



DPE 022/003/2023

28th November 2023

To: Accounting Officers

DPENDPDR Circular: 20/2023

Minute of the Minister for Public Expenditure, NDP Delivery and Reform in response to the Committee of Public Accounts Report on the Examination of the 2019 Appropriation Account for Vote 10 – Tax Appeals Commission and related matters.

A Dhuine Uasail,

I am directed by the Minister for Public Expenditure, NDP Delivery and Reform, to enclose for your attention, guidance and any necessary follow up actions, a copy of the Minute of the Minister for Public Expenditure, NDP Delivery and Reform in response to the Committee of Public Accounts Report on the Examination of the 2019 Appropriation Account for Vote 10 – Tax Appeals Commission and related matters.

Issues raised

The PAC Report contains three recommendations in relation to:-

- Considerations of alternative dispute resolution processes;
- The Inclusion in future annual reports of numbers of appeals received;
- Prioritisation of the recruitment of four additional appeal commissioners;

Responses to the PAC recommendations included in the attached Minute of the Minister have been provided by the Department of Finance (3 recommendations)

Enquiries

Enquiries in relation to this Circular should be addressed to Government Accounting Unit, Department of Public Expenditure, NDP Delivery and Reform, telephone: +353 1 6767571 or email: govacc@per.gov.ie.

Mise le Meas,

David Moloney
Secretary General

**Committee of Public Accounts on the Examination of the 2019 Appropriation Account for Vote 10
– Tax Appeals Commission and related matters.**

Issue One – Alternative Dispute Resolution;

The Commission confirmed that the 21 recommendations in the O’Donoghue report have been implemented¹. While not part of the recommendations, the report briefly compared alternative dispute resolution processes (ADR) across tax systems in the United Kingdom, New Zealand and Australia. The report defines ADR as the use of processes, other than judicial determination, in which an impartial person assists those in a dispute to resolve issues between them.

While the Office of the Revenue Commissioners provides a facility for taxpayers to seek a review of the handling of their tax affairs preceding an appeal to the Commission, the facility was availed of in only 56 cases from 2016-2019, and found in favour of the taxpayer in just 6% of cases. The O’Donoghue report highlighted the greater uptake of internal review mechanisms within the taxation authorities in the United Kingdom, New Zealand, and Australia. The report also found a lack of confidence from stakeholders in current review system within Revenue, citing ‘the remit of the review system is constrained and there is a “high bar” for finding against Revenue.’

During her engagement with the Committee, the Commission’s Chairperson voiced her support for ADR, such as mediation, and stated that the Commission has raised the matter with the Department of Finance and the Irish Tax Institute. While ADR processes take place between Revenue and taxpayers, there is no facility for the Commission to facilitate or direct them.

The Commission told the Committee during the meeting that holding case management conferences (CMCs) for larger cases had made the appeals process more efficient, as it can assist settlements and thus avoiding the time and expense associated with a full hearing.

In correspondence to the Committee in August 2023², the Commission stated that while the CMC process was ‘very helpful in 2016 to 2019’, scheduling a hearing (rather than a CMC) is ‘more expeditious, cost effective and results in appeals being concluded efficiently’ for cases under €5,000.

The Commission informed the Committee in August 2021 that CMCs have been held in respect of 54% of appeals received with a value greater than €5,000 since 2016³. However, this figure dropped to 32% as of August 2023.

The Committee is of the opinion that the Commission should have as many options as possible when hearing and adjudicating tax disputes to ensure potential liabilities to the Exchequer are resolved efficiently.

¹ [Review of the Workload and Operations of the Tax Appeals Commission](#)

² [R2134 - Update from the Tax Appeals Commission to matters raised during its engagement with the Committee](#)

³ [R0761 - Response from the Tax Appeals Commission to matters raised during its engagement with the Committee](#)

Recommendation 1:

The Committee recommends that the Department of Finance provides the Committee with a report by end January 2024 detailing its considerations of alternative dispute resolution processes, and any developments in this regard in relation to the Tax Appeals Commission.

The Minister for Public Expenditure, NDP Delivery and Reform is informed by the Department of Finance that the Tax Appeals Commission accepts this recommendation.

The Department of Finance notes and accepts this recommendation. The role of alternative dispute resolution (ADR) has been considered on a number of occasions since the publication of Niamh O'Donoghue's review of the Commission's workload and operations in 2018. The Department has sought the views of both the Tax Appeals Commission and Revenue in respect of how a formal ADR may operate.

A number of legislative reforms to the tax appeals system are under consideration by the Department at present, including the potential role of ADR in respect of the appeals process and the Department will report back when this work is completed.

Recommendation 2:

The Committee recommends that the Commission includes, in all future annual reports, an additional breakdown of the number of appeals received in a given year for which a hearing or a case management conference has been held .

The Minister for Public Expenditure, NDP Delivery and Reform is informed by the Department of Finance that the Tax Appeals Commission accepts this recommendation.

The Tax Appeals Commission notes and accepts recommendation 2 of the report on the Public Accounts Committee's examination of the 2019 Appropriation Accounts for Vote 10 that it includes, in all future annual reports, an additional breakdown of the number of appeals received in a given year for which a hearing or a case management conference has been held. This information is currently being prepared for the next annual report and will be included yearly thereafter.

Issue Two – Staffing and case load at the Commission;

At end-2019, the Commission employed 29 full-time staff members, which is an increase of 15 from end-2018. The Chairperson informed the Committee that, as of 8 July 2021, the Commission had further increased its staffing to 33.5 full-time equivalents, comprising 28 administrative staff, 4.5 appeal commissioners, and the Chairperson.

The Chairperson advised the Committee during the meeting that the Department of Finance had sanctioned the Commission's business case to move to a tiered commissioner structure to match the appeals base. Under this structure, commissioners are appointed at different salary grades with cases assigned accordingly.

As of 30 August 2023, the staffing complement at the Commission has decreased to 32. While 2.5 new appeal commissioners have been appointed, the Commission has lost two statutory term appeal commissioners and two administrative staff since July 2021. The Commission has stated that four additional appeal commissioners have been sanctioned, with a recruitment process for same to commence in October 2023.

At the end of 2019, there were 3,357 open appeal cases, with a combined value of €3.8 billion. The average time that cases had been under appeal at that date was around two years. Almost a quarter of cases, accounting for €508 million in value, had been in the appeal system for three years or more.

While the Commission is making inroads into the number of outstanding appeals – the Chairperson stated that, as of 8 July 2021, there were 2,906 appeals on hand with a quantum of €4.2 billion – the need for additional commissioners to deal with the volume of appeals more efficiently was highlighted during the meeting.

Given the number and quantum of appeals at issue, it is important that the Commission has sufficient resources to determine appeals within the timeframes it has set. The timely receipt by the Exchequer of funds arising from the Commission's determinations is dependent on how efficiently the Commission progresses its caseload.

The Committee welcomes the significant decrease, from July 2021 to August 2023, in the number of appeals on hand (from 2,906 to 1,218) and the quantum of the appeals on hand (from €4.2 billion to €720 million), alongside other improvements at the Commission.

The Committee further welcomes confirmation from the Department of Public Expenditure, NDP Delivery and Reform that it has granted a business case from the Commission, which includes the appointment of additional appeal commissioners⁴.

Recommendation 3:

The Committee recommends that the Department of Finance ensures that the recruitment of the four additional appeal commissioners is prioritised, in order that the Commission is able to continue to reduce the number of appeals on hand, and the quantum thereof.

⁴ [R2138 - Update from the Department of Public Expenditure, NDP Delivery and Reform to matters raised during its engagement with the Committee](#)

The Minister for Public Expenditure, NDP Delivery and Reform is informed by the Department of Finance that the Tax Appeals Commission accepts this recommendation.

The Department of Finance notes and accepts the Committee's recommendation. It recognises that sufficient staffing at Appeal Commissioner level is key to ensuring and maintaining an efficient appeals system. The Public Appointments Service expects to launch recruitment campaigns for the vacant positions shortly, with the support of the Department.

Given under the Official Seal of the Minister for
Public Expenditure, NDP Delivery and Reform on this
the 27th day of November, 2023.



L.S.

A handwritten signature in black ink, appearing to read 'David Moloney', written over a faint circular official seal.

David Moloney

Secretary General

Department of Public Expenditure, National
Development Plan Delivery and Reform