



**LOCAL GOVERNMENT AUDIT SERVICE**

**Statutory Audit Report**

**to the**

**Members of Kilkenny County Council**

**for the**

**Year Ended 31 December 2015**



**An Roinn Tithíochta, Pleanála, Pobail agus Rialtais Áitiúil**  
Department of Housing, Planning, Community and Local Government

## CONTENTS

	Paragraph
Introduction	1
Financial Standing	2
Income Collection	3
Capital Account	4
Kilkenny Central Access Scheme	5
Abbey Creative Quarter	6
Transfer of Water and Sewerage functions to Irish Water	7
Purchasing and Procurement procedures	8
Interest in companies associated with the Council	9
Governance	10
Payroll – Acting up allowances	11
Acknowledgement	12

## **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 2015, 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, following the completion of the audit work, is to express my independent audit opinion on the AFS of the Council, as to whether it presents fairly the financial position at 31 December 2015 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.

### **2. Financial Standing**

- 2.1** Statement of Comprehensive Income (Income and Expenditure Account)

The Council recorded a surplus of €50,157 for the year ended 31 December 2015 which reduced the accumulated deficit to just €18,233 at that date.

The members, at the Council meeting held in April 2016, approved (by resolution in accordance with section 104(2) of the Local Government Act, 2001) the expenditure incurred in 2015 that was in excess of the adopted budget for the year.

- 2.2** Statement of Financial Position (Balance Sheet)

- 2.2.1** Fixed Assets

I have highlighted, at previous audits, the inadequacies of the property and land registers and I have again noted that these registers remain incomplete. It is imperative that this work be completed without further delay so that all land and property in the beneficial ownership of the Council are both safeguarded and adequately insured. Regular reviews of the property register

need to be implemented as a formal internal control mechanism to ensure that all income derived from the renting and leasing of property is properly recorded in the Council's financial management system.

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

#### **Chief Executive's Response**

Work is continuing on the Property Register. The Property Registration Authority database has been acquired and mapped on to the Council's GIS mapping system, allowing Council registered property to be identified by geographical location. The process of updating the register is very time consuming and will take time and resources to complete.

#### **2.2.2 Work in progress**

Accumulated expenditure on the work in progress and preliminary expenses account amounted to €12.6m at 31 December 2015 of which €7.4m refers to the costs incurred on the site acquired some time ago for the purpose of re-locating the county library. The revenue account in 2015 contributed €260k towards funding the deficit arising on acquisition which was subsequently reduced to €308k at the 31 December 2015. I understand the future use of the site is currently being considered by management.

#### **Chief Executive's Response**

The outstanding balance on this site will be cleared by the end of 2016.

#### **2.2.3 Development Contributions**

Included in debtors as at 31 December 2015 was €6.8m (2014 €7.6m) in respect of amounts owing on development contributions all of which was classified as a current debt in the accounts (note 5 to the AFS).

A provision for bad debts of €6m (representing 87% of the total debt book) has been estimated and is included in the overall 2015 year end provision of €9.8m.

I am not satisfied with the adequacy of the financial records being maintained in respect of special development contributions that were paid to the Council in previous years under the provisions of the relevant Planning Acts. An accurate and comprehensive database regularly maintained and updated is required to ensure that decisions can be made, on a timely basis, on the amounts that maybe required to be repaid to planning applicants. This is currently not in place and consequently the full extent of the amounts that may need to be refunded is not yet known. While I note that some refunds have been made by the Council during 2016, it is important that the current review of the files is completed without further delay to ensure that any interest penalties that may arise are minimised.

I have also advised management that the database used to record the financial information in respect of Part V contributions needs to be improved to ensure that the amounts recorded are both accurate and up to date.

I will review progress made in this area at the next audit.

### Chief Executive's Response

A full review of outstanding development contributions is being carried out. Not all of the outstanding development contributions invoiced are actually payable as a number of developments did not proceed. All outstanding balances that are payable are being pursued.

The database on special development contributions is also being reviewed. Work will be undertaken in 2016 on the Part V Database.

### 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;

	2015		2014	
	Arrears €m	% Yield	Arrears €m	% Yield
Rates	1.41	92	2.01	89
Housing Rents & Annuities	0.59	92	0.63	92
Housing Loans	0.57	82	0.71	77

There was further improvements recorded in respect of the 2015 collection levels that resulted in arrears as outlined above reducing to €2.57m at 31 December 2015 (2014 €3.35m).

The dedicated arrears collection unit, located within the central finance directorate continues to make a good contribution to this increase in collection levels across all of the main income categories. It is important that the level of resources currently available to the unit is maintained.

While the arrears at year-end remain significant, it is commendable that the 2015 percentage yields on all three of the above categories of income were significantly higher than the 2014 local authority national average returns.

### Chief Executive's Response

Efforts are continuing on cash collection in all areas.

### 4. Capital Account

The capital account recorded a credit balance on the account of €4m at 31 December 2015 which represented a further decline of €5m on the previous year.

Despite the overall credit balance on the account, there remained some large deficits on individual schemes that require funding as follows:

- Refurbishment costs on the Kilkenny city parade €5.7m
- Watershed leisure complex €2.7m

The 2015 revenue account contributed €478k and €283k respectively towards reducing the deficits on the above schemes.

The deficit arising on the leisure complex increased significantly during 2015 following the Council's funding of its subsidiary company's settlement of the final account agreement with the main construction contractor (see paragraph 9.1).

#### **Chief Executive's Response**

The capital commitments on completed projects are being reduced each year as resources are allocated in the annual budget process. A loan application is currently being prepared and includes funding for the balance on The Watershed leisure complex.

### **5. 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 have reported on this scheme in my previous reports in which I highlighted some contractual and procurement matters arising particularly in respect of the retention of the main consultant engineers to the scheme.

The main contract for the construction of the bridge was awarded in 2014 following the completion of a competitive procurement process. As previously reported delays in construction works were encountered in the early stages which have contributed to increased costs that were adjudicated upon by an independent conciliator as provided for under the terms of the contract and which were agreed by both parties.

I note that the total payments made to the main consultant engineers to the scheme currently (as at date of report) total €1.05m and are approximately double the amount provided for in the 2012 contractual agreement between the Council and the consultant firm. Included in the amounts paid to date are fees of €0.4m in respect of archaeological services undertaken by a third party that were invoiced by the firm to the Council. I have been advised that this level of fees is the result of the significant additional archaeological works that were required to be undertaken in order to comply with the Ministerial Direction imposed on the Council by the Department of Arts, Heritage and the Gaeltacht under section 14A (2) National Monuments Acts 1930-2004. As previously stated in my 2013 audit report, the costs associated with this element of the scheme were not put out to tender.

The scheme recorded a deficit balance of €1m approximately at 31 December 2015 after allocating development contributions of €400k and a further revenue contribution of €400k in the year.

The revised total budget scheme costs are currently estimated by management at €16.7m which is based on the known expenditure identified to date. The remaining costs to complete the scheme are expected to be funded from a combination of additional development contributions (€2.1m), future revenue contributions (€2.4m) with a loan facility required to fund the remainder (currently estimated at €2.7m).

#### **Chief Executive's Response**

The Central Access Scheme is expected to be completed by the end of 2016 and open for use in early 2017.

## **6. Abbey Creative Quarter**

The Council entered into a contractual arrangement with Diageo Plc in July 2014 to acquire the former brewery site in Kilkenny for €2.1m following agreement in 2012, by both the Council and the former Kilkenny Borough Council, to acquire the 10.6 acres. The site is expected to be handed over to the Council later this year following the completion of demolition works undertaken by Diageo as provided for in the purchase agreement.

Following public consultation a master plan for the development of the site has now been finalised. The current plans include the transfer of a portion of the site into a public limited partnership (yet to be formally established) which will be responsible for its future development in accordance with the adopted planning framework. The new partnership is to be jointly owned by the Council and the National Treasury Management Agency (NTMA). The partnership's equity is expected to be contributed in equal share by both parties with the land transfer representing the Council's 50% share and a cash injection of equal value to the land representing the NTMA's share which is to be sourced from the Ireland Strategic Investment Fund (ISIF).

I have been advised that the costs incurred by the Council prior to incorporation of the partnership which were funded from a combination of development contributions, revenue account transfers and a contribution received from Diageo Plc) will not form part of the new entity's financial records.

The financial accounts of the partnership will be audited by a private audit firm. Consequently, as this strategic development is anticipated to require significant financial funding, staff resources, contractual and legal obligations, I have requested the Chief Executive to ensure that I, as the Council's Local Government Auditor will have access to all appropriate information and documentation considered necessary to complete the audit of the annual financial statements of the Council.

### **Chief Executive's Response**

The business of the Partnership will be overseen by a Board of Directors with representatives from the Council and the NTMA. The Partnership agreement provides that regular reports will be provided to the Partners.

The Council will provide appropriate information and documentation necessary to complete the annual audit of the Council by the Local Government Audit Service.

## **7. Transfer of Water and Sewerage functions to Irish Water**

The Council continues to deliver services on behalf of the utility company, Irish Water under a service level agreement. The current position with regard to the Council's obligations to the company is set out below:

Of the 162 registered assets identified for transfer, some 69 individual parcels of land and property having been completed to date. I have been advised that a further 5 assets are currently ready for transfer.

Further work is still required to facilitate the transfer of the remainder of the assets to the utility company. Of these, I note that subdivisions are still required on some 21 identified assets while there is no determination yet made on 49 separate water related assets. In compliance with national protocols, the book value of the entire water services related assets were removed from the Council's fixed assets as disclosed in the 2014 AFS.

## **Chief Executive's Response**

Work is ongoing with Irish Water to complete the transfer of the relevant assets.

### **8. Purchasing and procurement procedures**

#### **8.1 Purchasing and invoice payments**

I have highlighted weaknesses to management at previous audits with regard to 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. However, I did note some improvement in 2016 particularly within the transportation directorate.

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

## **Chief Executive's Response**

The FMS is currently being upgraded as part of a national upgrade. This upgrade includes significant changes to the way purchase orders and supplier invoices will be processed. All records will have to be entered onto the FMS prior to delivery of the goods/services. A centralised invoice processing section within the Council is also being considered.

#### **8.2 Procurement**

As previously reported the dedicated procurement unit continues to make a good contribution to improving compliance levels and knowledge of procurement regulations throughout the organisation. I have again noted some improved compliance in this area during 2015.

However, there continue to be areas that remain non-compliant with the regulations. In particular, I noted that non-capital related contracts for goods and services by the housing directorate, totalling approximately €1m, were not procured in accordance with the national guidelines and regulations.

As a public organisation, the Council (including all of its subsidiary companies) is required to comply, in all respects, with both the national and EU procurement regulations and directives.

There is an overdue need within the housing directorate to improve standards in this vital area of public governance.



## **Chief Executive's Response**

The procurement of the remaining non-capital related contracts in housing will be addressed in 2016.

### **9. 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 of the AFS.

#### **9.1 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 2015 recorded an operating loss of €115k (2014 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 €1.1m.

The Council's interest in the company is disclosed at note 3 to the AFS calculated at a value of €6.8m (2014 (€0.3m)). The significant increase in the year takes into account the adjustment made to the company's net assets valuation following the reversal of the impairment in the value of the company's land and buildings that was carried out in 2012.

I note that the company's auditors included an emphasis of matter paragraph in their audit opinion (issued without modification). The auditors drew attention to note 3 to the AFS which stated that even though the company did report a loss for the financial year that it was appropriate for the accounts to be prepared on a going concern basis. This note outlined that the company has the support of its principal shareholder (i.e. the Council) and that should it experience any operating difficulties it will be assisted by the Council. The auditors stated in their audit opinion that these conditions indicate the existence of an uncertainty which may cast a doubt about the company's ability to continue as a going concern.

The final account on the construction of the leisure centre was settled in 2015 with an amount of over €2m being paid by the company that was funded by the Council. As noted above (paragraph 4), this payment to the company has been charged to the Council's capital account which has resulted in increasing the deficit on the account that will require funding.

I note that gym equipment with a cost of €95k (amounting to €29k net of grants received) required by the company was paid for, in 2015, by the Council. I have advised management of both the Council and the company that all financial transactions directly relating to the company's operations should be fully accounted for in the company's annual accounts.

I met with company management again during the course of this audit and I remain satisfied that determined efforts continue to be made to improve on the current trading performance levels.

## **Chief Executive's Response**

The funding for the final account payment will be included in the loan application which is currently being prepared.

The grant application for the gym equipment was made by the Council. In order to comply with the conditions of the grant application the supplier invoice had to be addressed to the Council.

## 9.2 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 2015 recorded a surplus for the year of €272k after exceptional items of €297k thereby reducing the accumulated losses at that date to €98k. The negative value of members' funds at the balance sheet date was €65k.

The exceptional income item in the year referred to the write off of a debt owed to the Council in the amount of €297k. This debt had accumulated in previous years and referred in the main to payments made by the Council on behalf of the company in respect of its payroll costs.

I have recommended that management request the audit firms responsible for the audits 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**

Good progress has been made in 2016 with the early completion of the 2015 accounts of the companies associated with the Council. The board of each company will be informed of the deadline regarding completion of the annual accounts.

## 10. 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.

### 10.1 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. I note that the Institute of Public Administration has been appointed to assist in improving procedures in this area which I view as a welcome development.

### **Chief Executive's Response**

The Risk Registers are currently being updated and once complete will be reviewed on a regular basis.

## 10.2 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**

An additional resource has been allocated in the draft Workforce Plan.

## 10.3 Audit committee

The committee met on four occasions during 2015 and issued its annual report for that year in March 2016.

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

## 11. Payroll – payments of acting up allowances

There continue to be members of staff that are performing duties at grades higher than their substantive grades, seven of whom have been in receipt of acting up allowances for some considerable time.

In 2013, the Department requested that acting allowances be addressed in the context of workforce planning with a requirement that local authorities submit a revised and updated workforce plan by December 2013.

I note that the Council's draft work force plan has just recently been forwarded to the Department for consideration. Consequently the payments of these additional salaried amounts are currently not in compliance with national protocols as sanction has not yet been obtained from the Department. I have requested the Chief Executive to ensure that this matter is resolved without further delay.

### **Chief Executive's Response**

On the implementation of the Workforce Plan all long standing acting allowances will be eliminated.

## 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**  
**27 July 2016.**