



LOCAL GOVERNMENT AUDIT SERVICE

Statutory Audit Report

to the

Members of Kilkenny County Council

for the

Year Ended 31 December 2014



Comhshaol, Pobal agus Rialtas Áitiúil
Environment, Community and Local Government

CONTENTS

	Paragraph
Introduction	1
Financial Standing	2
Income Collection	3
Capital Account	4
Transfer of Water and Sewerage functions to Irish Water	5
Kilkenny Central Access Scheme	6
Purchasing and Procurement procedures	7
Land lease arrears	8
Settlement of legal proceedings – operation of Casual Trading Act	9
Interest in companies associated with the Council	10
Governance	11

AUDITOR'S REPORT TO THE MEMBERS OF KILKENNY COUNTY COUNCIL

1 Introduction

- 1.1** I have audited the Annual Financial Statement (AFS) of Kilkenny County Council (the Council) for the year ended 31 December 2014, which comprises the Statement of Accounting Policies, Statement of Comprehensive Income, Statement of Financial Position, Statement of Funds Flow and Notes on and forming part of the Accounts. The financial reporting framework that has been applied in its preparation is the Code of Practice and Accounting Regulations for local authorities, as prescribed by the Minister for the Environment, Community and Local Government.

My main statutory responsibility is to express an independent audit opinion on the AFS of the Council, as to whether it presents fairly the financial position at 31 December 2014 and its income and expenditure. My audit opinion, which is unmodified, is stated on page 4 of the AFS.

The Council is by law, responsible for the maintenance of all accounting records including the preparation of the AFS. It is my responsibility, based on my audit, to form an independent opinion on this statement and to report my opinion. I conducted my audit in accordance with the Code of Audit Practice. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the AFS. It also includes an assessment of the significant estimates and judgements made by the Council's management in the preparation of the AFS, and of whether the accounting policies are appropriate to the Council's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations, which I considered necessary to provide sufficient evidence to give reasonable assurance that the financial statement is free from material misstatement, whether caused by fraud or error.

- 1.2** This report is prepared in accordance with Section 120(1) (c) of the Local Government Act, 2001 and should be read in conjunction with the audited AFS.
- 1.3** The comparative figures have been restated to take account of the merger of Kilkenny Borough Council (the Borough Council) with the Council.

2. Financial Standing

2.1 Statement of Comprehensive Income (Income and Expenditure Account)

The Council recorded a surplus of €70k for the year ended 31 December 2014 which reduced the accumulated deficit to €68k at that date.

The members, at the Council meeting held in May 2015, approved (by resolution in accordance with section 104(2) of the Local Government Act, 2001) the expenditure incurred in 2014 that was in excess of the adopted budget for the year.

2.2 Statement of Financial Position (Balance Sheet)

2.2.1 Fixed Assets

At the previous audit I highlighted the inadequacies of the property and land registers and I again note that these registers remain incomplete. There were instances of some small land holding disposals in 2014 that were not previously included in the financial management system and consequently were not included in the Council's fixed assets register. While, I acknowledge the efforts currently being made to ensure that the register properly records all the assets owned by the Council, it is imperative that this work be completed without further delay.

It is a requirement of the accounting code of practice for local authorities to maintain these registers.

The value of fixed assets at 31 December 2014 has been significantly affected by the removal of water infrastructure related assets to the utility company, Irish Water (see paragraph 5).

Chief Executive's Response

Work is continuing on the Property Register. The Property Registration Authority database/dataset was purchased for Kilkenny County Council properties and the data mapped in relation to our registered property onto the Council's GIS system, with the intention of making the GIS data available throughout the organisation. The mapping system is being tested at present and the intention is that there will be a searchable map – based database with individual property folios which will contain information on use, price and area.

2.2.2 Work in progress

Accumulated expenditure on the work in progress (WIP) account amounted to €16.2m at 31 December 2014 and includes expenditure of €7.4m on the site currently designated as the location for the new county library. Following the consolidation of various project balances and the merger with the Borough Council, the net unfunded balance was reduced to €0.6m as at 31 December 2014.

Although the review that I requested at the previous audit of all accounts classified as WIP has now been carried out, there remained a number of accounts in this category at the 2014 year end that in my opinion should be removed. In particular there remain some housing schemes that continue to be designated as WIP accounts that have had no transactions posted to their respective accounts for some years.

Chief Executive's Response

The Work In Progress accounts will be reviewed at the year end and the designation of schemes amended as necessary.

2.2.3 Loans advanced to the former Kilkenny Borough Council

The loans (totalling approximately €2m) previously advanced by the Council to the former Kilkenny Borough Council were eliminated following the merger with the Borough Council.

2.2.4 Development Contributions

Included in debtors as at 31 December 2014 was €7.5m (2013 €7.4m) all of which was classified in full as a current debt in the accounts (note 5 to the AFS).

A provision for bad debts of €6.5m (representing 87% of the total debt book) has been estimated and is included in the overall 2014 year end provision of €10.3m.

Chief Executive's Response

All outstanding balances are being pursued for collection irrespective of accounting treatment.

3 Income Collection - summary of the major revenue collections

A summary of the collection performances showing the 31 December arrears position in respect of the main income categories with the comparative figures for the previous year are as follows;

	2014		2013	
	€m	%Yield	€m	%Yield
Rates	2.01	89	2.62	86
Housing Rents & Annuities	0.63	92	0.70	91
Housing Loans	0.71	77	0.89	74

There was a further improvement in collection levels recorded for 2014 resulting in arrears, in respect of the above categories of income, reducing to €3.35m at 31 December 2014 (2013 €4.21m).

The dedicated arrears collection unit, located within the central finance directorate, is making a good contribution to this increase in collection levels across all of the main income categories. It is important that the current level of resources available to the unit is maintained and improved upon, especially if additional responsibilities are assigned to it.

While the arrears at year-end remain significant, it is commendable that the 2014 percentage yields, on all of the three categories above, were significantly higher than the 2013 national local authority average returns.

Chief Executive's Response

Efforts are continuing on the cash collection in all areas.

4. Capital Account

The capital account recorded a credit balance on the account of €9.1m at 31 December 2014, a reduction of €5m on the previous year.

Following the merger with the Borough Council, the Council has taken on a deficit balance of €6m that referred to the refurbishment of the Parade in Kilkenny which is currently being funded from annual revenue contributions.

I note that the following surplus balances were also taken on from the Borough Council:

- Kilkenny Central Access Scheme €2m (see paragraph 6)
- Internal capital receipts – housing €1.5m
- Part V housing €1.5m
- Development contributions €1.2m.

Chief Executive's Response

The balance relating to the refurbishment of the Parade is being funded over a number of years.

5. Transfer of Water and Sewerage functions to Irish Water

As and from 1 January, 2014 the water utility company, Irish Water (IW), has responsibility, under statute, for all water related services previously undertaken by local authorities. The Council continues to deliver services on behalf of Irish Water under a service level agreement. The impact on the accounts of the Council is set out below.

5.1 Fixed Assets

The entire IW related fixed assets net book value of €128m has been removed from the Council's accounts as at 31 December 2014.

In accordance with Circular Fin 02/2015 issued by the Department of the Environment, Community and Local Government (the Department) on 13 February 2015, all water related infrastructure assets and other assets identified by the local authority must be removed from the Statement of Financial Position (Balance Sheet) in the 2014 AFS. The basis for the removal of water infrastructure from the local authority accounts as directed in the circular is:

- Section 7 of the Water Services (No. 2 Act) 2013 provided for the transfer of water services functions from local authorities to IW
- Section 21 provides IW with power to charge for water services
- A mutual licence between IW and each local authority exists, which allows for IW to use the water infrastructure assets (Included in Service Level Agreement) pending the ultimate statutory transfer
- The revised accounting Code of Practice, published in December 2014 stipulates that "Assets are resources controlled by the authority as a result of past events and from which future economic or service

potential is expected to flow to the authority. An authority shall recognise as asset in the Statement of Financial Position when it is probable that future economic benefits will flow to the entity and the asset has a cost or value that can be measured reliably.”

Given that the future economic benefits are no longer with local authorities, nor do the risks and rewards associated with the assets reside with the local authorities, an assessment of substance over form and generally accepted accounting principles require that the water infrastructure assets be removed from the books of the local authorities as at 31 December 2014.

The transfer of water services assets from the local authorities is being advanced in a number of phases. The financial transfer is reflected in the local authorities' accounts for 2014 with an adjustment on their balance sheets. The statutory transfer of the assets, which is given effect by Ministerial Orders, is being advanced by the Department in consultation with the local authorities and IW. Since January 2015, a number of Ministerial Orders have been made providing for the transfer of various different categories of assets to IW. Considerable work is involved in preparing supporting material and liaising for the transfer of over-ground assets, to ensure that the Orders reflect the precise nature and boundary of the asset to be transferred. Further Orders are required to complete the transfers over the course of the remainder of 2015, subject to availability of the necessary resources to ensure the assets are accurately set out.

To date, 59 of the Council's assets have been formally transferred under these Ministerial Orders. Further work is required to facilitate the transfer of the remaining assets. This matter will be kept under audit review.

Chief Executive's Response

Work is ongoing in relation to the transfer of assets to Irish Water.

5.2 Accounting treatment of water activity related loans

The balance on loans repayable by the Council at 31 December 2014 (note 8 to the AFS refers) includes water services related balances amounting to €7.6m.

These loans are classified as being repayable within one year on the basis that they will be fully repaid to the HFA during 2015. A corresponding debtor has been included under Government debtors at note 5 to the AFS, being recoupable from the Department.

5.3 Transfer of account balances

Following the completion of a due diligence exercise the Chief Executive and other members of the senior management team confirmed to IW a balancing statement in respect of assets and liabilities (other than water premises assets) that resulted in a net amount payable to the utility company as at 1 January 2014 of €1.45m.

I have been advised that agreement has now been reached with the utility company to facilitate full payment before the end of the current year.

Chief Executive's Response

The balance will be settled before the end of 2015.

6. Kilkenny Central Access Scheme

The scheme provides for the construction of a new central access street and the construction of a bridge across the river Nore for the purpose of easing traffic congestion in the city.

I reported on this scheme following my previous audit which highlighted some contractual and procurement matters arising.

The scheme's progress was delayed for some months in 2014 due to protests on the construction of the bridge. This has contributed to significant additional construction contractor costs and consultancy fees being incurred which will need to be funded internally by the Council. As provided for in the contract, an independent conciliator is adjudicating on the additional costs being incurred. I reported last year that the majority of the scheme's funding is sourced from development contributions.

Legal proceedings relating to the construction methodologies employed to construct the bridge were brought against the Council in 2014. These were defended by the Council, the outcome of which was that the High Court issued terms of settlement in April 2015 confirming both parties agreeing to an Order striking out the proceedings and confirming that works were compliant with An Bord Pleanála's approval for the scheme. The settlement included the Council contributing €61k towards the plaintiff's legal costs. These fees along with the Council's own legal costs, totalling approximately €165k, now form part of the revised scheme costs which will need to be funded internally.

The scheme recorded a credit balance of €3.2m at 31 December 2014 after allocating accumulated development contributions (€7.6m), government grants (€0.8m) and a revenue contribution (€0.2m). The revised total budget scheme costs are currently estimated at €16.7m. The remaining costs to complete the scheme are expected to be funded from a combination of additional development contributions (€2.5m), future revenue contributions (€2.8m) with a loan facility needed to fund the remainder (currently estimated at €2.7m).

Chief Executive's Response

Good progress has been made on the construction of the Central Access Scheme Bridge during the course of 2015. The in-river works were completed in accordance with the revised schedule. Tenders will be sought in the coming months for completion of the remaining sections of the scheme. The current program anticipates the scheme will be open for use in Quarter 4 2016. The issues with the bridge contractor are being resolved through conciliation and the resolution of the valuation of the lands acquired under CPO has been referred to arbitration. The funding plan will be finalised once the final costs are established.

7. Purchasing and procurement procedures

7.1 Purchasing and invoice payments

I have highlighted weaknesses to management at previous audits in the manner in which invoices and related payments are processed by the Council.

This area was again examined during the current audit with the scope of the review concentrating on invoices raised after the date of my previous audit. The Council's own procedures, that require the raising of purchase orders to enable the recording of the commitment in Agresso (the Council's financial management system (FMS)), were again extensively breached. I noted that goods and services ordered by the Council were often received before the relevant commitment was entered on the FMS.

Widespread non-compliance in this area impacts on the accuracy and relevance of the budgetary and financial reports that are issued regularly to both senior management and to the Council.

Some of the weaknesses identified were systemic in nature and I have again written to senior management expressing my concerns with regard to the lack of controls in this area.

I have recommended to management that consideration be given to establishing an adequately resourced centralised invoice processing section.

Chief Executive's Response

The project to upgrade the Agresso Financial Management System has commenced. A key element of the upgrade is the revision of the purchase to pay process. Detailed design work on this element has commenced. It is anticipated that this upgrade will be implemented by mid-2016.

7.2 Procurement

As previously reported the dedicated procurement unit is making a good contribution to improving compliance levels and knowledge of procurement regulations throughout the organisation.

There remain, however, a number of areas, particularly in the housing directorate, that are non-compliant. It was noted that non-capital related contracts totalling approximately €1m were noted as not being contracted in accordance with the procurement regulations.

Consequently there are further improvements required to ensure the Council is compliant in respect of all appropriate procurement regulations.

Chief Executive's Response

The procurement team continue to work with each directorate to achieve savings on all purchases made by the Council.

8. Land lease arrears

I have reported previously that the Council in partnership with another public organisation signed an agreement in 2007 with a private development company to lease land to facilitate the construction of a commercial retail outlet in Kilkenny. In a departure from the provisions of the lease agreement, the Council commenced invoicing the company separately from January 2012 for its share of the lease payments. Because the debt was accumulating, legal advice was obtained which resulted in an addendum to the original agreement being put in place that now provides for the Council being paid directly by the development company.

After the lease arrears had reached €526k, further agreement was reached between the Council and the development company to offset a refund of section 48 (Planning and Development Act 2000) development contributions against this debt. These contributions had been paid by the company for a portion of the development that was never constructed. I have been advised that the related works, in respect of which these contributions were paid, had previously been undertaken by the Borough Council.

Chief Executive's Response

The agreement was concluded following receipt of legal advice on the issues involved. Rents are now paid up to date.

9. Settlement of legal costs arising from defence of the former Kilkenny Borough Council's operation of the 1995 Casual Trading Act

Legal proceedings were initiated against the Borough Council in 2004 which challenged its operation of the 1995 Casual Trading Act. The Borough Council retained a firm of solicitors and a Senior Counsel to represent it in the High Court and a subsequent appeal by the defendant to the Supreme Court.

While the Supreme Court hearing was held in June 2011, which resulted in the plaintiff's appeal being dismissed, a hearing to determine costs was held in July 2014. At this hearing in the Supreme Court, the High Court order awarding costs against the plaintiff was confirmed.

A Bill of High Court costs in the sum of €183k was served on the plaintiff that was subsequently reduced by the Taxing Master to €149k including taxation duty. I note that this amount has not yet been included as a debtor in the Council's financial records, the collection of which should be pursued.

Chief Executive's Response

The collection of this outstanding debt is being actively pursued.

10. Interest in companies associated with the Council

The Council has an interest in a number of companies, the details of which are disclosed at Appendix 8 to the AFS.

10.1 Kilkenny Local Authorities Leisure Complex Limited

This company oversees the day-to-day management of the Watershed Leisure Centre and was jointly owned by the Council and the Borough Council. Following the dissolution of the Borough Council in 2014, Kilkenny County Council is now the sole owner of the company.

The company's audited accounts for the year ended 31 December 2014 recorded an operating profit of €107k before depreciation and exceptional items. After adjusting for depreciation and exceptional items the company recorded a net loss for the year of €238k. The accumulated revenue deficit at the 2014 year-end balance sheet amounted to €14.4m which arose in the main as a result of the revaluation of the company's fixed assets in 2012. The balance sheet recorded a deficit of €257k on shareholders' funds and this situation required the convening of an extraordinary meeting of the company under section 40(1) of the Companies (Amendment) Act, 1983 which was held in April 2015. I note that the company's auditors included an emphasis of matter paragraph, without qualifying their audit opinion, which referred to this negative net asset valuation.

The final account on the construction of the leisure centre has not yet been agreed and I note that the company's board of directors has referred the matter to conciliation in agreement with the main contractor.

I met with company management again during the course of this audit and I am satisfied that determined efforts are being made to maintain the current trading performance levels.

Chief Executive's Response

Kilkenny Local Authorities Leisure Complex Ltd (The Watershed) continues to deliver a satisfactory performance and does not require support from the Council to cover the day to day operating costs.

The final account for the construction of the facility has not been agreed with the contractor. The matter has now been referred to arbitration as provided under the dispute resolution clause of the contract. It is not possible to estimate what the final liability will be until this process is complete.

10.2 The Watergate Theatre Company Limited

This company oversees the day-to-day management of the Watergate Theatre. It is a company limited by guarantee and not having a share capital.

The company's audited accounts for the year ended 31 December 2014 recorded an operating loss of €75k approximately thereby increasing the accumulated losses at that date to €369k and which contributed to the negative net asset valuation in the balance sheet of €336k.

I note that the company's auditors included an emphasis of matter paragraph, without qualifying their audit opinion, which referred to this negative net asset position. The accounts were prepared on a going concern basis with the validity of this, according to the company's auditors, dependent on the continued support of the Council, the company's main creditor.

I have requested management to engage with the auditors of all companies associated with the Council to ensure that the respective financial statements are completed by the time the Council is required to have its draft AFS prepared.

Chief Executive's Response

A new board of directors has been appointed to oversee the activities of the Watergate Theatre Company Ltd.

The board are currently considering a strategy for the future of the company.

11. Governance

Corporate governance comprises the systems and procedures by which enterprises are directed and controlled. The Chief Executive, her management team and the elected members all have a role in ensuring that there are sound systems of financial management and internal control in place.

11.1 Risk management

An effective risk management framework provides the executive management and the Council members with assurances that major organisational risks are identified and appropriately managed.

I note that while some of the individual sectional registers have been adequately updated others have not. It is imperative that all risk registers should be regularly reviewed and updated to ensure that all major risks are identified and any adverse impacts are minimised.

Chief Executive's Response

Management continue to update the risk registers and maintain a focus on the key risks that could have an adverse impact on the council.

11.2 Internal Audit

There is currently just one member of staff assigned to internal audit. While I am satisfied with the quality of the work being undertaken, the current resource allocation is insufficient given the size and complexity of the organisation.

I have taken account of the work undertaken by the internal auditor in carrying out my statutory audit.

Chief Executive's Response

The resource issue is being considered as part of the workforce plan.

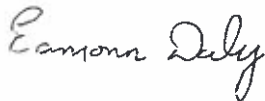
11.3 Audit committee

The committee met on four occasions during 2014 and issued its annual report for that year in March 2015.

I commend the work undertaken by the committee which continues to contribute to the independent oversight of corporate governance within the Council.

12. Acknowledgement

I wish to record my appreciation for the courtesy and co-operation extended to the audit team by the management and staff of the Council.



**Eamonn Daly,
Local Government Auditor
20 October 2015.**

