

DPE 022/014/2012

26 June 2012

To: Accounting Officers

Circular 7/2012:

Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on The Irish Red Cross.

A Dhuine Usail,

1. I am directed by the Minister for Public Expenditure and Reform to enclose, for your information and guidance, a copy of the Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Irish Red Cross.

2. Issues raised

The Minute addresses a number of issues, including;

- a. Corporate Governance,
- b. Financial management/control,
- c. The use of charitable donations, and
- d. The role of the Department of Defence

3. Attention is also drawn to Circular 17/ 2010 – Requirements for Grants and Grants in Aid, in particular Section 1.

4. Enquiries

Enquiries in regard to this circular can be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571, LoCall: 1890 661010 or email: govacc@per.gov.ie.

Mise le meas,

Mr. Robert Watt,

Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Final Report on the Irish Red

The Minister for Public Expenditure and Reform has examined the Committee's Report and has taken account of its conclusions. In relation to the Committee's recommendations, his response is as follows:

Recommendation No. 1

The Department of Defence should ensure that a structured feedback process is in place to verify the implementation of the change programme that is being pursued at the Irish Red Cross and should insist that on-going public funding of the Irish Red Cross is conditional on the implementation of this programme of change.

The Minister for Public Expenditure and Reform is informed by the Department of Defence that it notes the recommendation made. The Minister is also informed by that Department that there is a practice already in place whereby the annual Grant-in-Aid paid to the Irish Red Cross is conditional on provision by the Society of a report to the Department which provides a detailed breakdown of how the previous year's Grant was used and how the Society proposes to use the current year's Grant-in-Aid. Payment of the Grant-in-Aid, which in accordance with relevant legislation is discretionary, is dependent on receipt of the report and satisfactory responses to any queries that may arise.

The Minister is further informed by the Department of Defence that a senior official from the Department, who has been nominated by Government to the Society's General Assembly, has been elected to the Society's Board of Directors. Without prejudice to the independence of the Society from Government, this will ensure that the Department is kept abreast of the progress that the Society is making in implementing the change programme, which has already seen substantial reform of the Society's corporate governance and financial procedures.

Recommendation No. 2

The review of the legislation underpinning the Irish Red Cross should include an examination of whether a provision can be made which would permit, in the public interest, the intervention of the Minister for Defence in the running of the Irish Red Cross where exceptional circumstances arise.

The Minister for Public Expenditure and Reform is informed by the Department of Defence that it notes the recommendation made. The Minister is also informed by that Department that the primary legislation that provided for the subsequent establishment, by Government Order in 1939, of the Irish Red Cross Society is the Red Cross Act, 1938 and that as part of the review of all Red Cross legislation which has recently commenced, changes to this Act will be considered. The Department of Defence has pointed out that the 1938 Act put into effect the 1929 Geneva Convention which provides for the establishment of National Red Cross Societies with Government support and protection, but with structures designed to ensure that they are operationally free from governmental interference. As a State party to the Geneva Conventions, Ireland is a member of the International Red Cross and Red Crescent Movement and whilst national Societies carry out their humanitarian activities in conformity with their own statutes and national legislation, they must always maintain their autonomy so that they may be able at all times to act in accordance with the seven principles of the International Red Cross Movement which are humanity, universality, unity, impartiality, independence, neutrality and voluntary service.

The Minister is further informed by the Department of Defence that, in carrying out its recent examination of the Irish Red Cross Society, the Committee was not exposed to the strong views of the International Federation in relation to the importance that it attaches to national societies being independent of Government. The Department has stated that if the Minister for Defence was to intervene in the running of the Irish Red Cross Society, this would be seen by the International Federation as a breach of the independence of the National Society, to which this State, as a signatory to the Geneva Conventions, has agreed to respect and would create what may be seen as a dangerous precedent for the independence of other National Red Cross Societies worldwide. The Department has

advised that to provide for the possibility of such an intervention in legislation would certainly bring Ireland into direct conflict with the International Federation who quite rightly cherish and strongly defend the independence of national societies worldwide.

Recommendation No. 3

The new rules relating to the length of term that can be served on the executive board of the Irish Red Cross should be made effective for all current members finishing their current term.

The Minister for Public Expenditure and Reform is informed by the Department of Defence that whilst the recommendation is noted the position is that the Rules of the Irish Red Cross are matter for the Society itself. The Minister is further informed by that Department that in relation to the provision in the Society's Rules for a mandatory three year break in service after two consecutive three year terms, it is the firm view of the International Federation of Red Cross and Red Crescent Societies that retrospection is a matter for the membership of the Irish Red Cross Society who are free to choose whether to support long serving colleagues who present themselves for re-election to its Board of Directors. The Minister is also informed by that Department that it would not be appropriate for the State to impose on the Society, which is an independent body corporate, changes to its election procedures that have not been sought by its members or by the International Federation.

The Minister is further informed by that Department that this recommendation has in any event been largely overtaken by subsequent events which have seen the Society recently elect a new Board of Directors. The two longest serving Board members (who had served continuously for 21 and 10 years respectively) did not seek re-election and the new Board of 14 contains six new members (and a further two new members will be appointed by the Chairperson shortly).

Recommendation No. 4

The Irish Red Cross should examine how it can get the scope to make outside appointments to its executive board and/or sub-committees of the board in order to enhance governance.

The Minister for Public Expenditure and Reform is informed by the Department of Defence that whilst the recommendation is noted the position is that this is a matter for the Society itself. The Minister is also informed by that Department that in accordance with changes made to the Rules of the Society in March 2012, the Society's new Board of Directors will shortly include two persons who are external to the Society who will be appointed by the Chairperson with a view to ensuring that the Board has an appropriate mix of skills and expertise. The Minister is also informed by that Department that apart from these two external appointees, the new Board also includes two of the new members of the Society's General Assembly who were nominated by Government for their particular expertise and experience (one of whom is a former Minister of State and the other is a former Ambassador). Including the Department of Defence official who was also nominated to the General Assembly by Government and subsequently elected to the Board, this means that there will shortly be five persons on the Board who come from outside of the organisation.

In addition to these changes to the make-up of the new Board, in accordance with its amended Rules, the Society has recently appointed three external people with suitable, skills, qualifications and experience to its General Assembly which also adds to the range of expertise that is now available within the Society's governance structure.

Recommendation No. 5

All charities have a duty to inform donors, especially during the course of nationwide appeals, of the need for manual donations such as cheques to be referenced to the appeal so that the subsequent use of the donation is linked to the original intent of the donor. In addition, charities should not be allowed to use designated funding for other purposes without the express permission of the donor. Charities should contact the donor to receive that express permission in respect of any occasion where the donation is to be used for a purpose that is not in line with the original intent of the donor.

The Minister for Public Expenditure and Reform is informed by the Department of Justice and Equality that it accepts this recommendation.

The Minister is further informed by that Department that:

- As part of the overall approach to enhancing the regulation of the charities sector, and in the context of the enactment of the Charities Act 2009, the Department has (since May 2011 when the Minister for Justice and Equality acquired responsibility for policy in relation to the regulation of charities) worked with the charities sector to develop and promote an agreed Code of Good Practice for fundraising and accompanying Guidelines for charities.
- The Code of Practice and Guidelines were developed through extensive consultation with industry experts and stakeholders including charities, non-profit organisations, legal and financial advisers, donors and academics. They apply to all types of fundraising, including door-to-door and street collections, telemarketing, direct mail, emergency appeals, internet donations, raffles, church-gate collections and bequests. The Guidelines provide that donors have the right to be assured that their gifts will be used for the purposes for which they were given. The Guidelines also provide that if charities invite the general public to donate to a specific cause, then the charity will have a plan for handling any shortfall or excess.

- As of 28 May 2012, some 38 Charities, including the Irish Red Cross, have signed up to this voluntary Code of Practice for fundraising. The Department of Justice and Equality, in co-operation with the sector, will continue to work towards increased participation by charities in the Codes. It is planned to commence monitoring the impact of the Codes once sufficient numbers of charities have signed up.

- The Charities Act 2009 contains reserve powers for the Minister for Justice and Equality, after consultation with an independent Charities Regulatory Authority (CRA) to be established under the Act, to make statutory regulations on the manner and conduct of fundraising. This may be considered in due course, and following the establishment of a CRA, if the voluntary approach proves to be ineffective.

Recommendation No. 6

The Irish Red Cross must undertake regular audits of all its branches in order to enhance financial control.

The Minister for Public Expenditure and Reform is informed by the Department of Defence that whilst the recommendation is noted this is ultimately a matter for the Irish Red Cross. The Minister is also informed by that Department that it is now the policy of the Society to produce consolidated accounts annually which cover its entire Branch network. As part of this process of producing consolidated accounts, a review of all Branch accounts is undertaken by an appropriately qualified accountant based at the Society's headquarters. Individual Branch accounts are then sampled by the Society's external auditors as part of their examination of the consolidated accounts. The Minister is further informed by that Department that it is fully satisfied that arising from the new accounting procedures and checks that have been introduced by the Society, a recurrence of what happened in relation to the Tipperary bank account could not happen.