where responsibility would normally rest with the Board.
- 3.57 In appearing before the PAC the Accounting Officer appears in his/her own right rather than as a representative of the Minister as part of the Minister's constitutional responsibility. The duties of the Accounting Officer before the PAC are thus outside the normal system of civil service delegation where, in general, civil servants act in the name of the Minister.
- 3.58 It would appear from reviews carried out by the Group that the Accounting Officer system as it operates in the UK and Ireland is unusual even by reference to systems abroad which are derived from the British system. In Canada, for example, there is a Ministerial sign-off on the accounts on the basis of representations from the Deputy Minister (the Canadian equivalent of Secretaries General). The Minister is responsible to the PAC although there has been a tendency in recent years for Deputy Ministers to appear before and be questioned by the Committee. While there has been some debate in Canada about the desirability of moving towards a system whereby the Deputy Minister would be personally accountable to Committees, the consensus would appear to be against a fundamental change to the existing system. Similarly, in both the Australian and New Zealand systems responsibility rests with the Minister.

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<sup>25</sup>e.g. The Chief Executive Officer of the Courts Service.

- 3.59 The Sharman Review on Audit and Accountability in Central Government (which was published last year in the UK) regards the Accounting Officer as providing a powerful focus for accountability for public money. In particular, the fact that Accounting Officers have a responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and value for money means that the role is seen as a personal responsibility to safeguard the interests of the taxpayer. It is also an important tool for accountability within Departments as the personal nature of the accountability can help to produce the necessary incentives to ensure that Departments carry out their functions with due regard to regularity, propriety and value for money.<sup>26</sup>
- 3.60 Similarly, the Accounting Officer role is an important element in securing democratic accountability by virtue of the long-standing nature of the arrangement and its certainty (that personal responsibility rests with the most senior official).
- 3.61 The special nature of the Accounting Officer's responsibilities requires that there are specific procedures to be followed where there is a difference of opinion between the Accounting Officer and the Minister, and the Accounting Officer considers that the Minister's opinion is not a reasonable one, on an issue where the Accounting Officer has a responsibility. In these circumstances *Public Financial Procedures* provides that the Accounting Officer should inform his/her Minister in writing of his or her view and the reasons for it and suggest a consultation with the Department of Finance. If, notwithstanding this the Minister gives contrary directions in writing the Accounting Officer should comply with them after informing the Department of Finance. The papers should be sent to the C&AG when the directions have been carried out. It should be emphasised that historically Accounting Officers have rarely felt it necessary to operate this procedure.

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<sup>26</sup> See Holding to Account: the review of Audit & Accountability for Central Government by Lord Sharman, 19 p. 20.

## CHAPTER 4

### DUAL RESPONSIBILITY

4.1 All Secretaries General (who are principal officers of their Departments) are Accounting Officers. In their Accounting Officer role they are responsible for the stewardship of public funds for which they are responsible and are required to give evidence on how they have discharged this responsibility to the PAC. As Secretaries General they are accountable to the Minister for the discharge of their duties as civil service head of the Department. This Chapter examines the responsibility of Departmental Heads in relation to this dual role.

#### *Duties of Secretaries General and Accounting Officers*

4.2 The Secretary General is responsible, under the Minister, for the overall management of the Department. As part of that responsibility the Secretary General must ensure that the Department's systems and procedures are adequate to enable it to discharge its functions. As part of his/her management responsibilities the Secretary General is required to ensure that the financial management systems and procedures are such as to enable the Department to use its resources in accordance with the requirements of regularity and propriety as well as the economic and efficient conduct of the Department's business.

4.3 The duties of Accounting Officers are normally performed by Secretaries General (or in the case of Offices by the most senior official) because of their position of authority within the Department/Office and also because of the interrelationship between financial management and management of the Department generally. In the Group's view the reasons for vesting the Accounting Officer function in the head of the organisation, rather than in a more junior official, remain valid.

4.4 It may be useful for the purpose of determining the overlap between in the role of the Secretary General and that of Accounting Officer to outline the respective responsibilities and accountability of both roles as set out in legislation and also, in the case of the Accounting Officer, in *Public Financial Procedures*. These are set out in Tables 1 and 2 following:

**Table 1**

## Secretaries General

### Statutory Responsibilities of Secretaries General

- ◆ Managing the Department, implementing Government policies appropriate to the Department, monitoring Government policies that affect the Department, delivering outputs as determined with the Minister.
- ◆ Preparing and submitting a Strategy Statement to the Minister every 3 years or within 6 months of the appointment of a new Minister, and provide progress reports thereon.
- ◆ Preparing an outline of how specific responsibilities are to be assigned to other officers and assigning responsibilities so as to ensure that functions are performed by an appropriate Officer.
- ◆ Providing advice to the Minister on any matter, affecting or connected with the responsibilities of the Minister giving rise to material expenditure chargeable to its Appropriation Account.
- ◆ Ensuring the resources of the Department are used in a manner that is in accordance with the *Comptroller and Auditor General (Amendment) Act, 1993*, with a view to enabling the matters referred to in Section 19 of that Act to be appropriately addressed by the Department.
- ◆ Examining and developing means of improving the provision of cost effective public services.
- ◆ Making sure arrangements are in place to maximise efficiency in cross departmental matters.
- ◆ Managing all matters relating to the appointment, performance, discipline and dismissal of staff below the grade of Principal or equivalent. (Subject to amendments to the *Civil Service Regulations Act, 1956* and the *Civil Service Commissioners Act 1956*).
- ◆ Carrying out, on behalf of the Minister, any other function of the Minister.

### **Statutory Accountability:**

The Secretary General is accountable to the Minister under Section 6 of the *Public Service Management Act 1997* for the performance of the above functions.

The Minister may give directions in writing on the above obligations with the exception of staffing issues below the grade of Principal.

### **Appearance before Oireachtas Committees:**

The Secretary General or other officers of the Department may be requested to appear before Oireachtas Committees in respect of the Strategy Statement or other issues relevant to the terms of reference of Select or Joint Committees.

In appearing before a Committee the Secretary General may not express an opinion on the merits of policy (Section 15 of the *Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses Act, 1997)*).

*Source in relation to responsibilities: The Public Service Management Act, 1997*

Table 1 illustrates the statutory responsibilities of Secretaries General as provided for in the 1997 Act. These encompass a wide range of management responsibilities ranging from the setting of strategic goals for the organisation to putting in place the management processes to deliver on these objectives (including risk assessments of the major obstacles to the achievement of objectives); financial management; change management, including developing areas such as the reform of the human resource function and the associated emphasis on the management and development of people within the organisation. They also encompass responsibility for driving new policy initiatives such as e-government. There has been a strong focus on providing a quality service to the customers (i.e. the members of the public and others) who avail of Government services in recent years arising out of the SMI.

## Table 2

### Accounting Officers

### **Responsibilities of Accounting Officers**

- ◆ The safeguarding of public funds and property under his or her control.
- ◆ Ensuring that all relevant financial considerations are taken into account and, where necessary brought to the attention of Ministers where they concern the preparation and implementation of policy proposals relating to expenditure or income for which s/he is Accounting Officer.
- ◆ Economy and efficiency of the Department in the use of its resources; this includes ensuring that there are adequate financial management systems in place to support the proper administration of the Department in an economic and efficient way.
- ◆ The systems, procedures and practices employed by the Department for the purpose of evaluating the effectiveness of its operations.
- ◆ The adequacy of arrangements within the Department/Office to ensure the correctness of all payments under his/her control and the prompt and efficient recovery and bringing to account of all receipts connected with the Vote, or with any fund for which his/her Department is responsible.
- ◆ Responsibilities for internal audit including reviewing the internal audit function to ensure that they are getting the desired quality of assurance on the adequacy, reliability and efficiency of the Department's internal control system.
- ◆ Ensuring that Finance sanction for expenditure has been obtained and for the maintenance of a central record of both delegated and specific sanctions.
- ◆ Responsibilities in respect of Grants-in-aid to outside agencies particularly in regard to the conditions of the grant; the submission of accounts as well as being satisfied that accounting systems and organisational arrangements of the grantee are adequate to ensure the proper administration of the money.
- ◆ Ensuring that there is a framework for control and accountability for public moneys in bodies operating under the aegis of the Department.
- ◆ Certain responsibilities for public bank accounts.
- ◆ In relation to the Appropriation Account the Accounting Officer is responsible for
  - (a) having the Account prepared and presented to the C&AG by 1 April of the year following that to which the account relates.
  - (b) signing the account.

### ***Statutory requirement to give evidence to the PAC***

Specific statutory responsibilities under the *Comptroller and Auditor General (Amendment) Act, 1993* to give evidence to the PAC on the issues set out in Paragraph 19 of the *Comptroller and Auditor General (Amendment) Act, 1993* relating to regularity and propriety of transactions recorded in any account subject to audit by the C&AG as well as the economy, efficiency of the Department in the use of its resources and the systems, procedures and practices for evaluating effectiveness (VFM).

In appearing before the PAC the Accounting Officer may not express an opinion on the merits of a policy.

Procedure exists for sending papers to the C&AG and Department of Finance in circumstance where there is a difference of opinion between the Accounting Officer and the Minister in an area for which the Accounting Officer has responsibility.

Source: *Comptroller and Auditor General Act, 1993; Public Financial Procedures.*

4.5 There are significant overlaps between the role of Secretary General and that of Accounting Officer in relation to financial management.

- ◆ As Secretary General s/he must ensure that the Minister is advised on any matter that would give rise to material expenditure on the Appropriation Account. As Accounting

Officer s/he has a responsibility to ensure that all relevant financial considerations are taken into account in relation to the preparation and implementation of policy proposals that have implications for income and expenditure for which s/he as Accounting Officer would have a responsibility.

- ◆ As both Secretary General and Accounting Officer s/he would be expected to have adequate financial management/control systems in place to support the proper administration of the Department's functions in an economic and efficient way as well as meeting the requirements of regularity and propriety. S/he would also be responsible in both capacities for the provision of cost efficient public services.
- ◆ There is a specific statutory requirement on Secretaries General under the *Public Service Management Act, 1997* to ensure that the resources of the Department are used in a manner which is in accordance with the *Comptroller and Auditor General (Amendment) Act, 1993* so as to enable the Department to appropriately address the matters referred to in Section 19 of that Act. This makes regularity, propriety and value for money key requirements in managing the resources of the Department.
- ◆ In both capacities s/he would be expected to ensure that responsibilities are assigned to officers of appropriate experience and expertise.

4.6 From the above it can be seen that the financial management responsibilities of Accounting Officers also necessarily constitute part of the general management responsibilities of Secretaries General under the Minister.

4.7 There are issues for which the Secretaries General have responsibility which are not part of their duties as Accounting Officers. These would include the preparation of the Strategy Statement which constitutes a framework for action by the Department agreed between the Secretary General and the Minister. The Secretary General is also responsible for preparing progress reports on its implementation. Under the 1997 Act accountability for the Strategy Statement is to the Minister who is in turn answerable to the Oireachtas for the performance of his Department. Secretaries General and other officials may also be required to appear before the relevant Oireachtas Committee in relation to the Strategy Statement (the Orders of Reference of which make specific reference to the consideration of Strategy Statements). In appearing before these Committees they appear "on behalf of the Minister".

4.8 The Strategy Statement is relevant to the work of the C&AG to the extent that it is open to him to have regard to it, and other statements/reports published by Departments, in carrying out VFM examinations. In this context the Strategy Statement could be relevant to an Accounting Officer's evidence to the PAC on a VFM report.

4.9 While the Secretary General is not accountable to the PAC for the policy effectiveness of the operations of the Department, in both his/her Secretary General and Accounting Officer capacity s/he has a responsibility for having management systems in place to enable the Department to evaluate the effectiveness of its operations. Such systems are important in providing the information necessary to enable the Department assess its performance against its key objectives. The examination of such systems is an essential element of the VFM mandate of the C&AG. The Accounting Officer is answerable for the quality and reliability of such systems. In addition to regularity and propriety of the transactions recorded in the accounts and the economy and efficiency of the Department in the use of its resources, in appearing before the PAC the

Accounting Officer may be required to give evidence on the systems procedures and practices employed by the Department for the purpose of evaluating the effectiveness of its operations.

- 4.10 The functions of Accounting Officers in preparing the Appropriation Accounts and giving evidence before the PAC are not part of the functions assigned to Secretaries General pursuant to the 1997 Act, and the provisions of that Act do not apply in relation to the exercise of those functions. Nor was it intended that this should be the case.
- 4.11 Moreover, because the Accounting Officer's responsibilities are personal to that role, the relationship of the Accounting Officer to the Minister is somewhat different from that which otherwise exists between a Secretary General and a Minister. This is emphasised by the fact that while there are procedures which enable the Minister to override the Accounting Officer in relation to an area for which the Accounting Officer has a responsibility, in these circumstances the papers are sent to the C&AG. It would also be a matter for the PAC to examine any issue that has been brought to its attention by the C&AG in that regard. In practice, the full formal procedure set out in *Public Financial Procedures* is rarely, if ever, used as issues are normally resolved between the Accounting Officer and the Minister. This does not, however, detract from the usefulness of having such a procedure in place. The Group sees this procedure as an important component of the checks and balances in the system of accountability for public money.
- 4.12 Figure 1 illustrates the Secretary General and Accounting Officer functions, their reporting arrangements including those to Oireachtas Committees and the relationship with the Minister in both roles.

**The Accounting Officer** gives evidence to the PAC on regularity, propriety and value for money as set out in Section 19 of the Comptroller and Auditor General (Amendment) Act, 1993. S/he appears before the PAC in his/her own right.

**The Secretary General** appears before Select and Joint Committees on a variety of issues relevant to the Department including the Strategy Statement in the case of Joint Committees. S/he appears before these Committees “on behalf of the Minister” as part of the Minister’s constitutional responsibility.

— — — — — Represents the power of the Minister to give written directions to both the Secretary General and the Accounting Officer

— — — — — In circumstances where Accounting Officer is overruled in writing by the Minister the papers are sent to the C&AG.

- 4.13 Compliance with proper financial procedures is an essential element in the responsibilities of an Accounting Officer. Adherence to procedures is subject to audit and examination by the C&AG and to scrutiny by the PAC. Compliance with procedures is an important means of ensuring regularity and propriety. Issues can arise from time to time where there is perceived to be a conflict between, on the one hand, the requirements of normal public financial procedures and the national interest where a particular course of actions is taken because of time pressure or where issues of security or confidentiality arise on the other. There are, however, normally mechanisms within the existing systems that can be availed of (e.g. in the case of contracts, referral to the Government Contracts Committee) to cater for exceptional circumstances where there are reasons warranting departure from normal procedures.

- 4.14 The dual role of Secretary General and Accounting Officer involves a complex set of responsibilities and reporting arrangements both to the Minister and to Oireachtas Committees. While there may appear to be the potential for conflict in the exercise of the dual responsibility to the Minister and to the PAC in the case of the Accounting Officer, the Group considers that there are sufficient checks in the system to overcome difficulties that may emerge on exceptional occasions.
- 4.15 There are also important synergies arising from the role. The fact that the duties of Accounting Officer are vested in the most senior official in the organisation, who is personally answerable to the PAC, gives an important focus to managerial accountability for regularity, propriety and value for money in the operations of the Department. This, in turn, contributes to and underpins the exercise of the Secretary General function.
- 4.16 The responsibility of the Accounting Officer gives him/her considerable authority within the organisation, particularly in relation to advice given to the Minister, without undermining the authority of the Minister who is in charge of the Department. As outlined in Paragraph 4.11 it remains open to the Minister to overrule an Accounting Officer in writing. The prohibition on Accounting Officers and Secretaries General from commenting on the merits of policy when appearing before Oireachtas Committees is also intended to maintain the distinction that it is the Minister who is responsible to the Oireachtas for policy matters.
- 4.17 The role of Accounting Officer can be seen as part of a delicate system of checks and balances which makes a senior official answerable to the PAC (who report to the Dáil) for public funds in accordance with the relevant legislation while at the same time maintaining the authority of the Minister in relation to the Department.

## CHAPTER 5

### STRATEGIC MANAGEMENT INITIATIVE – CONTRIBUTION TO ACCOUNTABILITY

- 5.1 The Strategic Management Initiative (SMI), and in particular the 1997 Act, is significant from an accountability perspective because it makes more explicit what Secretaries General (and other officers) are responsible for and to whom they are accountable. It also provides a framework, through the processes introduced, to facilitate the discharge of these statutory accountabilities, which build on earlier developments relevant to the Group's considerations such as the expanded audit remit of the Comptroller and Auditor General provided for under the 1993 Act.
- 5.2 This Chapter examines aspects of the Strategic Management Initiative with particular reference to the Strategy Statement, the Management Information Framework and the Performance Management and Development System and considers the implications of these processes for the accountability of Secretaries General including their Accounting Officer capacity.
- 5.3 Later in Chapter 7 the Group also examines the Strategy Statement and the Performance Management and Development System specifically in the context of the governance arrangements in place for Secretaries General.

#### The Strategic Management Initiative

- 5.4 The central thrust of the reform programme under the Strategic Management Initiative is the achievement of excellence in service and value for money for the Government and for the public as customers and clients across the range of services provided by Government. The reform programme is directed at the twin goals of *better government* through improved service delivery, openness and transparency in operations, better quality regulation and *improved delivery* through continuous improvements in performance and a strong focus on results. To these ends one of the main objectives of the SMI is to improve structures and processes within Departments/Offices. Secretaries General have particular responsibilities as heads of Departments to promote and embed these reforms in their organizations.
- 5.5 There are a wide range of developments under the SMI. Those of primary concern to the Group are (i) the *Strategy Statement* and the annual progress reports thereon (ii) the introduction of new *financial management systems*, in particular, the *Management Information Framework* and (iii) the *Performance Management and Development System*. The *Expenditure Review Initiative*, undertaken as part of the SMI, is also important as is the *Quality Customer Service Initiative* which is designed to enhance performance by improving service standards for the recipients of services who also have an input into setting and providing feedback on the standards.
- 5.6 The developments outlined above are at various stages of implementation. The second round of Departmental Strategy Statements was prepared in 2001. Customer Action Plans under the Quality Customer Service Initiative have been prepared for the period 2001-2004 to coincide with Departmental Strategy Statements. Similarly, the second round of the Expenditure Review Initiative (2002-2004) is underway. It is expected that the first cycle of the Performance Management and Development System will

have been completed by Departments by the end of 2002. The Management Information Framework is a major project which it is intended will be implemented across Departments by 2005.

- 5.7 There are specific incentives to advance the modernisation agenda in the Programme for Prosperity and Fairness which provides that a 4% pay rise in 2002 will be paid in return for the implementation of key modernisation objectives set out in the Programme. Independent quality assurance of the achievement of the targets is to be provided by the Quality Assurance Groups.

### ***An Integrated Process***

- 5.8 The Strategy Statement, the Business Planning process and the Performance Management and Development System are part of an integrated process of Strategic Management within Departments and Offices, the essential and interdependent elements of which are:

- ◆ The development of multi-year strategic goals/objectives through the Strategy Statement which should be generally expressed in terms of the results or outcomes that it is intended to achieve.
- ◆ Monitoring results through annual reports.
- ◆ Proactive management within Departments on the basis of Business Plans.
- ◆ Associated assignment of functions to individuals and teams and the putting in place of an ongoing process of managing performance at all levels - through greater role clarity, through setting objectives and related performance targets for both individuals and teams and through monitoring progress on their achievement.

### ***The Strategy Statement***

- 5.9 Through the Strategy Statement, the 1997 Act provides a framework for setting the high level objectives, outputs and related strategies, (including use of resources) of the Department/Office. The Secretary General has a specific duty under the Act to prepare and submit the Strategy Statement to the Minister who has to approve it with or without amendment and lay it before the Houses of the Oireachtas. The Strategy Statement is significant from an accountability perspective because it provides information to the Oireachtas (whose Committees may consider it) as well as to citizens generally on the objectives of the Department.
- 5.10 It is essentially a forward-looking document that serves as a framework for action by the Department and which incorporates sufficient flexibility to meet the changing environment. To enable the assessment of organisational performance, the statement should include quantitative and qualitative *performance indicators* which, together with the *Expenditure Review* process, should be capable of illustrating whether or not the targets are being achieved.
- 5.11 Similarly, the Customer Action Plan, under the Quality Customer Service initiative, allows Departments to outline their responses to the specific service delivery-related objectives required under the Programme for Prosperity and Fairness.

### ***Reporting on Progress***

- 5.12 A key element in the process is reporting on progress. The annual progress report (annual report) is expected to give an accurate picture of progress. It should be clear from the report whether or not objectives are being achieved and it should set out the reasons where targets are not met or problems encountered. It also provides an opportunity to highlight changing circumstances and emerging issues.
- 5.13 The Committee of Public Management Research published a discussion paper in 2001 reviewing annual Progress Reports<sup>27</sup> which indicated a number of limitations in the manner in which progress has been reported by Departments to date and highlighted a number of issues which it considered needed to be addressed. These included the absence of data which would enable an assessment to be made of how Departments are progressing against agreed objectives and strategies.
- 5.14 The Group recognizes that measuring and accounting for performance are important issues. It confirms that which is inherent in the SMI process namely that
- ◆ Internally Departments need to have systems in place to measure the effectiveness of their operations. This is an important part of the responsibilities of both Secretaries General and Accounting Officers which is subject to review and report by the C&AG. The Management Information Framework and the Expenditure Review Initiative (see below) have important roles to play in that regard.
  - ◆ Measurement systems are needed to support continuous improvement within the organisation.
  - ◆ There is a need for formal structures within Departments to review the achievement of objectives at senior management level by the Management Advisory Committee and at Divisional level through the business planning process.
  - ◆ The creation of meaningful output and outcome measures requires sustained effort by Departments. While there are undoubtedly particular difficulties surrounding policy programmes or areas of work which are primarily advisory in nature, in principle, it should be possible to devise an appropriate system of measurement. Substantial flexibility will be required in this respect for different Departments and functions. Such areas may benefit more from a periodic in depth review rather than annual measurement.
- 5.15 It can be argued that either performance data or the systems providing data for performance reports should be externally validated. There have already been moves in that direction with the establishment of sectoral Quality Assurance Groups to review public service modernisation indicators agreed under the Programme for Prosperity and Fairness. In respect of the National Development Plan, the NDP/CSF Evaluation Unit commissions external evaluation of expenditure under the Plan. The external validation of performance information is, however, a complex issue which is the subject of debate internationally and is one which requires detailed consideration as to by whom, and in what manner, this data should be reviewed.
- 5.16 In reporting on performance it also needs to be recognised that the Minister remains politically accountable for the policy performance of the Department to the Oireachtas. From an accountability perspective the question of reporting needs to have regard to the responsibilities of the Accounting Officer in giving evidence to the PAC which is set out in legislation, and the separate accountability of the Secretary General to the Minister through the Strategy Statement set out in the 1997 Act.

- 5.17 The Group considers that Parliamentary Committees have an important role to play in evaluating Departmental Strategy Statements by inviting Ministers, Secretaries General and other officials to appear before them. The Group would welcome more consideration of Strategy Statements by Committees in line with Orders of Reference of Joint Committees. The Strategy Statements and the annual progress reports provide an ideal opportunity to review plans and assess progress. This, in turn, would increase the focus on results-based management. The Group would encourage the maximum use by the Oireachtas of this mechanism.

### ***The Management Information Framework***

- 5.18 The Secretary General as manager of the Department and also as Accounting Officer is responsible for the financial management systems in place in the Department. In that capacity s/he has overall responsibility for the implementation of the Management Information Framework (MIF) which is one of the elements of the reformed financial management system. The other elements are:

- ◆ A multi-annual budgetary framework.
- ◆ Greater delegation to line Departments and within Departments (while recognising that substantial delegation has already taken place).
- ◆ Reforms to the Administrative Budget System.

- 5.19 The MIF is designed primarily to support the central elements of the SMI. It provides the financial information and disciplines that must underpin or correlate with the other elements of the process. It is particularly relevant to the business planning process. In addition to meeting management information needs internally the MIF will enhance the availability of data required for the preparation of the Appropriation Accounts and other Departmental and statutory accounts.

- 5.20 The MIF has the capacity to improve the financial management processes within the Department/Office. It will introduce modern business tools which will approximate those in use in the private sector.

- 5.21 By facilitating the allocation of costs to programmes and providing data on financial and non-financial performance indicators the MIF will help to provide a basis for *value for money* assessments of the Department's programmes. This will support the expanded legal responsibilities of Accounting Officers under the *Comptroller and Auditor General Act, 1993* as well as other officers to whom responsibility is assigned under the 1997 Act. It will also support the preparation of Strategy Statements as well as the regular monitoring of progress. Improved financial information will also improve the link between financial analysis and decision making.

- 5.22 The MIF will provide financial information on a regular and timely basis to all levels of management. Management accounts will become a regular feature of Departments' ongoing operations. This should improve *control* by providing regular information to sections of actual expenditure against budget and details of commitments entered into in advance of payment being made.

- 5.23 The system will support improved *asset management* by recognising, through the inclusion of depreciation, the ongoing and future cost of using capital assets. It will also capture information on assets and liabilities (currently prepared on an accruals

basis at end year for the Appropriation Accounts) and bring this information into the management accounts of the Department.

Figure 2 illustrates the role of the MIF in supporting both the Secretary General and the Accounting Officer functions.

- 5.24 The recent review of the SMI carried out for the Department of the Taoiseach by the PA Consulting Group<sup>28</sup> identified financial management and, in particular the MIF, as one of the key components of the SMI that requires accelerated progress over the next five years. The Group recognises that the MIF is a complex project which will take a number of years to fully implement. It is strongly of the view that it is a key element in supporting both the Secretary General and the Accounting Officer to enable them and other officers in the Department to discharge their responsibilities for financial management as well as their other management responsibilities.

For that reason the Group endorses fully the MIF Initiative and recommends that

*Secretaries General should give priority to the implementation of the MIF in their Departments.*

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<sup>28</sup>Evaluation of the Strategic Management Initiative, March 2002.

5.25 Other elements of the financial reform process will also make a contribution. The *Expenditure Review Initiative* (ERI), for example, (whose purpose is to review the efficiency and effectiveness of Government expenditure) will continue to be an important mechanism in the evaluation of programme efficiency and policy effectiveness. The recent review of the SMI sees the *Expenditure Review* process as representing a critical link between the objectives set out in the business plans and the evaluation of subsequent outputs. The process should also assist in the formulation of meaningful outcome measures. The Group notes that the ERI is being enhanced by providing more central support to Departments for the process.

### ***The Performance Management and Development System***

5.26 The Performance Management and Development System (PMDS) is part of an overall HRM strategy based on the devolution to managers of responsibility for staff. This requires

- ◆ Re-orienting the role of Human Resource Management (HRM) units to provide a more strategic input into the management of individual organisations.
- ◆ That performance, and the competencies and training to underpin improved performance are integrated into human resource management systems.

5.27 The purpose of the PMDS system is to align individual and team performance with the goals of the organisation, through greater clarity in setting objectives and related performance targets for individuals and teams as well as monitoring progress in their achievement. It also provides a context in which the development needs of job holders can be addressed.

5.28 The system aims to improve the knowledge base and skills by identifying gaps that exist between the current level of competencies and those that are required for the job. Training and development will be used to acquire and strengthen the required competencies.

5.29 PMDS can contribute to improving financial management and overall management within Departments/Offices through a greater focus on (i) the contribution of staff to the strategic goals and objectives of the organisation (ii) the competencies required to exercise these responsibilities at individual and team level, and (iii) addressing any deficiencies identified through training and development programmes. In so far as financial management is concerned this applies to finance/accounts units in Departments which have specific responsibilities in these areas and also to line managers who may have been assigned responsibilities under the 1997 Act.

### **What More Can be Done by Senior Management to support the SMI?**

5.30 In the Group's view the SMI provides an integrated framework that can be used by the Secretary General/Head in his/her capacity as manager of the Department and as Accounting Officer to improve strategic management, financial management and the devolution of responsibility within the organisation.

5.31 While the Secretary General can secure significant benefits from these developments as Departmental head s/he also has responsibilities for ensuring that the Strategic

Management related initiatives are successfully promoted and embedded in the organisation.

5.32 While a complete review of the SMI has been completed by PA Consulting as a separate exercise, the Group did look again at financial management particularly in relation to the role of senior management. A number of issues were identified, including a number which had been identified earlier by the Financial Management Working Group (who devised the framework for the MIF). In relation to the role of senior management the Group would emphasise the importance of the following:

- ◆ *Effective leadership, management and development of people*, is a major issue in delivering on the change agenda and in securing the *cultural change* required to successfully embed new systems. The partnership process is important in that regard. It is also important that the efforts made within the organisation to adapt to new processes are recognised and reinforced by senior management.
- ◆ Ensuring that *financial management issues are an integral part of the management culture* of Departments and Offices. This can be facilitated by the regular tabling of management accounts at Management Advisory Committee meetings, chaired by the Secretary General.
- ◆ In an integrated framework such as is provided by the SMI, there is a *need for improved linkages* between strategic objectives and the resources required to deliver them.
- ◆ The need to *improve the skills* of existing staff and to recruit staff with specialist expertise. Exploiting the possibilities inherent in the accounting and information systems will also mean training and developing staff outside the finance function to make them aware of the possibilities of the new systems. In that context there should be a link to the PMDS (e.g. Managing Budgets and Resources could be defined as a skill in the PMDS System).
- ◆ Where responsibility for budgets has been assigned there should be a *financial control framework* in place whereby individuals know what is expected of them and the parameters within which they are expected to operate. There should be robust reporting arrangements from all levels of assigned responsibility.

The process should be supported by well documented *financial procedures*.

## CHAPTER 6

### INTERNAL CONTROL AND INTERNAL AUDIT

- 6.1 A robust system of internal control is a key element of corporate governance arrangements in both the public and private sectors. The requirements of parliamentary accountability and the duties of Accounting Officers to ensure regularity, propriety and, more recently, value for money, in accordance with the 1993 Act has resulted in an emphasis on internal control, particularly internal financial control, in Government Departments. Ensuring that these requirements are met is also an important element of the Secretary General function. More recently, it has been accepted internationally that internal control encompasses the systems and procedures used for the achievement of organisational objectives. Risk management, which evaluates the risks to the achievement of objectives and puts in place a strategy for dealing with them, has also been put on a more systematic footing.
- 6.2 This Chapter considers how systems of internal control can be developed so as to contribute to the discharge of both the Secretary General and Accounting Officer functions.

#### Corporate Governance

- 6.3 Corporate governance concerns the systems and procedures by which organisations are directed and controlled.
- 6.4 The Secretary General as the civil service head of the Department together with the Management Advisory Committee (MAC), has a key role in ensuring that a corporate governance framework appropriate to the organisation is in place. A number of developments over the past 10 years have contributed to improving governance in the public service. These include:
- ◆ The SMI, reviewed in Chapter 5, which provides a framework for defining and delivering on objectives and for defining responsibility and accountability within Departments. It is also designed to improve structures and processes (including financial processes) within Departments which will in turn strengthen internal financial control as well as the overall control framework.
  - ◆ The Quality Customer Service Initiative and the Freedom of Information legislation give added emphasis to accountability to the citizen supported by processes within Departments to enable these responsibilities to be discharged. They build on earlier developments such as the *Ombudsman Act, 1980*.
  - ◆ The Standards in Public Office Commission, which was recently established, will have the power to investigate complaints against office holders, members of the Oireachtas and senior civil servants where it is considered that they have acted in a way that is inconsistent with the proper performance of the functions of the relevant position.
- 6.5 There have also been developments in the governance area in the wider public sector. As mentioned earlier in the report a Code of Practice for the Governance of State Bodies has been issued. The Department of Public Enterprise published a policy document on Governance and Accountability in the Regulatory Process in March 2000 which set out a range of policy proposals in relation to governance arrangements for the independent regulation of the transport, energy and communications sectors.

The proposals in relation to governance and accountability contained in the policy document are being included, suitably adapted, in legislation governing the regulatory authorities.<sup>29</sup>

- 6.6 In regard to the corporate sector the Office of the Director of Corporate Enforcement which has been established under the *Company Law Enforcement Act, 2001* with the role (together with other responsible bodies) of enforcing compliance with the requirements of the Companies' Acts and to promote good corporate governance across the corporate sector.
- 6.7 From a financial management perspective, the Group considers that a key element of the governance arrangements in the public service is the auditing of accounts by the Comptroller and Auditor General, who is an independent Constitutional officer, and the scrutiny of those accounts by the PAC.
- 6.8 Other developments have also contributed to developments in governance arrangements in relation to financial control. Departments with responsibility for EU funds have strengthened their internal control procedures in response to EU requirements. In the case of the Structural Funds for example member states are required to carry out systems audits and verification checks implemented by way of a series of cascade agreements between the succession of organisations delegated to implement operational programmes and projects. There are also detailed job description procedures/manuals which specify the duties, tasks and discharge methodology required for personnel involved in the implementation of EU co-financed activity. The Department of Agriculture, Food and Rural Development which is accredited as a Paying Agency for European Union FEOGA Guarantee funds explained to the Group that it has to meet complex accountability requirements at EU and national level. As part of the process the Independent Certifying Body that audits the accounts is required to report on internal controls within the Paying Agency against the standards of administration and control set down by the EU ("Accreditation Criteria"). The Department has put in place formal structures and processes to manage accreditation, including an Accreditation Review Group to monitor the process. It also strengthened its internal audit unit and established an Audit Committee with an external Chairman and other external representation.

### ***Internal control***

- 6.9 A key element in any corporate governance framework is an effective system of internal control.
- 6.10 Internal control has been defined as

*The whole system of controls, financial and otherwise, established by management in order to carry on the business of the enterprise in an orderly and efficient manner, ensure adherence to management policies, safeguard the assets and secure, as far as possible, the completeness and accuracy of the records ... it is the responsibility of management to decide the extent of the internal control system which is appropriate to the enterprise".<sup>30</sup>*

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<sup>29</sup>For example the Aviation Regulation Act, 2001, Gas (Interim) Regulation Act, 2002, Communications Regulation Act, 2002.

<sup>30</sup>The Auditing Practices Committee quoted in Internal Audit in Local Authorities - Department of the Environment & Local Government p. 5.

## *Internal Financial Control*

- 6.11 As indicated above, the requirements of Parliamentary accountability have meant that there has traditionally been an emphasis on internal control, particularly internal financial control, in Government Departments. Internal financial control includes
- ◆ A system of delegation and accountability.
  - ◆ Proper authority for the making of payments (e.g. Department of Finance sanction).
  - ◆ Segregation of duties particularly where the processing of transactions is involved.
  - ◆ Careful selection of officers with responsibility for money, including ensuring that they have the skills commensurate with their responsibilities and that they are appropriately monitored.
  - ◆ Documentary and physical controls to safeguard assets.
  - ◆ Information and reporting arrangements to management.
  - ◆ Documented financial policies and procedures; including ensuring that they are available throughout the Department.
  - ◆ Systems to ensure budgetary control.
  - ◆ Systems to review and evaluate controls (e.g. internal audit).
- 6.12 The C&AG in carrying out his audit of the accounts of Government Departments has particular regard to the system of internal control in place in the organisation and highlights in his report instances of the financial consequences of weaknesses in the system of internal control.
- 6.13 More recently, the focus of internal control internationally has been widened to encompass the systems and procedures used for the achievement of an organisation's objectives. Risk management, which consists of an evaluation of the risks to the achievement of objectives, has also been put on a more formal and systematic footing by the private and increasingly the public sector. It is seen as having an essential part to play in enabling organisations to pursue their strategic mission. It is also an important element of the system of internal financial control.
- 6.14 One of the principal sources for guidance on internal control is that prepared in the context of the internal control requirements of the Combined Code of the Committee on Corporate Governance in the UK (the Cadbury, Greenbury and Hampel reports). The Rutterman Committee (1994) addressed requirements in relation to internal financial control while the more recent Turnbull Committee (established in 1998 by the Institute of Chartered Accountants in England and Wales, supported by the London Stock Exchange) addressed the issue of internal control and risk management.
- 6.15 A sound system of internal control as envisaged in the Turnbull Guidance for Directors on the Combined Code encompasses the policies, processes, tasks, behaviours and other aspects of a company that, taken together
- ◆ Facilitate its effective and efficient operation by enabling it to respond appropriately to significant business, operational, financial, compliance and other risks to achieving the company's objectives. This includes the safeguarding of assets from inappropriate use or from loss or fraud, and ensuring that liabilities are identified and managed.
  - ◆ Help ensure the quality of internal and external reporting. This requires the maintenance of proper records and processes that generate a flow of timely, relevant and reliable information from within and outside the organisation.

- ◆ Help ensure compliance with applicable laws and regulations, and also with internal policies with respect to the conduct of business.<sup>31</sup>
- 6.16 The system of internal control, as envisaged in the Turnbull guidance, should be embedded in the operations of the company and form part of its culture, be capable of responding quickly to evolving risks and include procedures for reporting any significant control failures or weaknesses. Management are expected to provide (to the Board) a balanced assessment of the significant risks and the effectiveness of the system of internal control in managing those risks. Internal audit (while not mandatory under the Combined Code) is seen as making an important contribution to providing assurance or otherwise that the controls are in place and are working adequately.
- 6.17 It is also emphasised in the Guidance on the Combined Code that a sound system of internal control reduces but cannot eliminate the possibility of poor judgement in decision-making; human error; control processes being deliberately circumvented by employees and others; management overriding controls; and the occurrence of unforeseen circumstances. For these reasons a sound system of internal control provides reasonable but not absolute assurance that the company will achieve its business objectives and will conduct its business in an orderly and legitimate manner.<sup>32</sup>
- 6.18 Under the Combined Code, Boards have specific responsibilities in reviewing the effectiveness of internal control based on information and assurances provided to it as well as reports prepared specifically for it. They are also required to make a public statement on internal control which, should at a minimum state that
- ◆ There is an ongoing process for identifying, evaluating and managing significant risks.
  - ◆ That this process has been in place throughout the year under review,
  - ◆ The process is regularly reviewed by the Board.
  - ◆ The systems of internal control accord with the guidance in the Turnbull Report.

### ***Developments in relation to internal financial control***

- 6.19 While the main focus of the Combined Code and its associated guidance is listed companies, the central Government sector in the UK has adapted elements that are deemed to be relevant. For the past number of years Accounting Officers have been required to prepare and sign a statement on the system of internal financial control (adapting the Rutterman requirements) which accompanies the annual departmental accounts and which is subject to review by the Comptroller and Auditor General. This statement included the following:
- ◆ A statement that s/he is responsible for the Department's or body's system of internal financial control;
  - ◆ An explanation that such a system can provide only reasonable and not absolute assurance against material misstatement or loss;
  - ◆ Confirmation that there has been a review of the effectiveness of the system of internal financial control;
  - ◆ If appropriate, information about weaknesses in internal financial control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditors reports on the financial statements.

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<sup>31</sup>Turnbull Report p.7.

<sup>32</sup>ibid.

## ***Evaluation of the Internal Financial Control System***

6.20 Internal financial control is a key element in safeguarding public funds.

For that reason the Group recommends that

*Accounting Officers evaluate their systems of internal financial control with a view to ensuring that they have:*

- ◆ *Clearly defined responsibilities at management level with corresponding accountability.*
- ◆ *Clear reporting arrangements at all levels where responsibility for financial management has been assigned.*
- ◆ *Staff in Finance Units/Accounts Branches with skills commensurate with their responsibilities.*
- ◆ *Staff throughout the Department who are appropriately trained in the management of public funds (including the requirements of public financial procedures) and, when they become available, in the use of management accounts.*
- ◆ *Appropriate controls including the segregation of duties particularly where the processing of transactions/receipts is involved; systems of delegation including authorisation limits for the making of payments.*
- ◆ *Documented procedures for internal financial control (including desk instructions for staff that translate statutory and other requirements into a set of operating procedures).*
- ◆ *Adequate systems for budgetary control (including systems for comparing results with budgets through out the year).*
- ◆ *Systems for monitoring the effectiveness of internal financial control including internal audit and audit committees, management reviews etc.*
- ◆ *An assessment of significant financial risks (see also paras. 6.29-6.32 below).*

### ***Statement on Internal Financial Control***

6.21 The recently issued *Code of Practice for the Governance of State Bodies* requires the Chairperson of each State body to furnish a Statement to the relevant Minister regarding the system of internal financial control. This statement is also to be included in the annual report of the State body and is to be reviewed by the external auditors (a copy of the format for such a statement is attached at Appendix 3).

6.22 The Group recommends that

*Accounting Officers, submit with the Appropriation Accounts, a descriptive Statement on Internal Financial Control broadly similar to the format required for the Chairperson of State Bodies. The Statement should be reviewed by the Comptroller and Auditor General for consistency with information of which he was aware from the audit of the financial statements.*

*Any such statement would have to be qualified to the effect that the systems of internal financial control can provide only reasonable and not absolute assurance against material error.*

6.23 The Group also stresses that improving systems of internal financial control is a continuous process. (As indicated in Chapter 5 an integral part of the SMI process are efforts to improve financial management including improvements in internal financial control). In proposing the adoption of comprehensive control systems the Group

acknowledges that the full installation of such systems together with the supporting management information framework represents a major multi-year development agenda for Departments. In this context the descriptive statement on internal financial control should record the annual progress made in embedding the required systems. The Group would further stress that even where adequate systems have been put in place there should be a commitment to continuous improvement. The Group also considers it important that, in circumstances where improvements are made by Departments, there is appropriate recording and acknowledgment of the progress made in the audit and accountability process.

### ***Internal Control in the Wider Sense***

- 6.24 The determination of policy and the priority accorded to individual policies is a matter for the Government although the Secretary General/senior management will advise on the implications of various policy options including their financial implications. In so doing they will draw on appropriate appraisal techniques such as the procedures used for the appraisal of proposed capital projects.
- 6.25 A sound system of internal control is a management responsibility, it is primarily concerned to ensure that the objectives of the Department as set out by the Government are implemented in an efficient and effective manner.
- 6.26 As indicated in paragraph 6.10, internal control is wider than financial control although a failure in internal control can have financial consequences. In the wider sense it encompasses the whole system of controls (financial, operational and compliance) established by management with a view to ensuring that the business of the organisation is carried out in an orderly and efficient way, that management practices are adhered to, assets are secured that records are accurate and complete. A robust system of internal control should provide reasonable assurance that the actions taken by the organisation will achieve its objectives.
- 6.27 A sound system of internal control, because it relates to all the activities of the Department, is particularly relevant to the management responsibilities of Secretaries General.
- 6.28 The Group sees developments under the SMI - including Freedom of Information, the Quality Customer Service Initiative, the preparation of Strategy Statements and business plans as well as the Performance Management and Development System - as having a significant contribution to make to strengthening general control by providing a framework for improving structures and processes within Departments with a view to achieving the Department's objectives. This reinforces the Group's view of the importance of embedding SMI driven structures and processes in Departments as soon as possible.

### ***Risk Management***

- 6.29 Systematic risk assessment and management is becoming an increasingly important part of internal control as its identification and management is seen as necessary to maximise the likelihood of achieving desired outcomes. As part of this process formalised risk management is becoming an increasingly important element of the internal control framework in Central Government in the UK and internationally.<sup>33</sup>

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<sup>33</sup> Adapting the requirements of the Turnbull Report UK Departments, executive agencies, executive Non-Departmental Public Bodies, are required to sign a statement on Internal Control (which has a strong emphasis

The Canadians, for example, are placing greater emphasis on risk management as part of their programme to modernise comptrollership (i.e. a set of principles and processes that underpin how management carry out their stewardship responsibilities). The risks to be addressed as part of a risk assessment and management programme are wide-ranging and include strategic, operational, financial and reputational risk. A risk strategy does not mean that sensible risks should not be taken, but that they should be properly assessed and managed.

6.30 The Group considers that risk assessment and management are key elements in a robust system of internal control. As stated above, because of the relevance of a sound system of internal control to all the activities of the Department, measures taken to assess and manage risks should work to support the Secretary General as civil service head of the Department (including in his/her Accounting Officer capacity).

6.31 Risks fall into a variety of categories, some of the most common of which include

- ◆ Strategic risks (risks that may be external to the organisation such as the economic climate, including factors such as interest rates, exchange rates and inflation).
- ◆ Operational risks (relating to the procedures/technologies etc. employed to achieve particular objectives).
- ◆ Financial risks (relating to the procedures/systems/accounting records in place to ensure that the organisation is not exposed to avoidable financial risks, including risks to assets).
- ◆ Reputation risks (involving risks to the public reputation of the organisation and their effects).

6.32 Historically, Government Departments have had procedures in place to manage financial risks particularly in so far as they relate to the stewardship of public funds. Risk assessment and management, in the wider sense referred to above, is also carried out informally in Departments but formal risk management strategies are not, in general, in place. The Group considers that there is strong case for integrating them formally into the management processes of the Department and it recommends that this be done. The Group is aware, in proposing greater formalisation of the risk management process, of the pressure on Departments arising from the modernisation agenda and other initiatives. It is also aware that particular difficulties arise for smaller Departments and Offices in implementing new initiatives. For that reason it recommends that the following approach be adopted in introducing a formalised risk management system:

- ◆ *Central guidance on the development of a risk strategy, appropriate to Government Departments, should be prepared by the Department of Finance. This should address the principal elements of the risk identification and management process.<sup>34</sup>*
- ◆ *Within Departments the risk management system should concentrate on the principal risks to the organisation as well as the principal risks arising from its relationship with other organisations. The risk assessment and management process should be integrated into existing management systems and should be kept as simple and straightforward as possible.*

on risk assessment and management) in respect of the first financial period after 1 January 2001.

<sup>34</sup>There is already a substantial amount of literature available which should facilitate the preparation of such guidance.

- ♦ *In introducing a risk management programme full use should be made of existing systems, processes and procedures. For example, Audit Committees could advise on Departmental risk management strategies. Risk assessment should also be formalised into the processes for the preparation of the Strategy Statement, business plans, PMDS and annual reports.*<sup>35</sup>
- ♦ *Risk management should feature on the agenda of divisional meetings and of meetings of the Management Advisory Committee.*

### **Internal audit**

- 6.33 It is not the function of the Group to undertake a comprehensive examination of the internal audit function. Internal audit standards for Government Departments have been available since 1992. There are a number of recent reports which have examined the internal audit function in local authorities and Health Boards as well as the guidelines which have issued to Semi-State Bodies which make recommendations as to best practice.<sup>36</sup> While these bodies differ in structure from central Government Departments, many of the recommendations could be applied to the internal audit function in central government. The main focus of the Group's examination is to look at the contribution which internal audit can make to the Accounting Officer and Secretary General/Head in the discharge of his/her duties by offering assurance on the system of internal control including internal financial control.
- 6.34 Internal Audit is defined (by the Auditing Practices Board) as

*“An independent appraisal function established by the management of an organisation for the review of the internal control system as a service to the organisation. It objectively examines, evaluates and reports on the adequacy of internal controls as a contribution to the proper, economic, effective and efficient use of resources”.*<sup>37</sup>

### **External and Internal and audit**

- 6.35 External audit is a form of external review, conducted by an independent auditor, in order to hold the organisation and management accountable to a higher authority. Internal audit is a review function which reports to management. In a recent special review on the Internal Audit in the Health Boards, the Comptroller and Auditor General comments on the role of internal audit as follows:

*“While the role of internal audit is determined by management and its objectives may differ from those of external audit, there is an inevitable commonality of interest between both types of audit. Consequently, it is evident that in organisations where internal audit operates effectively the assurance required by external audit can be more readily provided”.*<sup>38</sup>

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<sup>35</sup>This is already being done in some Departments. For example the Department of Agriculture, Food and Rural Development, in the context of the business planning process, has asked each Division to include an assessment of the key risks it faced - strategic, operational, financial and reputational. The Department will draw up a Risk Management Programme drawing on appropriate external expertise.

<sup>36</sup>Internal Audit in Health Boards - published by Comptroller & Auditor General.

<sup>31</sup>Internal Audit in Local Authorities - Department of the Environment & Local Government.

<sup>32</sup>Code of Practice for the Governance of State Bodies.

<sup>37</sup>Quoted in Internal Audit in Local Authorities - Department of the Environment & Local Government, p.5.

<sup>38</sup>Comptroller and Auditor General Special Report - Internal Audit and the Health Boards - August 2000 p 4.

- 6.36 Similarly the Sharman Report in the UK on “*The review of Audit and Accountability for Central Government*” argues that the sound control of public money depends on a combination of robust internal controls and independent external audit. Arrangements for sound internal control include strengthening the role of internal audit.
- 6.37 It should be emphasised, however, that management at all levels in a Department have primary responsibility for the internal control system in the Department. Having an internal audit function does not absolve management from that responsibility but if properly structured and implemented, it provides senior management with an assurance or otherwise as to the adequacy of the internal control system.

### **Scope of Internal Audit**

- 6.38 The range of internal audit activity covers the whole network of the organisation’s systems. Its primary objectives are to review and appraise
- ◆ The systems and procedures (financial and managerial) which are intended to control the Department’s operations.
  - ◆ The adequacy, reliability and integrity of the information being provided for decision making and accountability.
  - ◆ The degree of compliance with legislation, requirements laid down centrally (e.g. by the Department of Finance) and with management plans, procedures and policies.
  - ◆ The procedures for the acquisition and disposal of assets and the safeguarding of assets and interests from losses including those arising from fraud, malpractice and irregularity.
  - ◆ Arrangements for economic and efficient use of resources.

It may also be required to carry out special investigations and provide a consultative role to management.

- 6.39 Almost all Government Departments and Offices have an internal audit unit or, in the case of a number of the smaller offices, are clients of their parent Department. The size and experience of units tends to vary with the size and complexity of the business carried out by Departments. In a number of cases internal audit units have been expanded to cater for the additional audit functions placed on Departments as a result of EU financial management and control requirements.

### **Internal Audit as an Aid to Accountability**

- 6.40 The sound control of public money depends on a robust system of internal control. By providing independent opinion on systems, procedures and controls, internal audit is an important element in providing assurance to the Accounting Officer on the system of internal control. This in turn assists Accounting Officers in discharging both their responsibilities for the integrity of the accounts which they must furnish to the C&AG to be audited and reported on to the Dáil, and in discharging their responsibilities to the PAC as well as to the Minister as Secretary General of the Department.

### **Internal Audit and the Accounting Officer**

6.41 In recognition of the importance of internal audit, Accounting Officers have specific responsibilities for the function. They are expected in accordance with *Public Financial Procedures* and *Internal Audit Standards* (issued by the Department of Finance) to

- ◆ Approve the written Charter or Mission Statement of the Unit.
- ◆ Ensure the independence of the unit by, inter alia, ensuring that the Head of the Internal Audit Unit works under the general direction of the Accounting Officer to whom he has direct access.
- ◆ Agree with the Audit Committee, where one exists, the planned work schedule for the Unit. Planning should be documented and should include
  - agreement with the Accounting Officer of audit scope and objectives
  - setting priorities as regards areas to be audited
  - determining the requirements in terms of people, time and other resources.
- ◆ Review the internal audit function to ensure that they are getting the desired quality of assurance.
- ◆ Ensure appropriate follow-up action is taken on internal audit reports.
- ◆ Ensure that a programme of staff training and development is in place for staff involved in Internal audit.
- ◆ Establish Audit Committees, where appropriate.

6.42 Traditionally the focus of internal audit has been to provide a service to the Accounting Officer and to management generally in relation to the reliability and integrity of the systems underlying financial transactions and financial statements of the organisation. Internal Audit Units adopt a systems-based approach to their work but transaction testing may also be employed.

6.43 Under the expanded statutory remit introduced in the 1993 Act the Accounting Officer has a statutory responsibility to give evidence to the PAC on economy and efficiency in the use of resources and the systems, procedures and practices employed to evaluate effectiveness. Internal audit has a role in providing the Accounting Officer with assurances that the systems and procedures are in place to discharge his/her VFM responsibilities. It is important that this added function be emphasised so that Accounting Officers/Secretaries General can come to defensible conclusions as to the efficiency and effectiveness of the Department's operations. The Group emphasises, however, that it is not the task of the internal audit unit to carry out programme evaluations or other reviews proper to line management and other functions in the organisation (e.g. O&M, OR, Management Services).

6.44 Internal audit has an important role in providing assurance or otherwise on systems of internal control in the wider sense as it is now understood. In that context it is well positioned to independently assess the adequacy or otherwise of the systems in place to assess and manage risk. The Group would stress that while internal audit can contribute to assessing whether systems and procedures are in place and are adequate

for the task in hand, risk assessment and management are the responsibility of management.

6.45 With the growing complexity of the technology used to deliver Government services, the Group considers it important that Departments have an internal audit capacity to undertake the critical examination of the computer systems used to deliver Government services. It understands that a number of the larger Departments have developed or are in the process of developing the capacity of internal audit units to undertake audits of computer systems or are engaging consultants for this purpose. Smaller Departments have identified this as an area where they may require specialist expertise or the facility to contract in such expertise.

6.46 In view of the importance of the internal audit function the Group recommends that

- (i) Departments/Offices should have either (a) a fully functioning, adequately resourced internal audit unit (capable of undertaking broad audit coverage of the organisation) whose staff are appropriately trained, preferably to an appropriate professional standard, or (b) where the size or the risk to the Department/Office does not warrant a separate unit, that they have access to such a unit through a joint venture or client arrangement with another Department; or some other appropriate arrangement.*
- (ii) The information on internal audit in the Statement on Internal Financial Control to be signed by the Accounting Officer should include appropriate information on the unit.*
- (iii) The Internal Audit Unit, including the head of Internal Audit (who should not have other responsibilities), should have sufficient status and access within the organisation to promote the unit's independence and to ensure follow-up on its recommendations.*

### **Central Support for the Internal Audit Function**

6.47 The primary responsibility for ensuring that the internal audit function is properly structured and implemented rests with individual Accounting Officers. The Department of Finance as part of its government accounting/financial management responsibilities does, however, have a role in promoting the internal audit function by issuing internal audit standards, liaising with the Centre for Organisation and Management Development on the training of internal audit staff, and in servicing the Internal Audit Network. The Department of Finance also conducts periodic reviews of the internal audit function in Departments.

6.48 The Group sees merit in developing further the central support for the internal audit function. Given that the Department of Finance already has a role in that regard, the Group recommends that

*Consideration be given to further developing the Department of Finance's central role in (i) co-ordinating issues relevant to the development of the internal audit function (ii) the training of internal auditors leading to appropriate professional qualifications and (iii) promoting best practice in internal audit in conjunction with Internal Audit Units, Accounting Officers and the Office of the Comptroller and Auditor General.*

### **Audit Committees**

6.49 Audit committees are becoming an increasingly important part of the corporate governance framework in the private sector. The Review Group on Auditing, which was established following the DIRT Report, recommended that Boards of Directors of PLCs, financial institutions and public interest companies should be required by legislation to establish audit committees the membership of which should be made up of non-executive directors. Under the Code of Practice for the Governance of State Bodies, State bodies are required to establish audit committees and a framework code of best practice is set out in that regard.

6.50 While audit committees are also becoming an important feature of the corporate governance framework of the civil service, there are a number of Departments/Offices who do not have an audit committee.

6.51 The Group considers that Audit Committees perform the following useful functions

- ◆ They can act as another source of independent advice to Accounting Officers.
- ◆ They can review the plans and reports of the internal audit unit and can quality assure the service provided by the unit.
- ◆ They can assess whether appropriate action is taken to deal with key issues identified by the internal audit unit and by external audit.
- ◆ They can examine and monitor the implementation of the Department's risk management strategy.
- ◆ Provided they have representatives external to the Department they can facilitate improvements in internal audit and internal control through the exchange of information between (i) Departments/Offices and (ii) between the private and public sectors.

6.52 One of the key recommendations of the Sharman Report in the UK with regard to accountability arrangements relates to audit committees. It is recommended that all UK Departments have a formally constituted audit committee preferably chaired by a person from outside the Department and if possible consisting solely of independents (or at least a majority of such people).<sup>39</sup>

6.53 The Group considers that audit committees, particularly if they have external representation, can make a valuable contribution to strengthening internal control in Departments.

It recommends that

*There be a formally constituted Audit Committee in each Department/Office (or in*

<sup>39</sup>Sharman Report p.1.

*the case of small Offices which would not justify a separate committee, that there be a separate committee that covers a number of the smaller Offices).*

*Each Audit Committee should*

- ◆ *Operate under a written charter.*
- ◆ *Have significant external representation (at least 2 members), including, in the normal course, representatives from the private sector with appropriate expertise. The Chairperson of the Committee should come from outside the Department.*
- ◆ *Prepare an annual report to the Accounting Officer reviewing its operations.*
- ◆ *Invite the Comptroller and Auditor General, or his nominee, to meet the Committee at least once a year.*

## **Rules and Standards**

- 6.54 The Group also sees merit, as suggested in a submission to the Group, in preparing more detailed guidance for Accounting Officers.
- 6.55 As indicated in Chapter 3, the Auditing Practices Board has recently issued guidance on the Audit of Central Government Financial Statements in Ireland. The practice note is primarily designed to provide auditors with guidance on the application of Statements of Auditing Standards (SAS's) and place them in a central government context. In the Group's view the practice note will also provide useful guidance for Accounting Officers particularly in relation to the issues taken into account by auditors of Government Departments and entities.
- 6.56 On appointment, the attention of Accounting Officers is drawn to the relevant extracts from *Public Financial Procedures* and in particular, to paragraph A5 which outlines their responsibilities as Accounting Officers. The Group considers that there is a case for preparing a separate Accounting Officer Memorandum that would draw together the various aspects of the Accounting Officer's responsibilities into one document that could be issued to Accounting Officers on appointment.
- 6.57 The Group notes that, in the past, it was the practice of the Department of Finance to prepare an epitome of the reports of the PAC. The epitome included the most important issues under the relevant headings reported on by the Committee, as well as in the minute of the Minister for Finance in each case. In so far as the Group is aware the last occasion on which such a volume was issued was in 1960. In more recent times the principles of Government Accounting as well as the more important ways they are applied in the day to day operations of Government Departments have been set out in *Public Financial Procedures*, prepared and updated by the Department of Finance. The Minutes of the Minister for Finance in response to PAC reports are also circulated to Accounting Officers. However, the Group considers that there is a case for preparing a document on the more serious common issues identified in the reports of the C&AG and the reports of the PAC in recent years in relation to regularity and propriety and to VFM with a view to providing further guidance to Accounting Officers on the main issues of concern to the PAC and measures taken to address them. Consequently the Group recommends as follows:

- (i) *A separate Accounting Officer Memorandum should issue to Accounting Officers on appointment. The memorandum should be an expanded version of the material*

*contained in Public Financial Procedures and drawing, where relevant, on the clarifications and contents of this report.*

- (ii) *An explanatory document should be drawn up from time to time by the Department of Finance of the most serious common failings, inadequacies, issues etc. identified in recent reports of the C&AG and of the PAC and the categories within which they fall (failure to observe rules; inadequate financial controls etc.). This should provide greater clarity to newly appointed, as well as existing, Accounting Officers as to the issues of concern to the PAC and the standards expected of them.*

- 6.58 The Group considers that the combination of measures proposed above can make a significant contribution to improving internal financial control and internal control in the wider sense within Departments. In addition to supporting compliance in line with financial audit and accountability requirements they can, in particular through a more formalised approach to risk management, contribute to the achievement of strategic objectives.

## CHAPTER 7

### GOVERNANCE ARRANGEMENTS FOR SECRETARIES GENERAL/ACCOUNTING OFFICERS

- 7.1 The preceding chapters have considered improvements to systems and structures within Departments that can contribute to the discharge of the Secretary General and Accounting Officer functions. This chapter examines governance arrangements in place for Secretaries General with particular reference to the issues that may arise in the exercise of the Accounting Officer function. It considers the issue of performance and whether there should be any change in existing arrangements. It also considers whether it is practicable to introduce arrangements, separate from those applying to Secretaries General *per se*, in relation to the Accounting Officers.

#### ***General observations***

- 7.2 The nature of the governance arrangements in the civil service means that the Minister is the political head of the Department and the Secretary General is the managerial head of the Department. The Secretary General also has an important role as main policy adviser to the Minister. As indicated in Chapter 2 the Secretary General has wide-ranging responsibilities under the Minister to manage the Department and to implement Government policies appropriate to the Department. In that capacity the Secretary General has a responsibility to ensure that the systems and procedures are in place to enable the Department to discharge its functions and to enable the Minister to answer for the performance of those functions to the Dáil. This makes the relationship between the Secretary General and the Minister crucial to the effective working of Departments of State and consequently one which both the Secretary General and the Minister have to manage.
- 7.3 The role of the Secretary General is quite complex. To examine it in the round requires consideration of aspects such as performance (in meeting objectives), management skills (including the capacity to drive change within the organisation), compliance (by the organisation with relevant statutory and other requirements) and

value for money (in the use of resources). It also involves other issues that impact directly on the working relationship between the Minister and the Secretary General such as the provision of advice to the Minister. The complexity of the role is given added emphasis by the Accounting Officer function. While many of the Accounting Officer functions are an integral part of the Secretary General functions, Accounting Officers are appointed under warrant of the Minister for Finance and are separately answerable to the PAC in the terms set out in the 1993 Act.

- 7.4 Both the Secretary General and Accounting Officer roles are long-established. When the functions were first defined in the middle of the 19th century the business of government was less complex. It is likely to become more rather than less complex as the present century progresses. Managing large organisations with complex briefs requires that Secretaries General have, to a large extent, to place reliance on the systems and people in the Department to enable them to discharge their responsibilities to the Minister and ultimately to the citizens who are the recipients of Government services. For that reason the Group has identified sound systems, practices and procedures as a key element in facilitating the effective discharge of senior management responsibilities. However, it also has to be recognised (as is the case in the corporate governance guidance - see Chapter 6) that systems can provide reasonable, but not absolute assurance, that things will not go wrong.

### ***Performance Evaluation and Management***

- 7.5 The Group considered performance evaluation and management as it applies to Secretaries General who are accountable to the Minister, under Section 6 of the 1997 Act for the exercise of their duties under the Act. These duties include ensuring the resources of the Department are used in a manner that is intended to achieve regularity, propriety and value for money.
- 7.6 There is a body of procedures against which the duties of the Secretary General as Accounting Officer may be assessed particularly in relation to the regularity and propriety of expenditure. There is external assessment of compliance with these procedures by means of the Comptroller and Auditor General's audit and report. The C&AG also carries out individual VFM examinations on the economy and efficiency with which a Department uses its resources as well as on the systems, practices and procedures used to evaluate effectiveness. It is also open to the C&AG to prepare special reports in relation to particular issues.
- 7.7 Under the SMI there is a strong emphasis on improving performance at all levels in the civil service. Individual performance within Departments is being managed and developed through the Performance Management and Development System (PMDS). The PMDS sets objectives and related performance targets for individuals and teams and monitors progress on their achievement. It also provides a context in which the development needs of job-holders can be addressed. The Group notes that while Secretaries General are responsible for implementing the PMDS system within their Departments they, in their own posts, are not formally part of the process.
- 7.8 The principal framework for assessing the performance of Secretaries General is the departmental Strategy Statement (see especially Chapters 2 and 5) and in particular the progress reports thereon (annual reports) that the Secretary General has to submit to the Minister. Unlike financial reporting which is an ex-post review, the Strategy Statement is a forward-looking document, setting out the long-term goals/objectives, which serves as a framework for action by the Department/Office. Taken in

conjunction with the progress reports, it should, particularly when the process is more fully developed, contain sufficient information to allow for an assessment of the organisation's performance in meeting key objectives.

- 7.9 Thus there are elements of Performance Management in place for Secretaries General. However, formal review mechanisms to determine the extent to which Departmental objectives are being achieved are at early stages and are still relatively underdeveloped. The Group considers that Parliamentary Committees have an important role to play in that regard. It supports the recommendation in the recent SMI evaluation (relating to openness, transparency and accountability) that progress reports should be reviewed by the relevant Oireachtas Committee for each Department and Office.<sup>40</sup>
- 7.10 A feature of a number of OECD countries is a formalised system of performance assessment, normally linked to performance-related pay, for heads of Departments. The issue of performance related-awards for Secretaries General has recently been considered by the Government who have decided that it would not be appropriate to apply this system to Secretaries General (or equivalent) because of the nature of the working relationship between officers at this level and Ministers.
- 7.11 The Group considers that there are critical aspects of the Secretary General function, such as providing advice to the Minister and handling sensitive operational issues, that do not lend themselves readily to objective external review and evaluation.
- 7.12 In relation to the management of the Department there are mechanisms in place that can be used to evaluate the Department's performance, under the leadership of the Secretary General, against its stated goals and objectives. Specifically the Secretary General can be called before Oireachtas Committees in relation to the Strategy Statement. As indicated above the Group sees the review of the progress reports by Oireachtas Committees as an important element in evaluating a Department's performance. The Strategy Statement and the progress reports also provide a mechanism for the Minister to assess the performance of the Department, and that of the Secretary General as principal officer of the Department, within the context of Section 4 of the 1997 Act which sets out the range of duties for which the Secretary General is accountable to the Minister. There may also be other independent reviews of aspects of Departmental performance including those by the Ombudsman and the Information Commissioner. As regards the Accounting Officer function, there is rigorous independent examination of regularity, propriety and value for money by the Comptroller and Auditor General and by the Committee of Public Accounts. The Accounting Officer, as principal witness before the Committee, has to give evidence on the manner in which these requirements have been met.
- 7.13 The Group considers that these review and scrutiny processes are very important in promoting a culture of continuous improvement, particularly in relation to the systems and structures within the organisation for which the Secretary General/Accounting Officer has a responsibility.

#### *Disciplinary Action*

- 7.14 The Group also considered disciplinary measures for Secretaries General having regard to the statutory framework for disciplining civil servants generally. The Group would make a distinction between on the one hand, serious or repeated cases of

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<sup>40</sup>SMI Review p.108.

negligence and an action taken by the Secretary General in the knowledge that it is wrong and a failure in management systems on the other hand. In the first case the personal culpability of the Secretary General, including in his/her Accounting Officer capacity, would be a very serious issue. A failure in systems on the other hand may be less clear-cut particularly as systems cannot provide absolute assurance that nothing will go wrong. It would be a matter of judgement, in individual cases, as to whether a failure in systems would warrant disciplinary action against the Secretary General/Accounting Officer.

### *Statutory Basis for Disciplining Civil Servants Generally*

- 7.15 The *Civil Service Regulation Act, 1956* (the 1956 Act) provides the legislative basis for the discipline, suspension and dismissal of civil servants. Section 5 of the 1956 Act provides that every established civil servant shall hold office at the will and pleasure of the Government. This includes Secretaries General. In effect, Section 5 means that the dismissal of established civil servants is a matter for the Government.
- 7.16 Section 15 of the 1956 Act deals with disciplinary measures, short of dismissal, where in the view of the Appropriate Authority (normally the Minister) a civil servant has been guilty of misconduct, irregularity, neglect or unsatisfactory behaviour (including circumstances where a loss of public funds has resulted). Disciplinary measures which may be imposed are a reduction in pay and/or rank. Disciplinary measures are governed by a disciplinary code one of the stated objectives of which is to ensure that officers against whom allegations are made are dealt with in a fair and equitable manner. Civil Servants who are subject to disciplinary action under the 1956 Act have a right of appeal to the Disciplinary Code Appeal Board before the penalty is imposed, although the Board's decision is not binding on the Appropriate Authority.
- 7.17 The Act is under review at present with a view to bringing the provisions into line with Section 4(1) (h) of the 1997 Act which provides that Secretaries General shall exercise authority and responsibility in respect of, inter alia, the performance, discipline or dismissal of civil servants below the grade of Principal.

### *Suspension*

- 7.18 Under Section 13 of the 1956 Act a civil servant may be suspended for the reasons specified in the Section including if it appears to the suspending authority (normally the relevant Minister or a civil servant nominated by the relevant Minister) that the civil servant has been guilty of grave misconduct or grave irregularity warranting disciplinary action. Suspension is not a disciplinary measure. It is normally invoked pending a further investigation - conducted in accordance with the rules of natural justice - that may determine either that the suspension should be lifted, because the civil servant is not guilty of misconduct or irregularity, or that disciplinary action (including dismissal) should be taken.

### *Applicability of procedures to Secretaries General and Accounting Officers*

#### *(i) Dismissal*

- 7.19 Unlike other civil servants, who are appointed by the Minister, Secretaries General and certain Heads of Office are appointed by the Government. However, all civil servants hold office at the will and pleasure of the Government. The appropriate authority in relation to disciplinary measures for Secretaries General (and equivalent)

is the Government.<sup>41</sup> Accounting Officers, who are for the most part (but not exclusively) Secretaries General, are appointed under warrant by the Minister for Finance.

- 7.20 Secretaries General in common with other civil servants can be dismissed by the Government. Provided it acts fairly and reasonably and meets the requirements of natural justice (including any consideration of compensation) the Government is entitled to dismiss a Secretary General for any substantial reason including where the relationship of trust and confidence with the Government has irretrievably broken down. Past experience, where serious issues have arisen, suggests that the Government regards the relationship between the Secretary General and the Minister as one of great importance because, for example, a serious dispute between a Secretary General and a Minister could impact on the Government as a whole.
- 7.21 In common with other civil servants, a Secretary General would be liable to prosecution under the criminal law for fraudulently converting to his own use, moneys the property of the Department and, if convicted, would almost inevitably be dismissed by the Government.
- 7.22 Similarly, issues such as misfeasance in public office (where an act is performed either maliciously or with actual knowledge that it is committed without jurisdiction) or serious or repeated cases of negligence might result in the dismissal of a Secretary General by the Government following procedures to comply with the principles of natural justice, as such conduct might seriously prejudice the confidence that the relevant Minister is entitled to have in his/her Secretary General.
- 7.23 The Group considered whether the Minister for Finance could separately remove a person as Accounting Officer while s/he would remain on as Secretary General. The Group concluded that as a matter of strict legal theory the Minister for Finance could revoke the warrant of appointment of an Accounting Officer and this would not in itself require the Government to remove him/her as Secretary General. While individual circumstances would have to be taken into account, in practice, it is likely that removal of an Accounting Officer as a disciplinary measure, following the identification of a serious issue in the exercise of that role, would be so serious a reflection upon the abilities of a Secretary General, that it would be very difficult for him/her to remain as Secretary General having lost the role of Accounting Officer. In the case of directions given by a Minister, the Group would emphasise, however, that the Accounting Officer function is somewhat different to the Secretary General function to the extent that the Accounting Officer, if overruled in writing by the Minister in an area for which he/she has a responsibility, sends the papers to the Comptroller and Auditor General, who may in turn refer to it in his report to the Dáil.

(ii) *Suspension*

- 7.24 A Secretary General could be suspended under the 1956 Act. In this case the Relevant Authority would be the Government. As indicated in paragraph 7.18, suspension is normally a prelude to further investigation (conducted in accordance with the rules of natural justice) leading either to the termination of the suspension or disciplinary action (including dismissal).<sup>42</sup>

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<sup>41</sup>Section 2(1) (a) of the 1956 Act.

<sup>42</sup>*The Standards in Public Office Act, 2001* requires persons appointed after 10 December 2001 to civil service posts carrying a salary at or above Deputy Secretary General, to comply with the tax clearance requirements of the Act. If a person contravenes these provisions, the Standards in Public Office Commission will investigate

(iii) *The question of Disciplinary measures short of Dismissal*

- 7.25 An important difference in the treatment of Secretaries General from that of other civil servants is that Section 15 of the 1956 Act relating to disciplinary measures (short of dismissal) does not apply to Secretaries General or any other officers holding positions to which they were appointed by the Government.<sup>43</sup>
- 7.26 The question of introducing formal disciplinary measures (other than dismissal) would be a matter for Government Decision and may require legislation.
- 7.27 The Group does not regard it as surprising that Secretaries General are not subject to the specific disciplinary provisions (short of dismissal) of the 1956 Act. In the past in the rare cases where a Secretary General has been dismissed it is clear that conduct that might merit demotion or a reduction in pay in the case of a civil servant of a lesser rank could irreparably damage the relationship between the Secretary General and a Minister, to the extent that the Government, provided it acted fairly, might consider it necessary to dismiss him/her.

*The Accounting Officer Function*

- 7.28 One of the principal duties of the Accounting Officer is to give evidence to the PAC as required under Section 19 of the *Comptroller and Auditor General (Amendment) Act, 1993*. Under the Standing Orders of the Dáil, the PAC is to examine and report to the Dáil upon
- (a) the appropriation accounts and such other accounts as they see fit [excluding the accounts in the second schedule of the *Comptroller and Auditor General (Amendment) Act, 1993*] which are audited by the Comptroller and Auditor General and presented to Dáil Éireann together with any reports by the Comptroller and Auditor General thereon;
  - (b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and
  - (c) other reports carried out by the Comptroller and Auditor General under the Act.
- 7.29 Under Standing Orders the Committee has the power to send for persons, papers and records as defined in Standing Order 79<sup>44</sup> as well as the power to take oral and written evidence as defined in Standing Order 78A(1).<sup>45</sup>
- 7.30 Issues that arise as a result of the C&AG's audits and reports are brought into focus as a result of the PAC's examination of the Accounting Officer. As indicated earlier, in common with other committees, the PAC does not have executive powers. It reports to the Dáil, who may debate the report. Action on the Committee's recommendations rest with the Government.

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and report on the matter to the public body concerned. The report would be laid before the Houses of the Oireachtas. A public body, having considered the Commission report and any submission from the person concerned, may take such action "as it considers appropriate" on foot of the report. Such action may include "suspension without payment of remuneration from the office or position held or occupied".

<sup>43</sup>Section 15(6).

<sup>44</sup>states that a Committee empowered to send for persons, papers and records, may report its opinions and observations, together with the minutes of evidence taken before it, to the Dáil and also make a special report of any matters which it may think fit to bring to the notice of the Dáil.

<sup>45</sup>refers to the power to take oral and written evidence and to print and publish from time to time minutes of such evidence taken in public with such related documents as the Committee thinks fit.

- 7.31 The Group considered whether an Accounting Officer could be disciplined for failing to comply with non-statutory financial procedures. While this is a difficult legal area, the Group understands that this is a matter of degree, and although the actions of an Accounting Officer in failing to observe correct procedures need not be a ground in themselves for the Minister for Finance to remove him/her as Accounting Officer, if such actions raised serious questions as to competence they may be a ground for the Minister for Finance to remove him/her as Accounting Officer which would normally result in dismissal/resignation as Secretary General. However, a simple failure to observe correct procedures, although not a sufficient ground in itself for disciplining an Accounting Officer, could not pass without comment.
- 7.32 The Group is aware that there was a traditional view that Accounting Officers could be sanctioned by being held personally liable to refund expenditure that the PAC deemed to be improper. This was reflected in early standard texts on public finance where it is stated that the “*responsibility of heads of departments... involves an actual personal pecuniary liability, is a principle which has received the concurrence of the Public Accounts Committee on more than one occasion, and which is accepted as an essential feature of the system of control.*”<sup>46</sup>
- 7.33 There is at least one instance of the Dáil Committee of Public Accounts taking the same view. In his report of 1922/23, the C&AG noted that he had found it necessary to request Accounting Officers, in a number of cases, to seek covering sanction for expenditure incurred without the prior sanction of the Ministry of Finance. The Committee in its report noted that a “serious personal responsibility” attaches to Accounting Officers and if they failed in their *post factum* request for sanction “the responsibility was likely to return to them individually.”<sup>47</sup> This principle of personal liability is included in the current version of Public Financial Procedures where it is stated (Section A5.4) that an Accounting Officer may be held personally liable to make good any sum which the PAC recommends should be disallowed on foot of a failure to secure a Finance sanction. In the case of an Excess Vote (i.e. a vote taken by the Dáil to cover expenditure incurred in a previous year over and above that authorised by the Dáil for that year) it is also stated that refusal to authorise its introduction would make the Accounting Officer personally liable for the expenditure (Section C2.5).
- 7.34 As indicated in Chapter 3 the origins of the Accounting Officer function lie in British legislation. The Group notes that in the UK, the Treasury, having consulted the PAC, removed the reference to the principle of personal liability of Accounting Officers to refund expenditure from its 1980 version of its Memorandum to Accounting Officers. They did so on the grounds that while it was a traditional view they had legal advice that it had no basis in law; nor did existing Parliamentary procedure appear to provide any mechanism for its enforcement.<sup>48</sup> Similarly, the principle of personal liability would appear to have no legal basis in relation to Accounting Officers in Ireland.<sup>49</sup>

<sup>46</sup>Durrell - The Principles and Practice of the System of Control over Parliamentary Grants, 1917 p. 361.

<sup>47</sup>Epitome of the Reports of the Committee of Public Accounts - Department of Finance 1960 p. 16.

<sup>48</sup>letter dated 14 November 1980 from the Treasury to the Clerk of the Committee quoted in Appendix xlviii of evidence taken before the Committee of Public Accounts.

<sup>49</sup>Section 41 of the Exchequer and Audit Departments Act, 1866 requires the Accountant on ceasing to be accounts officer to pay over any balance of public money. If it appears to the Comptroller and Auditor General that balances of public money have been improperly and unnecessarily retained by an Accountant (which in this case means the officer required by the Treasury to render accounts other than the Appropriation Accounts to the Comptroller and Auditor General under Section 34 of the Act) the Treasury is to recover the amount plus interest. Section 43 provides that in any case in which an accountant is dissatisfied with any allowance or charge

7.35 The Group is aware that provisions for charge and surcharge do exist in the local government system under legislation introduced in the late 19th and early 20th centuries which continues to be provided for in the *Local Government Act, 2001*.<sup>50</sup> There are, however a number of differences between the local government and the central government system as follows:

- ◆ Local Government operates by authority of the Oireachtas conferred by statute. Its functions are limited by the powers conferred by that legislation. Local authorities must act within statutory authority (although there has been some relaxation of the Ultra Vires rule since 1991 and in the *Local Government Act, 2001*). The surcharge regime is a mechanism used to ensure the legality of local financial management.
- ◆ The operation of local authorities is such that certain functions (known as reserved functions) are exercised by the elected members, while all other functions (executive functions) are exercised by the Manager with the exception that elected members are entitled to give the Manager binding directions as to the manner in which certain executive functions, other than personnel functions, are to be carried out. This differs from central government where the Minister is responsible for the actions of the Department.
- ◆ Local Government is based on locally elected members who sit on councils and corporations. Local Government Auditors have no direct relationship with the Oireachtas and there has been no equivalent of the PAC to examine reports (although issues which arise in the Local Government Auditor's reports can be reviewed by the C&AG and reported on in his annual report in so far as they impinge on central government revenue and expenditure). Certain changes are being initiated by Section 122 of the *Local Government Act, 2001* which provides for the establishment of Audit Committees at local level to examine the audited financial statement of the local authority together with the Local Government Auditor's Report thereon. Meetings will be held in public and the Local Government Auditor, at the request of the Audit Committee, can be required to attend to clarify any issues that arise on foot of the Auditor's Report. The Manager may be required to appear before the Committee if it so requests.
- ◆ Local government auditors have special powers which are not available to the C&AG or to auditors in the private sector in carrying out normal audits including the power to charge and surcharge.
- ◆ The charge and surcharge regime can apply quite widely. Surcharge applies to the person making or authorising payments which are contrary to law and deemed to be unfounded. Charges can be imposed by the local government auditor on a member or officer of a local authority in respect of "any deficiency or loss incurred in respect of his negligence or misconduct". A right to appeal the auditor's decision is provided to the courts. If a surcharge is confirmed by the High Court the aggrieved party may apply to the Minister who is empowered to remit the surcharge. A person may also appeal directly to the Minister to decide upon the lawfulness of the reasons stated by the auditor.

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in his accounts made by the C&AG, he may appeal to the Treasury who can direct the appellants relief from the disallowance or charge. Section 34 of the Act was repealed in the Comptroller and Auditor General (Amendment) Act, 1993. Sections 41-44 of the 1866 Act refer to the control of public money held privately. They would now have little or no practical effect since Accounting Officers would not hold public money in accounts in their own name.

<sup>50</sup>Section 122 (6) referring to the conduct of Audit Committees.

7.36 By contrast there are already long established procedures for the accountability for public money expended by Government Departments. In particular, there is a long history of independent scrutiny of public funds in central government by the PAC on the basis of audit and examination by the Comptroller and Auditor General. The Group noted that the *Local Government Act, 2001* provides for more public accountability in relation to the accounts through the establishment of Audit Committees in local authorities. More generally in the context of public sector reform, the emphasis is increasingly on measures to improve standards and individual performance as well as addressing underperformance (through e.g. the Performance Management and Development System). These operate in conjunction with the ethics regime under the *Ethics in Public Office Act, 1995* and the *Standards in Public Office Act, 2001*<sup>51</sup> which, inter alia, provide for the drawing up of Codes of Conduct by public bodies including the civil service. The recommendations in this report, particularly in Chapter 6, should also serve to strengthen governance arrangements in Departments and contribute to the more effective discharge of the Secretary General and Accounting Officer functions.

#### *Use of Existing Mechanisms available in relation to the Accounting Officer function*

7.37 The Group then considered whether there were other mechanisms that could be used under existing arrangements where specific issues arose in the exercise of the Accounting Officer function.

7.38 The Accounting Officer is required, under statute, to give evidence to the PAC. The role of the PAC is to examine and report to the Dáil. While the Committee does not have executive powers, examinations of Accounting Officers undertaken by the PAC are rigorous and wide-ranging. Appearances before the Committee are taken very seriously by Accounting Officers because of the importance of the function (concerned with the stewardship of public funds) and the public manner in which they have to discharge their statutory duty before the PAC.

7.39 The Accounting Officer gives evidence to the PAC. The Committee reports to the Dáil which may either take note of its report or may make it the subject of a debate. It is a matter for the Government to respond to the recommendations of the Committee. A formal reply to a Report of the PAC is prepared by the Department of Finance in consultation with the Department(s) concerned (known as the Minute of the Minister for Finance) where all specific recommendations are considered and addressed. In certain instances action, taken on foot of issues identified by the PAC would be a matter for Government Decision.

#### *Revisiting Issues*

7.40 There is scope for the Committee of Public Accounts to revisit issues. In relation to the Appropriation Accounts for example, Minutes of the Minister for Finance on previous reports of the PAC can be considered by the Committee when examining the following year's accounts and can be referred to in subsequent reports if the Committee is not satisfied with the manner in which particular issues have been addressed. Similarly, it is open to the C&AG to revisit issues arising from previous years' accounts and for the PAC to examine Accounting Officers in relation to them. This provides an additional incentive to Accounting Officers to ensure that action is taken on such issues.

#### *Disallowance*

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<sup>51</sup>Construed together as the Ethics in Public Office Acts 1995 and 2001.

7.41 One of the principal concerns of the PAC is in relation to the regularity and propriety of expenditure. In circumstances where expenditure has been incurred without proper authority the Committee has in the past recommended that it be disallowed (i.e. that it not be regarded as a proper charge on the Vote and that it required the sanction of the Dáil). If the Minister for Finance agreed with the Committee's recommendations, the sanction of the Dáil to convey authority retrospectively would normally be sought by means of a Supplementary Estimate. This procedure was intended to cater for serious cases and appears to have been used infrequently. In less serious cases the Committee would record its disapproval of unsatisfactory expenditure. While it is a matter in the first instance for the PAC as to what approach it wished to adopt, a recommendation to disallow does offer the opportunity to bring a serious regularity issue to the attention of the Dáil.

### ***General Conclusions on performance***

7.42 The Group has concluded in relation to the issue of performance, including disciplinary measures, as follows:

- (a) There are aspects of a Secretary General's functions that do not readily lend themselves to objective external review and evaluation. There are, however, mechanisms in place that can be used to review the performance of the Department, in particular the Strategy Statement and the Progress Reports thereon. These provide a mechanism for the Minister to assess the progress of the Department and that of the Secretary General as principal officer of the Department in the context of *Section 4 of the Public Service Management Act, 1997* which sets out the range of duties for which the Secretary General is accountable to the Minister. Oireachtas Committees also have an important role to play in reviewing Departmental performance.
- (b) The Government is the appropriate authority in relation to any issue of disciplining Secretaries General.
- (c) In the case of any very serious issue arising in the exercise of either the Secretary General or the Accounting Officer function that result in the officer concerned losing the confidence of the Government, the Government may dismiss him/her as Secretary General providing it acts fairly and meets the requirements of natural justice.
- (d) The introduction of disciplinary measures short of dismissal would be a matter for the Government and might require legislation. The Group would, however, tend to the view that the efficacy of introducing formal disciplinary measures, short of dismissal, for Secretaries General would be open to question given the nature of the relationship between the Secretary General and the Minister and the consequences for that relationship and for the authority of the Secretary General within the Department, were a Secretary General to be subject to disciplinary action, short of dismissal, in the same manner as other civil servants. Conduct that might merit demotion or a reduction in pay in the case of a civil servant of a lesser rank could irreparably damage the relationship between the Secretary General and a Minister, and the authority of the Secretary General, to the extent that the Government, provided it acted fairly, might consider it necessary to dismiss him/her.

7.43 The Group also considered whether it would be practical to introduce disciplinary measures separately for Accounting Officers. It concluded that it would not be practical to do so as a very serious issue which might arise in the exercise of the

Accounting Officer function would have implications for his/her position as Secretary General.

- 7.44 The Group does, however, consider that there is scope under existing mechanisms to deal with serious regularity issues that might arise. Specifically, it would appear to be open to the PAC to recommend that expenditure be disallowed in serious cases. Apart from regularity issues the PAC is in a position to bring serious issues emerging from its scrutiny of public funds to the attention of the Dáil by means of their reports (which can be discussed there). It is then a matter for the Government to follow-up on these reports.
- 7.45 Taken together the Group considers that there is adequate scope within the existing system for performance evaluation (including discipline) to provide for an assessment of the performance of the Secretary General/Accounting Officer functions, balanced to support constructive review and continuous improvement, and to deal with serious issues as they arise.

## CHAPTER 8

### IMPLEMENTATION OF RECOMMENDATIONS

8.1 The Group recognises that this report will give rise to a significant change agenda in addition to commitments arising from the SMI and other sources. It also recognises that particular difficulties may arise for smaller Departments and Offices in putting in place the recommended structures, systems and capabilities and that this may, in turn, require external expertise. To give coherence and provide an overview for the civil service, the Group recommends that each Department/Office assess its status against the recommendations and produce within 6 months a plan indicating how it proposes to implement the recommendations.

8.2 The following time-frames are proposed for the implementation of the recommendations.<sup>52</sup>

1. The respective roles of Accounting Officers and of Chief Executive Officers, or equivalent, in bodies in receipt of Exchequer funds should be set out in writing. [para 3.51]

To be implemented by each Department/Office *within 12 months* following guidance from Department of Finance.

2. Accounting Officers should evaluate their system of internal financial control. [para 6.20]

This evaluation to be carried out *within 9 months*.

3. Accounting Officer Statement on Internal Financial Control. [para 6.22]

The framework for this statement should be agreed with the C&AG with a view to putting the statement in place for the 2003 accounts.

4. Central guidance on the development of a risk strategy appropriate to Government Departments/Offices [para 6.32] should be prepared by the Department of Finance *within twelve months*.

5. Formal Risk Management Strategies should be introduced into the management processes of Departments/Offices [para 6.32]. This should be done *within 2 years*.

6. (i) Departments/Offices should have a fully functioning, adequately resourced internal audit function whose staff are appropriately trained [para 6.46].

(ii) The Unit, including the Head of Internal Audit, should have sufficient status and access within the organisation to promote the unit's independence and to ensure follow-up on its recommendations. [para 6.46]

Any Department/Office which does not have an internal audit unit or access to such a unit should put an appropriate arrangement in place as soon as possible with a view to establishing an internal audit unit *within 9 months* unless compelling reasons are given

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<sup>52</sup>The time-frames assume acceptance of the recommendations by the Government and therefore operate from the point in time when the report is accepted by the Government. A number of recommendations may require consultation with other relevant parties.

as to why an internal audit unit should not be established. The Group regards internal audit as a key element in the system of internal control. For that reason it considers that a process of assessing the adequacy of the units, having regard to the requirements of the organisation, should begin as soon as possible with a view to having such a review completed *within 9 months*. The Group recognises that the internal audit function in Departments/Offices is at different stages of development. It would see it as important that all Departments/Offices have appropriate, adequately resourced and trained internal audit functions in place *within 2 years*.

(iii) Information on internal audit should be included in the Statement on Internal Financial Control. [para 6.46]

The implementation of this recommendation is linked to the Statement of Internal Financial Control at 3 above.

(iv) Consideration should be given to further developing the Department of Finance's central role in relation to the internal audit function with a view to putting a structure in place *within 9 months*. [6.48]

7. There should be a formally constituted Audit Committee in each Department/Office (or in the case of small Offices that would not justify a separate Committee, there be a committee that covers a number of the smaller Offices, or other appropriate arrangements). [para 6.53]

Each Audit Committee should

- ◆ Operate under a written charter.
- ◆ Have significant external representation, including if possible the Chairperson.
- ◆ Prepare an annual report to the Accounting Officer.
- ◆ Invite the Comptroller and Auditor General to meet the Committee at least once a year. [para 6.53]

As with internal audit the Group recognises that Departments are at different stages of development and that a number of Departments/Offices have well established audit committees with external representation. It recommends that all Departments/Offices have functioning audit committees along the lines envisaged in the report *within 1 year*.

8.(i) A separate Accounting Officer Memorandum should issue to Accounting Officers on appointment. [para 6.57] This should be drawn up by the Department of Finance *within 9 months*.

(ii) An explanatory document should be drawn up *within twelve months* of the most serious common failures identified in the reports of the C&AG and the PAC (where available) in recent years and the categories within which they fall. [para 6.57]

## **Appendix 1**

## **Submissions Received**

1. Colonel C.E. Mangan - Lieutenant General, Chief of Staff, on behalf of the Defence Forces
2. Ms Fidelma White - Lecturer in Law, Department of Law, University College Cork

## **Constitutional Provisions**

- ◆ *Article 28.4.3* requires the Government to prepare Estimates of Receipts and Expenditure for each financial year and present them to Dáil Éireann for consideration.
- ◆ *Article 11* requires that all revenues of the State shall form one fund (the Central Fund) and shall be appropriated for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law.
- ◆ The right of initiative in relation to the public finances is vested in the Government by *Article 17* which stipulates that the Dáil may not pass any Vote or Resolution, and no law may be enacted for the appropriation of public moneys unless the purpose of the appropriation has been recommended to the Dáil by a message from the Government signed by the Taoiseach.

There are other constitutional provisions relevant to the public finances including

- ◆ *Articles 21-22* dealing with the procedure relating to Money Bills.
- ◆ *Article 28.7.1* the member of the Government in charge of the Department of Finance must be a member of Dáil Éireann.
- ◆ *Article 29.5.2* Dáil approval required for international agreements involving a charge on public funds.
- ◆ *Article 33* provisions relating to the Comptroller and Auditor General.

### Appendix 3

#### **Format for the Report from the Chairman regarding the assessment of internal financial controls of a State body**

1. Acknowledgment by the Chairman that the Board is responsible for the body's system of internal financial control.
2. An explanation that such a system can provide only reasonable and not absolute assurance against material error.
3. Description of the key procedures, which have been put in place by the Board, designed to provide effective internal financial control including:
  - (i) the steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures);
  - (ii) processes used to identify business risks and to evaluate their financial implications;
  - (iii) details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year);
  - (iv) the procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud); and
  - (v) the procedures for monitoring the effectiveness of the internal financial control system which may include: audit committees, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the heads of internal audit.

Confirmation that there has been a review of the effectiveness of the system of internal financial control.

Information (if appropriate) about the weaknesses in internal financial control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditor's report on the financial statements.

The information relating to weaknesses in internal financial control should be a description of the action taken, or intended to be taken, to correct the weaknesses, or an explanation of why no action is considered necessary.