



**Comptroller and Auditor General  
Special Report**

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**Financial Management and Reporting for  
Fishery Harbour Centres**



# Report of the Comptroller and Auditor General

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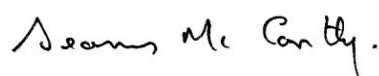
## Financial Management and Reporting for Fishery Harbour Centres

I conduct the audit of the annual accounts of the fishery harbour centres in accordance with the Fishery Harbour Centre Act 1968.

The audit encountered difficulties over a number of years, in particular in relation to adequacy of accounting records and systems to ensure the completeness of income. Due to considerable delays in the preparation of the annual accounts since 2008 and in billing a significant proportion of fees and rent, staff of my Office undertook additional testing of the systems and procedures adopted in relation to the financial management of the centres and the actions taken by the Department of Agriculture, Food and the Marine to address these shortcomings.

This report was prepared on the basis of the work undertaken by the staff of my Office, and information, documentation and explanations obtained from the bodies and persons referred to in the report. The Department of Agriculture, Food and the Marine, the Department of Communications, Energy and Natural Resources and the Department of Public Expenditure and Reform, were all asked to review and comment on relevant parts of the draft report. Where appropriate, the comments received were incorporated in the final version of the report.

In accordance with Section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, I hereby submit my report for presentation to Dáil Éireann.



**Seamus McCarthy**  
**Comptroller and Auditor General**

30 April 2014



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## **Summary**

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# Summary

Fishery harbour centres were established under the Fishery Harbour Centre Act 1968 as centres in which to promote and develop sea fishing activities. Six centres have been designated under the Act. Overall responsibility for their management and operation rests with the Department of Agriculture, Food and the Marine (the Department).

The day-to-day operations of the centres are funded through harbour dues and charges set by law and rents from properties. In addition, annual capital grant funding from the Exchequer is made available for the development and maintenance of harbour facilities.

The Department took over responsibility for management and operations of the centres from the Department of Communications, Energy and Natural Resources in October 2007. From then until April 2008, transition arrangements were applied to facilitate the transfer of responsibility. However, those arrangements were not effective, and resulted in lapses in invoicing of harbour dues.

In the period 2007 to 2011, around €13 million in harbour dues was received by the centres. There were a number of instances where billing was delayed or was not in line with the legislation specifying the chargeable rates.

- Around €1.2 million of harbour dues was billed retrospectively by the Department due to a variety of weaknesses and errors. Delays in processes led to another €210,000 not being billed and deemed to be irrecoverable by the Department.
- €275,000 of the retrospectively billed amounts had not yet been recovered at the time of this report. Another €248,000 is subject to court proceedings.
- Due to perceived difficulties in collecting dues from foreign vessels, a non-statutory flat rate charge was applied up to 2012. Had the applicable statutory rate been charged, an estimated additional 10% in dues could have been billed.
- In one centre, certain passenger vessels were not charged in line with the applicable rate. An additional €35,000 could have been billed had the correct rate been applied.

Over the same period, €4 million in rental income was received by centres. Over €2 million in rent was billed retrospectively, of which €360,000 remains to be collected. In one of these cases, rent had not been billed for eight years, resulting in a build up of arrears of €264,000. In another case, the sale of a property agreed in 1993 had still not been completed. While a deposit of 50% of the sales price was received, there was no rent billed on the property since then.

The Department updated and enhanced its accounting systems to address these weaknesses. This took time to resolve and further strengthening of systems for rent collection is ongoing.

The Department has experienced difficulties in generating a return from the use of car parking facilities at some harbours.

- Based on the charges in place under the legislation, Howth could have generated car parking fee income of between €250,000 and €400,000 annually before taking account of operating costs.
- Development of a car park at Rossaveel in 2011 cost €340,000. It was expected to generate €580,000 annually before VAT and operators' costs, but it only realised a net income of €11,000 in its first 12 months of operation due to a number of unforeseen circumstances. A business case for the investment to develop the parking facilities was not available for review, setting out an assessment of the projected costs and benefits.

Timely billing of harbour dues and rents is a prerequisite for ensuring effective debt collection. The prompt collection of debts also underpins efficient cash management by the Department. Given the extent of retrospective billing, the Department faced significant challenges in collecting debts. Over €5 million was owed to the centres at June 2013, €1.65 million of which related to a matter which was subject to a Supreme Court appeal. The Department has taken a number of steps to collect outstanding amounts which have had varying degrees of success.

The form of the centres' accounts was devised many years ago. Unusually, they are prepared on both a cash and accruals basis. Some of the accruals-based information is not consistent with current accounting practice, and there is scope to improve the quality and usefulness of the financial information presented. For example, capital assets recognise expenditure incurred on harbour properties from the date they were designated as fishery harbour centres, but do not recognise amounts in respect of existing assets transferred at the date of designation. The most recent independent valuation – in 2004 – put the value of property at the centres at €259 million. The net book value of all fixed assets at that date was €105 million. That valuation did not take account of property at Dingle, which was only designated as a fishery harbour centre in May 2007.

A property register has been developed, but further work is ongoing to link it to maps of the centres and to update property valuations. At one stage, 54 properties were leased without documented lease agreements being in place.

The nature of the activities of the centres, the significant assets at their disposal, and the accounting transactions are unlike other activities administered by the Department, and may require a revised governance and organisational structure tailored to cater for these activities.

The report sets out a number of recommendations that address ways to enhance the financial management of the centres and the Department's response to these recommendations.

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## Report

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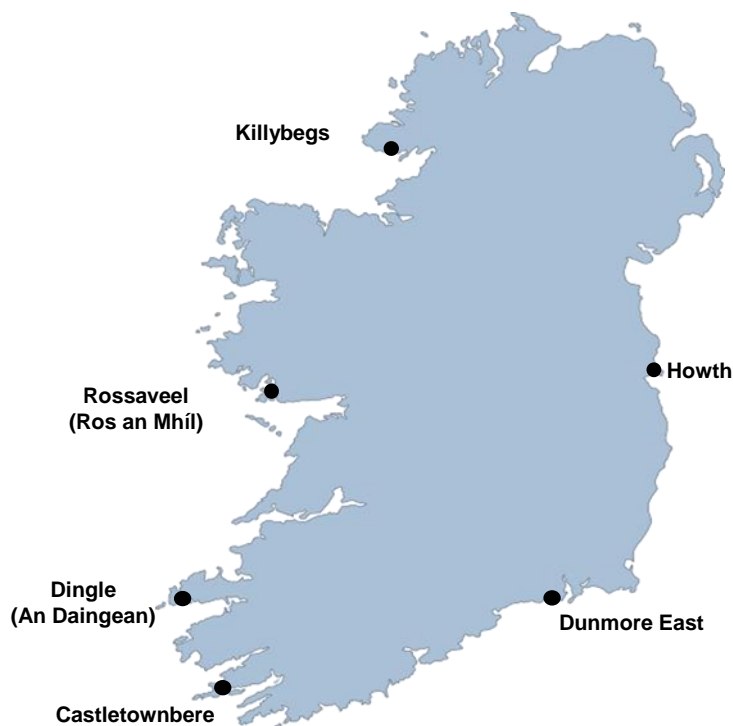
# 1 Introduction

- 1.1 Fishery harbour centres are established under the Fishery Harbour Centre Act 1968 (the Act) as centres in which to promote, develop and carry on sea fishing, including the production and sale of fish and fish products and related activities. Six centres are designated under the legislation, which are managed, controlled and operated by the Department of Agriculture, Food and the Marine (the Department) through the Sea Fisheries Administration Division (SFAD) and Marine Engineering Division of the Department.

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**Figure 1.1 Location of Fishery Harbour Centres**

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Source: Office of the Comptroller and Auditor General

- 1.2 Responsibility for the centres transferred to the Minister for Agriculture, Food and the Marine in October 2007 from the Minister for Communications, Energy and Natural Resources. However, the Department of Agriculture, Food and the Marine was not in a position to take on the complete processing of the financial transactions until April 2008. Transitional arrangements were put in place for this period.
- 1.3 The Act provided for the establishment of the Fishery Harbour Centre Fund, into which all income generated by the centres and funding provided by the Exchequer is lodged. The main recurrent annual income of the centres comes from harbour dues and rental income. The Act (as amended) specifies that the Minister for Agriculture, Food and the Marine shall cause to be kept, in such form as may be approved by the Minister for Public Expenditure and Reform, all proper and usual accounts of all moneys received or expended in relation to the centres, and, the account must be submitted for audit to the Comptroller and Auditor General.

- 1.4** The 2010 Report of the Comptroller and Auditor General on the Accounts of the Public Services referred to difficulties in invoicing income in the period from October 2007 to April 2008, and the consequential delay which led to some invoices for this period being issued as late as 2010. The report also outlined the delay in the preparation by the Department of the 2007 draft accounts, and the fact that the draft accounts presented for audit did not take account of the amounts invoiced late, with the result that considerable amendment was required. The audit opinion on the 2007 annual accounts of the centres, issued on 23 December 2011, reported on inadequacies in the books of account and accounting records maintained by the Department and difficulties encountered by the audit.
- 1.5** Significant further delays arose in the preparation and finalisation of the annual accounts of the centres for the period 2008 to 2011. This report reviews the matters which gave rise to the difficulties in preparing the accounts for those years.

## 2 Accounts Production

- 2.1 The requirement for the preparation of the centres' financial statements by the Department is set out in the Act. The legislation specifically requires
- the establishment of a fund into which all income should be received and all expenditure charged
  - that the accounts of the centres are kept in the form approved by the Minister for Public Expenditure and Reform.

- 2.2 Figure 2.1 sets out the delays in the submission of the accounts of the centres for audit.

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**Figure 2.1 Submission of accounts for audit**

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<b>Year of account</b>	<b>Date submitted for audit</b>
2012	Not submitted yet
2011	June 2013
2010	January 2013
2009	July 2012
2008	November 2009
2007	October 2009

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Source: Office of the Comptroller and Auditor General

- 2.3 The Comptroller and Auditor General is required to audit the accounts and report on them in accordance with the Act. The audits of the accounts for the years 2008 to 2011 were completed in March 2014. A clear audit opinion has been given in each case with regard to the proper presentation of the account in accordance with the stated accounting policies and principles. The opinion has been qualified in relation to the keeping of the books of account, in that proper books of account were not kept during those years. Accounting entries in the books were not made in a timely manner, with the result that
- the books and records would not have enabled the financial position of the centres to be determined with reasonable accuracy throughout the period, and
  - the books and records did not enable the annual accounts to be readily and properly audited.

The Department carried out reviews of income in subsequent periods and discovered underbilling for which it retrospectively issued invoices. It updated the accounting records and included these amounts in the accounts for each of the years from 2008 to 2011. This enabled the audit of those accounts to be completed.

## Keeping of proper books of account

- 2.4** It was agreed between the Department of Agriculture, Food and the Marine and the Department of Communications, Energy and Natural Resources (DCENR), that following the transfer of responsibility for the centres in October 2007, DCENR would record and invoice centre income until April 2008 as part of the transition process. This would facilitate the Department in configuring its accounting system to handle the transactions and records of the centres, which were unlike other transactions in the Department. DCENR issued invoices with a value of €647,000 during that period.
- 2.5** From April 2008 onwards, the Department commenced invoicing harbour dues. It identified that invoices to a value of €444,000 relating to the period from October to December 2007 had not been issued, and retrospectively issued these invoices, mainly in May and June 2008. It undertook additional reviews of billing in 2010 and subsequent years, and retrospectively issued further invoices to a value of €452,000 relating to the 2007 financial year, and €299,000 relating to the financial years 2008 to 2011.
- 2.6** DCENR stated an error had arisen in the issuing of invoices during the transfer of responsibility to the Department of Agriculture, Food and the Marine. It explained that its accounts branch was transferred from Castlebar to Cavan in October 2007 as part of the decentralisation programme, resulting in a complete changeover of staff dealing with the programme and a consequential loss of corporate memory. It also stated that one of the reasons for the delayed invoicing was the late submission of landing details to it from individual centres.
- 2.7** The Department also obtained a database of let property from DCENR. It was unable to establish whether the database was complete and undertook an exercise to identify all rental income and to adapt its accounting systems to enable it to invoice rent on a timely basis. Over the period 2009 to 2012, the Department billed around €2 million of rental income in arrears.
- 2.8** DCENR submitted the 2007 accounts for audit but as the transfer of functions took place during that year, the responsibility for finalising the account fell to the Department. The Department explained that the preparation of the 2008 account was also complicated by the fact that payment transactions for the first four months of that year had been processed by DCENR, and that detailed separate verification of those transactions had to be carried out.
- 2.9** During the course of the audit of the 2008 account, it was noted that excess capital funding of €1.13 million had been provided to the centres from the Department's vote. Capital funding was normally provided from the vote to centres on the basis of vouched requisitions. In this instance, funding was provided on the basis of estimated expenditure. The Department explained that figures provided at the time of the transfer of functions from DCENR indicated that €1.13 million of capital grant was due to be drawn down for capital expenditure incurred by the centres. It was subsequently discovered during the audit that this was incorrect and that excess funding had been drawn down. This required the draft account to be adjusted by reclassifying the amount as a liability to the Department's vote at the year end. The excess funding amount was held in the Department's bank account and was repaid to the Exchequer in December 2013.



- 2.10** Given the scale of the underbilling and the accounting adjustments required to the 2007 account and to subsequent accounts, the Office of the Comptroller and Auditor General undertook detailed additional tests in order to substantiate the figures provided in the draft accounts for 2008 to 2011.

### **Format of accounts**

- 2.11** The accounts of the centres are prepared in accordance with the Act and with the accounting policies and principles which are set out in the accounts. The accounts comprise both cash and accrual based information, specifically
- a statement of balances
  - a cash based receipts and payments account
  - an accrual based income and expenditure account and a balance sheet
  - the accounting policies and principles and
  - additional note disclosures.
- 2.12** There are a number of differences between the accounting policies and principles adopted for the centres and up-to-date accounting practice.
- Fixed assets recognise expenditure incurred on harbour properties from the various dates they were designated as fishery harbour centres, but do not recognise amounts in respect of existing assets transferred at the date of designation.
  - After designation as a centre, fixed assets recognise cumulative expenditure based on capital grant allocations which include routine capital maintenance charges.
  - Fixed assets are not depreciated.
  - No review is undertaken for asset obsolescence or impairment.
  - Fixed assets are not categorised by type in the notes to the account.
  - Financial statements are normally prepared either on a cash basis or accrual basis but not on both; a cash flow statement discloses information regarding the source and application of cash as part of accrual based financial statements.
  - In addition, State bodies are required to present a statement describing the system of internal financial control. There would be merit in such a statement being prepared as part of the annual financial reporting process for the centres.

### **Conclusions**

- 2.13** Upon the transfer of responsibility for the fishery harbour centres to the Department, it set about updating procedures to address shortcomings with regard to timely and complete capture of billable income. It has taken time to capture all significant underbilling and accounting adjustments, in order to produce the 2008 to 2011 accounts. The 2012 accounts have not yet been submitted for audit.

- 2.14** There have been significant delays in the preparation of auditable accounts, and there is considerable scope to improve the quality and usefulness of financial information presented. The centres operate under governance arrangements which are set out in law. The commercial nature of some of the activities of the centres, the significant assets at their disposal, and the accounting transactions are unlike other activities administered by the Department. The governance and organisational structure for management of the centres should take account of both the commercial nature of the activities and the need for delivery of public services in the harbours.

**Recommendation 1**

The Department should review the format of the accounts for 2012 (and later years) with a view to ensuring consistency with up-to-date accounting practice.

**Accounting Officer's Response**

Agreed. The process of refining accounting policies is an ongoing process.

**Recommendation 2**

The Department should review the governance arrangements for the centres to ensure that they adequately take account of the nature of the business.

**Accounting Officer's Response**

Agreed.

### 3 Completeness of Income

- 3.1 Income from day-to-day operation of the centres is derived mainly from charges on marine vessels using harbour facilities and rents from leased property. Capital development expenditure is financed by way of voted moneys.
- 3.2 In the five years to 2011, receipts by the centres amounted to €75 million. Figure 3.1 shows receipts by category.

**Figure 3.1 Receipts 2007 to 2011**

Year	2011	2010	2009	2008	2007
	€'000	€'000	€'000	€'000	€'000
Harbour dues	2,913	2,798	2,895	2,161	2,220
Rent	1,057	1,099	1,275	195	619
Sundry	274	218	398	128	268
Asset sales	-	-	241	-	-
Exchequer contribution					
Current	100	100	104	105	105
Capital	7,976	8,133	13,565	15,333	10,623
<b>Total</b>	<b>12,320</b>	<b>12,348</b>	<b>18,478</b>	<b>17,922</b>	<b>13,835</b>

Source: Audited accounts of the centres

#### Harbour dues

- 3.3 Fishery Harbour Centres (Rates and Charges) orders<sup>1</sup> set the charging rates for the different facilities and services. The main charges are
- declared fish landings
  - harbour entry fees
  - service charges.
- 3.4 Under the charging order, the Minister for Agriculture, Food and the Marine sets the charging rates for the landing of fish and the use of harbour facilities by vessels. Different rates apply according to the type and nature of the vessel, the different use made of the facilities by the vessel, the size of the vessel and the quantity and species of fish landed (where applicable). Charges relating to the discharge of fish are levied according to the declared weight of fish and species value.
- 3.5 For vessels with a length overall of 10 metres or more, the owners or skippers provide fish landing figures from log books to the Sea Fishery Protection Authority,<sup>2</sup> which are recorded on the Integrated Fisheries Information System (IFIS). Landings by smaller vessels are recorded by buyers on 'sales notes' when selling any or all of their landings and this information is uploaded by the buyers onto IFIS. Landings by non-EU vessels occur in one centre only and this information is supplied by shipping agents to the centre.

<sup>1</sup> The statutory order made in 2003 was updated with effect from 1 July 2012.

<sup>2</sup> The Sea Fishery Protection Authority was established under the provisions of the Sea Fisheries and Maritime Jurisdiction Act 2006 and is the body responsible for seafood safety and sea fisheries protection.

- 3.6** Invoices for fish landings are compiled by the Department using the IFIS data and reviewed by the centres prior to issuing to vessel owners. Bills for landings by non-EU vessels are prepared by the centre which directly updates the Department's accounting system with the transaction details.

***Underbilling identified by the Department***

- 3.7** In addition to late billing of €444,000 for the period from October to December 2007, the Department identified a number of other problems in billing for harbour dues over the period 2010 to 2013.
- Adjustments were made to the original data input on IFIS from time to time for corrections to the quantities of fish landed, without triggering additional invoices or credit notes. Around €236,000 in additional billing was identified by the Department as a result of a review of this data.
  - It was discovered that €293,000 had not been billed by a centre to two companies in respect of charges on passenger vessels.
  - SFAD compared vessels with recorded fish landings with vessels paying the harbour entry charges for the years 2009 and 2010. This review found instances where bills for harbour entry should have been issued. The undercharge was estimated at €74,000 and the bills were issued retrospectively in 2013.
  - An additional €147,000 was due in respect of a laid up vessel.
  - In addition, one centre had omitted to invoice a number of vessels for the period 2007 and 2008. The amount not billed was around €210,000 and the Department deemed these amounts irrecoverable.
- 3.8** The Department stated that of the €1.194 million in retrospective billing outlined above, around €0.5 million remains to be collected, with half of this amount owed by one customer, which is currently the subject of a Supreme Court appeal. The Department stated that considerable resources have been spent in developing an interface between IFIS and the accounts system to ensure that invoices are issued for all fish landing situations, including where amendments are made to landing figures. This enhancement was launched in early 2012.
- 3.9** The Department stated that the passenger vessel underbilling of €293,000 was identified in 2010 in respect of a number of years prior to 2008. The centre now has responsibility for posting invoices for passenger vessels to the Department's accounting system, and supervisory checks on fishing and non-fishing income are carried out by SFAD.
- 3.10** In relation to the underbilling of harbour entry charges, the Department stated that all harbour masters were requested to review this class of charge and issue all the necessary invoices.
- 3.11** The Department explained that the non-billing for the laid up vessel was an error, due to an incorrect view being taken in the centre that the vessel was facilitating other vessels. As soon as the matter came to the attention of SFAD, the centre was instructed to apply the charges retrospectively. Up to July 2013, just over €5,600 of this debt had been recovered.

- 3.12** In relation to the amount of €210,000 which was deemed to be irrecoverable, the Department stated that the related fish landing figures had been correctly recorded by the centre and notified to accounts section in DCENR. For some time after the transfer of functions, invoicing continued to be managed by DCENR. The Department stated it came to light in 2012 that there had been a number of oversights in 2007 and 2008, but due to the change in staff it had not been possible to ascertain the reason for these. It explained that it was considered unrealistic to invoice a broad range of customers four to five years after the event.

### ***Other instances of incomplete charging of harbour dues***

- 3.13** The audit also identified other instances where there were problems in charging harbour dues.
- It was noted from a review of invoices that centres were applying a flat charge of €250 per landing for certain foreign vessels to cover harbour entry, fish landing, and services, rather than the various charges set out in the charging order. The charging order did not make any provision for this flat charge. Around €1 million was billed through flat charges over the period 2009 to mid-2012. A review of a sample of vessels which paid the flat charge indicated that, had the charges specified in the order been levied, then a further 10% in fees could have been billed – this equates to around €100,000 when applied to all boats paying on the flat rate basis, in the period reviewed.
  - In another case (Dingle), the charge imposed on certain passenger vessels was at a lower rate compared to that specified in the charging order.<sup>1</sup> Had the order been applied, then additional income estimated at €35,000 could have been realised over the period 2008 to mid-2012.
- 3.14** The Department stated that the flat charge of €250 was offered as a solution to a difficulty which arose where foreign vessels departed harbours before IFIS landing data became available, and it would therefore be difficult to collect charges if billed amounts were based on landing tonnage. In drafting the 2012 charging order, the Department was mindful of the requests from the fishing industry for the retention of the flat charge, and after consideration, a rate of €400 per harbour entry was included in the order. This rate has only been availed of by foreign vessels.
- 3.15** In relation to the imposition by Dingle of lower charges on passenger vessels than those specified in the charging order, the Department stated that the harbour differed from other centres in that it had evolved with a significant marine leisure base. The harbour was designated a fishery harbour centre in May 2007 and the Department stated that it was not possible to fully implement the charges set out in the 2003 order for all categories, and in a number of instances the existing charges were retained.<sup>2</sup> The order was revised with effect from 1 July 2012 and takes account of the centre's activities.

<sup>1</sup> The charging order lays down a charge of €40 per entry, or €4,000 per calendar year payable in advance.

<sup>2</sup> Dingle was designated a fishery harbour centre in accordance with Section 86(2) of the Harbours Act 1996. Dingle charged fees under a charging order issued in 1997 in accordance with the Harbours Act 1946.

### **Rental income**

- 3.16** Each centre owns land and properties in the harbour area. Department records indicate that there are 210 properties in total, some of which are used by the centres, but the majority are made available for rent. The Department stated that its policy is to make properties available at centres by way of lease arrangements and not to sell properties. Annual rental income amounts to €1 million, on average.

- 3.17** An analysis of the amounts billed over the years 2009 to 2012 indicated that over €2 million in rent was billed in arrears, as shown in Figure 3.2.

**Figure 3.2 Rent billed in arrears**

Financial year	Arrears billed in				Total arrears billed
	2009	2010	2011	2012	
	€'000	€'000	€'000	€'000	€'000
2011				118	118
2010			56	109	165
2009		204	30	87	321
2008	567	193	24	82	866
2007 and before	205	234	5	144	588
<b>Total</b>	<b>772</b>	<b>631</b>	<b>115</b>	<b>540</b>	<b>2,058</b>

Source: Department of Agriculture, Food and the Marine

- 3.18** There were a number of difficulties encountered by the Department in billing rents.
- On the transfer of responsibility for the centres from DCENR in 2007, the Department was given a database of let property but was unable to establish whether the database was complete. It undertook an exercise to identify all rental income and to adapt its accounting system to enable it to invoice rent on a timely basis. The final version of this modification was put in place in March 2009. This resulted in no billing of rent during the period October 2007 to March 2009.
  - In one case, a lease was agreed with a tenant in 2005 for an annual rent of €33,000, but the lease was never signed. The tenant was not invoiced for rent until 2012, at which time €264,000 was due.
  - There were six cases where ejection proceedings were being considered or had been put in train, but the additional rent from the date of the commencement of the proceedings was not being pursued.
- 3.19** The Department stated that of the €1.518 million billed retrospectively in the period 2009 to 2011, €1.472 million (97%) has been recovered. Of the €540,000 billed in 2012, €314,000 remains to be recovered, with two customers making up €290,000 of this debt. One of these customers is the case referred to, whereby no rent was billed for a period of eight years - €33,000 has been paid to date.
- 3.20** The Department stated that it is satisfied that its systems can now bill for rent in a timely manner. The process to review the database transferred from DCENR took some time to complete. As part of this exercise, harbour maps were reviewed and information obtained from harbour staff, which resulted in additional properties being identified and the billing of tenants. The billing process has now been automated within its accounting system. Rental agreement information is recorded on the system and invoices are automatically issued. It stated that around 25 cases took longer to resolve due to queries, and the fact that ejection proceedings were in train in some instances. The Department stated that, in cases where proceedings had commenced, it had not pursued the additional rent due, on foot of legal advice, but it is open to it to seek compensation through the courts for losses following the successful outcome of ejection proceedings.

- 3.21** The Department also supplied details of sites where no rent is being billed. It stated that there are a variety of reasons for rent not being billed.
- 28 sites are vacant. In these cases, the Department has conducted a review and three sites have been put out for public tender. The Department regularly reviews all remaining vacant sites to assess the potential benefit to the centres for marketing these.
  - Some properties are subject to enforcement proceedings.
  - A number of sites or premises are occupied by the Department for the purpose of managing and operating the centres.
  - Some sites were made available rent-free to other public bodies for the provision of public services and amenities, or in the interests of maritime safety.
- 3.22** The Department also stated that in a small number of cases, properties have been sold or are in the process of being sold. Any properties where the sales process is ongoing were initiated some considerable time ago.

### **Sale of sites not completed**

- 3.23** In December 2005, a request for tender was published seeking proposals for the development of three sites adjacent to a newly constructed pier in Killybegs under a 35 year lease. The tender sought an up-front payment (to be proposed by the bidder) and an outline of the valuation of the sites. It also stated that either party could withdraw from the process up until the leases were signed.
- 3.24** The accounts disclose that €5.75 million was received in 2005 in respect of a proposed lease agreement. Under the proposed agreement, annual rent of €176,400 would be received by the centre but because the project did not proceed, this income did not materialise. The €5.75 million was refunded to the prospective tenant in June 2010 after he withdrew from the project. The Department stated that a number of land issues arose – an objection by a local resident, and a problem concerning title overlap between part of the proposed lease sites and another lease to a different party. The Department proposed options to the prospective tenant to overcome the difficulties but these were not accepted.
- 3.25** In another case, a land sale which commenced in 1993 had not yet been completed due to discrepancies in the boundary of the property. The Department stated that no rent was billed on the property after the sales process commenced but the tenant had generated an annual income for the centre from harbour fees. It stated that a sale price of €317,000 was agreed and a deposit of 50% was received and lodged with the Chief State Solicitor's Office in 1993. It explained that as a sales process had commenced and a substantial deposit was received, progressing the sale rather than billing for rent was the consideration. It has prioritised the finalisation of the sale and is progressing the matter with the Chief State Solicitor's Office.

## Parking fees

- 3.26** Five of the centres have car parking facilities which are made available to the public. The charging order sets the maximum charges for parking within the centres. During the examination it was noted that
- Howth fishery harbour centre has 540 car parking spaces which are provided free of charge – had it charged for car parking, the centre could have raised between €250,000 and €400,000 annually before operating costs are taken into account.
  - Rossaveel has 276 car parking spaces. It did not charge car parking fees for the years 2008 and 2009. In 2010, following a public competition, it agreed to let a community group operate the car park for a fee of €550. Expenditure of €340,000 was incurred by the centre in 2011 on developing the car park, including implementing an automated car park payment system. No formal business plan for this development was available for review. In 2012, the centre agreed to outsource the operation of the car park to a company following a public competition.
  - Dingle has three car parks consisting of approximately 217 car parking spaces, two of which are rented to the local authority for an annual fee of €15,500. No income is being received in relation to the third car park, which represents over half of the car parking spaces.
- 3.27** The Department stated that the introduction of car parking at Howth was originally examined in detail in 2007, in conjunction with Fingal County Council, in the context of a proposed Howth Traffic and Parking Management Plan. The project did not proceed, due to the withdrawal of the Council after a year of preparation and public consultation. There was strong local objection to the plan – a range of recreational users of the harbour are accustomed to availing of the car park free of charge. The Department stated that a new plan for the introduction of paid car parking has been prepared and is under consideration.
- 3.28** With regard to Rossaveel, the Department stated that different approaches were taken to the operation of the car park over the years. It attempted to contract out the operation of the car park in 2009, but no suitable tender was received. In 2010, only one tender was received which offered a rent of €550. It stated that following extensive refurbishment of the car park in 2011, it had estimated that the car park could yield up to €0.58 million per annum in turnover before VAT and the operator's costs. However, the income stream was significantly compromised from the outset, due to technical problems with the car park equipment and unexpected competition from other private car parks in the area. Poor weather in 2012 also had a significant impact, with occupancy rates between 17% and 55% of expected norms during the peak season. Around €11,000 in net income has been generated for the centre between June 2012 and July 2013.
- 3.29** In relation to the third car park in Dingle, the Department stated that it has been in dispute for a number of years with the local authority with regard to the legal ownership of the site, and the matter has been referred to the Department's legal affairs division for consideration.



## Conclusions

- 3.30** The day-to-day operations of the centres are funded mainly from fees and rental income. There has been significant underbilling of fees and rents. Steps have been taken by the Department to ensure more timely and complete invoicing of sums due.
- 3.31** The Department revised the charging order in 2012 to reflect the full range of activities in centres, and formally to incorporate charges for Dingle under the Fishery Harbours legislation (some five years after it was designated a fishery harbour centre).
- 3.32** The Department has stated that the 2012 charging order was drafted following an extensive review of the previous order issued in 2003 which involved a public consultation process. The review was conducted in the context of the length of time elapsed since the last update, the changing business environment of the centres, the prevailing economic climate, and the need to preserve an ongoing income stream to the centres. This review took a considerable number of months to complete and substantial resources were dedicated to the exercise. The Department considers that all relevant activities and services have been captured by the 2012 order.

### Recommendation 3

The Department should, at regular intervals, formally review the adequacy of the charging order to ensure that all charging rates reflect current economic conditions, and that all relevant activities and services by centres are captured.

### Accounting Officer's Response

Agreed. The Department will conduct a formal review of the adequacy of the charging order every three years. The next review will be in 2015.

### Recommendation 4

The Department should immediately review those properties which are currently being provided free of charge or are vacant, with a view to ensuring that a proper competitive return is being obtained by the centres.

### Accounting Officer's Response

Agreed. The Department reviews on an ongoing basis the property portfolio in relation to maximising returns.

### Recommendation 5

The Department should ensure that appropriate arrangements are in place in the case of property sales to enable it to continue to obtain a return from the property pending the completion of the sales process.

### Accounting Officer's Response

Agreed.



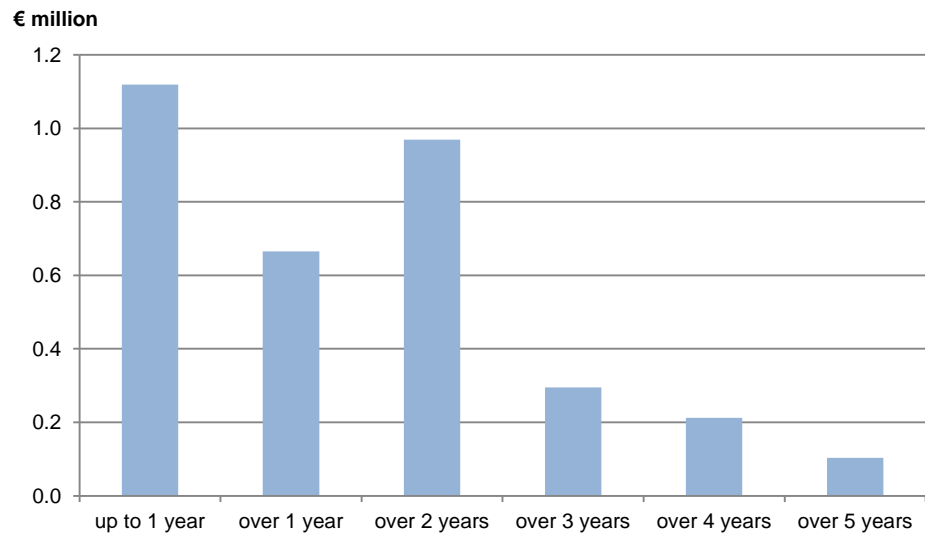
## 4 Effectiveness of Debt Collection

- 4.1** The efficient and timely collection of debts is important in financing the ongoing operations of the centres and for efficient business administration. In accordance with the charging order, debts may be recovered either as a simple contract debt in a court of competent jurisdiction, or by distress and sale of any vessel or goods in respect of which the rate or charge is payable.
- 4.2** The arrears due to the centres at June 2013 amounted to just over €5 million, of which a provision for bad debts of around €3 million has been made. The €5 million outstanding was made up of 463 accounts. The top ten debtors are responsible for just under €3 million (60%) of the overall debt. One debt amounting to €1.65 million relates to harbour fees for passenger vessels. This debtor successfully challenged the legality of the basis of the charge in the High Court in 2011. In addition, the debtor has sought costs and damages in respect of the detention of one of his vessels for the non-payment of centre dues. A provision of €92,000 has been made in the accounts for the cost of settling this claim. The Department has appealed the decision to the Supreme Court.
- 4.3** Figure 4.1 displays the profile of arrears due at June 2013, excluding the debt of €1.65 million subject to an appeal.

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**Figure 4.1 Debt at June 2013**

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Source: Department of Agriculture, Food and the Marine

- 4.4** SFAD implemented a number of measures to address the debt issue within the centres including
- 34 instalment agreements have been set up relating to debt of €814,000, of which, at end April 2013
    - six cases were continuing to pay instalments
    - 12 cases had cleared their debt in full, but eight of these had fallen into arrears again
    - 16 cases were not complying with the agreements – of these, seven had been allowed to incur additional charges, thereby increasing their debt to €358,000 (representing a 78% increase on the initial debt)
  - 47 debtors have been identified as appropriate for cross-compliance, which entails ensuring that all debt due is paid prior to receiving any further grant payments
  - availing of the Minister's power of disposal of any vessel where there are any arrears of charges.<sup>1</sup>
- 4.5** The Department stated, that while the customer compliance level with instalment arrangements had fallen short of what had been hoped for, it was of the view that they are a worthwhile mechanism in the overall debt recovery programme. It stated that their availability and effectiveness must be viewed against the current economic landscape, and the Department was obliged to consider factors such as ability to pay, sustainability of the venture and ability to pay in an improved economic climate.
- 4.6** With regard to cross-compliance, the Department stated that it had collected over €113,000 in 2013 under these measures, and that arrangements had also been put in place with Bord Iascaigh Mhara to withhold grant payments pending confirmation of debt compliance. It also stated that centres had refused access to certain facilities where customers were in arrears, and that consideration can be given to refusing other services, but this had to be balanced against the fact that fishermen had perishable cargos and the potential impact on their livelihoods.
- 4.7** At end December 2011, the average number of days that debtors took to pay was 357 days.<sup>2</sup> The Department has estimated, based on unaudited figures, that this has reduced to around 250 days at the end of 2013.

## Conclusions

- 4.8** Timely billing of harbour dues is a prerequisite for ensuring effective debt collection. The prompt collection of debts underpins efficient cash management by the Department. Given the extent of the retrospective billing, the Department faced significant challenges in collecting debts.

### Recommendation 6

The Department should set specific targets for reducing the time taken to collect debts. It should also focus earlier attention on larger customers as arrears emerge, and devise and document appropriate strategies to work with those customers.

### Accounting Officer's Response

Agreed.

<sup>1</sup> Under Section 4 of the Fishery Harbour Centres Act of 1968, as amended by Section 102 of the Sea Fisheries and Maritime Jurisdiction Act 2006.

<sup>2</sup> Excluding debt of €1.65 million subject to appeal.

## 5 Safeguarding and Management of Assets

**5.1** Assets recorded in the centres' accounts comprise piers, land, harbour buildings and equipment. The assets are stated at cost in the financial statements without charging depreciation, and at the end of December 2011 they amounted to €185 million. An independent valuation of property assets was carried out in 2004, which valued the property within the five centres at €259 million.<sup>1</sup> The book value of all fixed assets was €105 million at that date.

**5.2** Public financial procedures require government departments to ensure that assets are adequately controlled, maintained, and properly safeguarded.<sup>2</sup> Each department is required to maintain an asset register recording details of the asset, its value (and depreciation where applicable), type and location.

**5.3** There was no asset register available to support the figures recorded in the accounts. A property database was provided during this examination but it did not contain the values of the properties. The Department relies on the fishery harbour legislation as evidence of title to properties within the limits of the fishery harbour centres.

**5.4** SFAD are dealing with issues around leasing, ejection, sale and encroachment with the following problems noted.

- There were 54 properties leased where no lease agreements were in place.<sup>3</sup>
- There was encroachment on centre land from neighbouring properties in four cases.
- A bank stated that it had an assignment (debenture) on a leased property.

**5.5** The Department stated that work had commenced on an asset audit of the centres in 2013, and it expected that the asset register would be finalised in the coming months. It stated that a dedicated property unit had been established within SFAD to focus solely on the management of the centres' property portfolios. One of the key functions of the unit is to put in place, over a period of time, up to date lease agreements. Due to the complex nature of this work and the often protracted issues involved in each case, the process is slow. In order to support the unit, increased legal and valuation service capacity has been put in place.

<sup>1</sup> The property in the centres was valued at end-2004 as follows: Killybegs €73 million, Castletownbere €21 million, Rossaveel €26 million, Howth €99 million and Dunmore East €40 million. Dingle was designated a fishery harbour centre from 2007 and was not included in the valuation exercise.

<sup>2</sup> Issued by the Department of Public Expenditure and Reform.

<sup>3</sup> Includes some licences on properties.

**5.6** The Department stated that the property management systems have been significantly improved, with work on updating the property database completed and staff trained in using the system. A project to update all maps in the centres is ongoing.

**5.7** In relation to the assignment on a leased property, the Department stated that it had no record of agreeing to a debenture on this property. As there is a significant accrual of rent on the property (€51,000), and the possibility of legal proceedings, the Department stated that it is taking legal advice on the matter. It stated that, in general, the creation of a mortgage debenture on a leased property comes within the terms of the lease. In circumstances where a third party such as a bank requires a mortgage debenture on a property on foot of a loan request by a tenant then, under the terms of the lease, the tenant must secure the prior written consent of the Minister to the debenture.

## Conclusions

- 5.8** Significant assets are managed by the centres on behalf of the State – the most recent independent valuation in 2004 put the value of property at the centres at €259 million. This valuation does not take account of property at the Dingle fishery harbour centre which was taken over by the Department in 2007. The Department has set about developing an asset register to record all assets – this is essential in safeguarding and protecting the Department’s interests.

### Recommendation 7

The Department should obtain a current valuation of centre land and property. This would

- give more complete and up-to-date information and
- support financial analysis of the centres' performance, and decision making regarding the use of the centres' assets.

### Accounting Officer’s Response

Agreed.