

LOCAL GOVERNMENT AUDIT SERVICE

STATUTORY AUDIT REPORT

to the

MEMBERS OF

DUN LAOGHAIRE RATHDOWN COUNTY COUNCIL

FOR THE YEAR ENDED 31 DECEMBER 2009



Comhshaol, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government



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DUN LAOGHAIRE RATHDOWN COUNTY COUNCIL

1. Introduction

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1. Introduction

- 1.1 I have completed the statutory audit of the accounts of Dun Laoghaire Rathdown County Council for the year ended 31 December 2009. My audit opinion, on the Annual Financial Statement (AFS) of the Council, which is unqualified, is stated on page 5.
- 1.2 This report is issued in accordance with section 120 of the Local Government Act, 2001.

2. Main Issues

Attention is drawn to the following main issues in this report:

- The decrease in the Council's bank balance and in bank investments (paragraph 4.2).
- An underlying trend of increased arrears on the main income sources. Arrears in the four main collection categories have increased in 2009. The commercial water charges collection percentage remained low in 2009 at 39% despite an increase from 31% in 2008, but it is still much lower than the rate of 62% achieved in 2005 (paragraph 6.2).
- The Council's stock of unsold affordable houses and apartments amounted to 158 at the end of 2009, with further units due for completion (paragraph 5.6).
- Cherrywood Science and Technology Park (paragraph 7.2).

3. Financial Performance

- 3.1 The Income and Expenditure account with comparative figures for the previous year may be summarised as follows:

	2009	2008
	€000	€000
Expenditure	200,179	203,949
Income	<u>211,396</u>	<u>216,682</u>
Surplus/(Deficit) for year before transfers	11,217	12,732
Transfers (to)/from reserves	<u>(11,204)</u>	<u>(12,653)</u>
Overall surplus /(Deficit) for year	13	79
Opening Balance at 1 st January	<u>8,981</u>	<u>8,902</u>
Closing Balance at 31 st December	<u>8,994</u>	<u>8,981</u>

- 3.2 The income and expenditure account recorded a surplus of €12,556 in 2009 after net transfers to reserves of €11.2m. Accordingly the general reserve balance going forward on the revenue account, increased from €8.98m to a balance of €8.99m in favour at the 31 December 2009.

4. Financial Standing

4.1 The Council's state of affairs at the 31 December, 2009 as shown in the Balance Sheet may be summarised as follows: -

	2009 €m	2008 €m
Fixed Assets	2,719	2,689
Work in Progress & Preliminary Expenses	819	788
Long Term Debtors	146	167
Net Current Assets	147	171
Long Term Creditors	(189)	(189)
	<hr/>	<hr/>
Net Assets	<u>3,642</u>	<u>3,626</u>
Represented by:		
Capitalisation account	2,719	2,689
Income WIP	776	755
Specific Revenue Balance	18	18
General Revenue Balance	9	9
Other Balances	120	155
	<hr/>	<hr/>
	<u>3,642</u>	<u>3,626</u>

4.2 The Council had bank investments of €134m at the 31 December 2009 and these included refundable deposits of €4.5m. This is a big decrease from the amount of €174m at the 31 December 2008. There was cash in transit of €1m but these are really outstanding lodgements and should be treated as such in the bank reconciliation. However, the Council also had a bank overdraft of €2.5m at this time.

4.3 Unfunded Balances: The Council's accounts disclose that it has net capital expenditure of €75.3m which will require funding. At the year-end unfunded project balances amounted to €36.7m and the unfunded non project balances amounted to €13.3m (see note 11 in AFS). The unfunded net work in progress and preliminary expenses amounted to €25.3m at the year end (see note 2 in AFS). The total of these unfunded balances is €75.3m, and the Council should immediately identify the source of funding for the various projects.

5. Capital Account

5.1 The Capital Account records income and expenditure in respect of the acquisition and provision of assets related to services provided by the Council. The capital account balances have been de-aggregated for the purpose of disclosure in the balance sheet, and this is shown in note 12 of the AFS. Loans and assistance to persons housing themselves are excluded from the capital account as these are accounted for in the balance sheet.

- 5.2 A summary of the transactions on the capital account with comparative figures for 2008 is as follows:

	2009	2008
	€000	€000
Expenditure (including transfers)	201,818	280,816
Income (including transfers)	<u>142,521</u>	<u>310,640</u>
Outturn for the year	(59,297)	29,823
Opening Balance Favourable/(Adverse)	<u>168,676</u>	<u>138,852</u>
Closing Balance Favourable/(Adverse)	<u>109,379</u>	<u>168,676</u>

5.3 Three Year Capital Programme Report

Section 135 of the Local Government Act, 2001 requires that a report on the program of capital projects proposed by the authority for the year under review and the following two years to be submitted to the members of the Council. This was passed by the Council in December 2008. A similar report for the year 2010 and the following two years was discussed by the Council at a Meeting held on 21 December 2009.

5.4 Affordable Housing

The Council has 158 affordable units on hand and available for sale at end of 2009. The downturn in the housing market has affected the sales of the affordable houses. Every effort should now be made to maximise housing unit sales while ensuring that the Council receives the best available value for the properties sold. The proposed sale price in all cases is at a substantial discount as compared to the acquisition price.

Agreement has been reached with the Department of the Environment, Heritage and Local Government to transfer 14 of the units to social leasing.

6. Collection Accounts

- 6.1 The details of the various revenue collection accounts are set out in Appendix 7 of the Annual Financial Statement.
- 6.2 The collection yields from the main revenue collections, with comparisons for 2008, 2007, 2006, and 2005, were as follows:-

	2009	2008	2007	2006	2005
Rates	85%	91%	95%	93%	93%
Housing Rents and Annuities	82%	86%	89%	88%	88%
Housing Loans	88%	98%	104%	113%	119%
Commercial Water Charges	39%	31%	43%	51%	62%

- 6.3 The collection of commercial water charges improved slightly in 2009 but still remains very unsatisfactory. The management of this collection must be improved.

- 6.4 While the collection percentage in respect of loans appears high this is because credit balances brought forward are taken into account.

Manager's Response - Commercial Water

The €9,019,916 end of year balance (2009) includes the bills for the final period 2009 in the sum of €2.9m, which only issued on the 29 January 2010, and could not have been collected in 2009, therefore, impacting negatively on the percentage collected figure. However, in accordance with standard accounting practices the debit for these bills accrues back to the year to which they relate. If this amount is excluded from the 2009 collectable figure then the collection performance increases by a percentage of 9% to 48%.

From 2006 to 2008 during the course of the installation of the water meters and the implementation of the Agresso Billing system, there were significant year on year increases in arrears. The water metering project led to an increase in customer queries while customers adapted to the new system of charging. Priority at this time was given to resolving customer issues and issuing invoices.

On examination of payments received on bills it would appear that current charges are being paid e.g. of the bills payable in 2009 - 80% of the current charges on the bills have been paid. Detailed analysis of the arrears is currently underway with a view to taking appropriate action regarding arrears outstanding. During 2009 the following process improvements were introduced which have had a significant impact on stabilising the end of year arrears figure including:

- Reduction in billing from 4 times per year to 3 times per year thereby freeing up staff resources to concentrate on debt collection
- March - enforcement commenced for non- payment
- April – first disconnection of water supply
- Issue of 133 disconnection notices
- Disconnection of 7 supplies
- Issuing of Advance Notice of Disconnection to all accounts with the first bills for 2009
- Liaison with rate collectors to identify problematic accounts.

While there has been a reduction in the collection percentage from 62% in 2005 to 39% in 2009, it should be noted that:

- the annual increase in arrears has decreased from a high of 90% at the end of 2008 to 1% (estimated) at the end of 2010
- the debit (accrued) has increased from €2.2m in 2005 to €7.2m. (estimated) in 2010 (224% increase)
- the sum collected has increased from €2m in 2005 to €6m (estimated) in 2010 (a 200% increase).

In addition it is expected that the progress outlined above will be escalated as a result of the establishment of a debt collection unit in the finance department.

7. Specific Matters

7.1 Environmental Waste Charge

Details of the collection for the year to 31 December 2009 with comparative figures for 2008, 2007, 2006 and 2005, are as follows:

	2009	2008	2007	2006	2005
	€m	€m	€m	€m	€m
Arrears at 1 January	26.9	28.8	25.8	20.6	18.7
Total billed for year	<u>5.1</u>	<u>9.0</u>	<u>15.0</u>	<u>17.4</u>	<u>16.3</u>
Total due for year	32.0	37.8	40.8	38.0	35.0
Less:					
Receipts	9.2	10.1	11.1	11.1	12.8
Waivers and Write-offs	<u>0.8</u>	<u>0.8</u>	<u>0.8</u>	<u>1.1</u>	<u>1.6</u>
Arrears at 31 December	<u>22.0</u>	<u>26.9</u>	<u>28.9</u>	<u>25.8</u>	<u>20.6</u>

The Council continued to accrue less on these charges in 2009 than in previous years as more people, who had been customers of the Council, decided to change their business to private waste collection companies. The Council privatised its waste collection service in mid 2010.

The waste charges were introduced in 2000. Pay per weight was introduced on 1 January 2005.

For 2000 to 2004 (5 years) the total fixed charges for one individual household came to a total of €1,155.92.

It would appear that over 7,000 households had paid virtually nothing at all of these fixed charges for the opening 5 years by 31 December 2009. These arrears amount to over €13m – which is a considerable proportion out of the total arrears.

For the last number of years I have urged that legal proceedings should be instituted against non-payers and that the legal department should register charges against properties where significant arrears exist.

I am informed that of the households who took their business elsewhere to private operators – that a total of 10,131 households still owed over €10.4m to the Council at 31 December 2009. These accounts should still be pursued vigorously.

It is probable that some of the early debtors have become statute barred at this stage.

Manager's Response - Environmental waste charge

The end of year arrears stood at €22m. The Council estimates that approximately €11.5m of this amount will be waived under the terms of the various Waiver of Charges Schemes once remaining qualifying applicants submit waiver applications. In the Council's experience waiver applicants, in general, often only apply for a waiver once they face the prospect of a

discontinuance of supply or other sanctions such as referral to a debt collection agency.

It must be noted that the bills for the last quarter of 2009 in the sum of €1.7m. only issued in 2010. In accordance with appropriate accounting procedures this amount was charged back to the 2009 accounts. However, householders had no opportunity to make any payment in respect of this invoiced amount in the year 2009 itself. If this amount is excluded from the 2009 collectable figure then the collection performance increases by a percentage of 1%.

During 2009 €5.1m was accrued including bills for the final quarter which issued in 2010 in the sum of €1.7m. The receipts figure of €9.2m indicates that significant progress was made on the collection of arrears during the year.

All outstanding sums including those from householders who have transferred to private operators are rigorously pursued through in-house procedures by issuing up to three letters and then by transferring the outstanding sum to debt collection agencies for collection.

The Council has commenced legal action against householders with outstanding waste charges as follows:

- 304 summonses issued with a value of €483,009
- 52 judgements have been secured with a value of € 81,394
- 3 forwarded to the County Sheriff for enforcement
- 22 gone for publication
- 185 Legal Demand Letters with a value of €385,267.

With regard to sums that are statute barred the effect of the Statute of Limitations Act, 1957 is not to render any debt due to a local authority no longer payable after the expiration of the period specified in the legislation nor does it absolve or diminish the responsibility of an individual or business to discharge their liability for any service provided to that person or body. Payments due to a local authority for the provision of a service remain payable, irrespective of the time lapse from the date it first became payable, until such time the liability has been discharged. The debt remains legally payable and the Council will use all available options to ensure payment of monies due to it. The effect of the Statute of Limitations is to inhibit the use of one collection tool only by the Council.

7.2 Cherrywood Science and Technology Park

In 1997, the Council entered into a joint venture agreement with two other companies to develop a site at Loughlinstown as a Science and Technology Park. As at the end of 2008 the Council had a one-third share of expenditure and income of the joint venture.

In the years before 2006 the Council received statements from the other partners in the joint venture showing the expenditure and income for certain periods. These statements were periodically sent to the Council but not on a consistent timely basis and no proper financial accounts were drawn up for the joint venture before 2006. In my previous audit reports, I

expressed concern over the validity of the figures coming from the joint venture partners. The accounts of the joint venture were then audited by a firm of accountants for the period 2006 onwards.

The Council have now cumulatively reconciled the figures per these statements with the figures in the Council's accounts per the Agresso system.

In 2009, the Joint Venture agreement was terminated and the Council instituted legal proceedings to protect its investment in the Cherrywood Science and Technology park. A draft agreement in relation to these proceedings had been reached between the parties on a proposed settlement as at the end of 2009.

An agreement was signed by the Council in June 2010 following mediation with the other parties, namely, Cherrywood Science and Technology Park, Bank of Scotland, AIB and NIB. The main items in the agreement that the Council (through its subsidiary company, DLR Properties Limited) is to receive are as follows:

- (i) Unencumbered freehold title to four plots of land marked respectively Lots 1,2,3 and 6.
- (ii) Unencumbered title to by way of a 10,000 year lease to office Block AA.
- (iii) Unencumbered title to by way of a 10,000 year lease to office Block G2.

I enquired from the County Manager how the Council had ensured that it had obtained Value for Money in this matter, and whether separate independent legal, financial and valuation advice had been obtained in respect of this complex transaction.

The accounts of DLR Properties Limited will have to be consolidated with the Council's accounts in 2010 in accordance with the requirements of the Department of the Environment, Heritage and Local Government's accounting code of practice.

Manager's Response

I have forwarded to you a copy of a detailed report, which I presented to the December 2009 meeting of the Council that covers among other things the background to the JV, the legal proceedings and details of the proposed Settlement Agreement.

In February 2009 I informed Councillors that the Cherrywood JV, which had been due to expire on 31 December 2008, was being extended to 30 June 2009. I also advised the Councillors that I had appointed Mr Derek Brady, former County Manager, to consider the Council's options in relation to the JV Agreement.

I considered that Mr Brady was especially well qualified to undertake this work given his knowledge of the JV and his unique background in both the local authority and property development sectors. Mr Brady, who reported directly to me, oversaw the Council's involvement with the JV from February 2009. This included the management of the legal proceedings and the mediation process. Mr Brady was assisted Optimum Asset Managers and Amory Solicitors. From

time to time Counsel and other expert opinion was sought. Mr Brady and other members of his team reported to me on a regular basis.

In relation to the matter of value for money, I sent a memo on 30 November 2009 to the Chief Valuer, Dublin City Council giving him details of the proposed Settlement Agreement, asking him to assess the value of the land and buildings being transferred to the Council and seeking any other comments he wished to make on the Agreement. (The Chief Valuer, Dublin City Council provides valuation services for Dun Laoghaire Rathdown County Council). The Chief Valuer responded on 3 December 2009. He estimated the value of the buildings and land to be transferred to the Council at €60.1m. He commented on the Settlement as follows:

'In addition, I find the quantum and capital value of the buildings and lands to be transferred to the Council under the terms of the proposed Settlement Agreement, to be a fair and reasonable resolution and outcome in the difficult circumstances (including potential exposure and risks to the Council) that pertained in this case.'

The gross investment by the Council in the JV over an 11-year period was €59.4m. Under the Settlement Agreement the Council exited the JV with assets of €60.1m (valued at 3 December 2009). The Council also received €15m over the period of the JV in respect of its share of the rents on JV properties. Given the collapse in the property market and the risks to the Council as a consequence of the financial difficulties of our JV partner I believe the outcome was very satisfactory from the Council's perspective and represented value for money for the Council.

7.3 Long-term Borrowings and Long-term Debtors

The Council held long-term borrowings of €185m at the close of the year. These were classified as mortgaged related loans amounting to €21m and non-mortgaged loans amounting to €164m.

7.4 Development Levies

The accounting system in this area is in need of improvement. It is essential that the records in respect of planning and development contributions be properly reconciled to the figures produced by the Agresso financial system. The Council should be able at any time to produce lists showing Development levies due to support the debtors figure in the accounts.

The accounts show debtors, including long term and short-term debtors, of almost €94m at the end of the year.

The Council have engaged consultants to design a new system which should address audit concerns. Development contributions are accounted for in the capital account and do not affect the income and expenditure account for the year.

7.5 Internal Audit

Internal Audit is an independent appraisal function within an organisation which operates as a service to management by reviewing and evaluating the operations of the Internal Control System.

The Internal Audit Department in this Council is functioning effectively and is delivering a quality internal audit service. The internal audit unit produces very worthwhile reports containing many excellent recommendations for improving procedures, reducing exposure to risk and generally strengthening internal controls.

All internal audit reports issued in 2009 were made available to me. In planning and conducting my audit, I have taken account of the work of the Internal Audit Unit. The internal auditor should report directly to the County Manager and the audit committee rather than to the Head of Finance.

7.6 Audit Committee

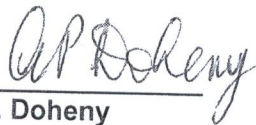
The Audit Committee met 4 times over the course of 2009 and prepared an annual report to the Council. As the external auditor, I met the Audit Committee to discuss my previous audit report and any follow up action required by management.

7.7 Fixed Travel Allowances

Fixed travel allowances were paid to certain officials in the Council who did regular business mileage. This mileage was logged over a 3-month period. In 2007, the Revenue Commissioners began taxing the amounts of fixed travel allowances paid. Many officials opted out of the fixed travel allowance scheme as a result and now claim expenses as they are incurred in the normal way and these are not liable to tax. However, about 57 officials still remain in the scheme as of December 2009.

8. Acknowledgement

I wish to record my appreciation of the assistance and co-operation extended to my colleagues and myself by the Council staff we dealt with during the course of the audit.



A. P. Doheny
Local Government Auditor
12 January 2011