

Goal 5: Providing Quality Services to Internal and External Customers

Introduction

The ODCE aims to provide quality services for all its internal and external customers, and this goal continued to be a priority in 2007. The main developments with respect to ODCE operations and services during the year are outlined below.

Sub-Goal 5.1: Securing and Managing ODCE Resources

Staffing

The ODCE's staffing level was enhanced during 2007 following sanction for an additional eight administrative staff. One extra Detective Garda post was also sanctioned. Four of the new administrative posts were filled by the end of 2007, and in accordance with the thrust of the staffing submission, these staff were deployed to support the Office's compliance, insolvency and investigation and enforcement work. Actual staff numbers at year-end remained below the new approved complement due to delays in the replacement of departing staff. **Appendix 5.1.1** provides a breakdown of the Office's 40 full-time staff equivalents at year-end.

A number of people left the Office in 2007, and the Director wishes to acknowledge the valuable contributions made by Ita Broe, Sheila Farrell, Eamonn McHale, Garrett O'Neill, Kevin Peake, Ellen Reilly, Deirdre Sheehy and Gerry Walsh to the work of the Office during their times here. Many of them had been with the Office virtually from the start, and the Director wishes them all well in the future.

Financial Resources

The Office's administrative costs in 2007 were funded through Subhead A09 of Vote 34 (Minister for Enterprise Trade and Employment). A summary of the allocated and expended amounts for the main Pay and Non-Pay headings is provided in the following table. A more detailed breakdown of the 2007 figures is contained in **Appendix 5.1.2**.

Subhead A09, Vote 34	2007 Allocation (€000s)	2007 Expenditure (€000s)
Pay	2,119	2,140
Non-Pay	2,704	2,238
Total	4,823	4,378

The outturn of just under €4.38 million represented a 30% increase on the equivalent figure of €3.355 million in 2006. Most of the increase was attributable to higher legal and other professional costs in support of the Office's remit, but these costs were nevertheless below what was initially allocated. It is expected that current and anticipated legal proceedings will result in a further increase in the outturn for 2008 relative to 2007. In accordance with Government Accounting Procedures, the surplus of some €0.445 million was surrendered at the end of 2007.

Organisational Development

In 2007, the ODCE engaged external expertise as required to assist it in undertaking its investigative and enforcement work in particular. The ODCE again invited by way of public advertisement firms and individuals to notify their interest in being included on the Office's Legal and Accounting Panels from which suitable persons are considered for appropriate expert assignments. These Panels remain open at all times to applicants who wish to provide such services to the Office.

Risk Management Action Plan

The ODCE again co-operated with the Department of Enterprise Trade and Employment during 2007 in reviewing and further updating the Office's risk management plans. This was originally put in place as a result of the recommendations of the Mullarkey Report³⁵ which dealt with accountability issues in the areas of internal financial controls, internal audit arrangements and risk management.

35 A copy of the Report of the Working Group on the Accountability of Secretaries General and Accounting Officers (the Mullarkey Report) is available at www.finance.gov.ie.

Sub-Goal 5.2: Developing Staff

Performance Management

The Office implements the Performance Management and Development System (PMDS) which applies across all Government Departments and Offices. PMDS is directly related to the Business Plan of the Office and aims to ensure that staff roles are directly supportive of Office objectives. It also relates training requirements directly to the role of each staff member.

In 2007, some 38.8 training days were provided from ODCE resources to 28 staff across all grades. The Department of Enterprise Trade and Employment provided an additional 32.75 days of training to 19 ODCE staff.

In early 2007, the Director completed a Leadership Programme which was run in conjunction with the Institute of Public Administration for senior public servants. Many of the Office's staff in management grades were involved at year-end in the initial roll-out of a Departmental Leadership Programme. The Programme will continue into 2008.

In-house seminars on various topics were also undertaken relating to the work of the Department, the Office and the public service generally, and an ODCE-specific induction course was provided to new staff joining the Office.

Team-Based Working

Multi-disciplinary teams continued to operate within the ODCE in order to handle the Office's extensive volume of casework in the detection, enforcement and insolvency areas. A pictorial representation of the respective involvements of ODCE staff by functional area is at **Appendix 5.2**.

During 2007, the Director made a number of adjustments to the powers delegated to designated staff under section 13 of the Company Law Enforcement Act 2001. In all, six new members of staff working in various teams and areas of the Office were formally delegated to discharge one or more of the Director's legal functions. In addition, there were five changes to existing delegations.

The Office Management Committee, chaired by the Director and representative of all staff, met quarterly in 2007 to deal with policy and organisational issues affecting the Office's continuing development and direction.

Sub-Goal 5.3: Developing and Maintaining Quality Customer Services

Services Offered

The ODCE continued in 2007 to commit considerable resources to the development and use of technology to provide information to its customers, to receive input from customers and to enhance efficiencies in work practices. The services offered by the Office to the public and professionals include:

- information on company law and related matters via the Office's website, publications, etc. At end-2007, some 793 customers were registered to receive notification of new information being placed on the website;
- talks, seminars and other compliance initiatives provided by Office staff. As indicated earlier in this Report, the Office expanded its 'outreach' activities to the small and medium enterprise sector in particular;
- the facility permitting the making of complaints of suspected corporate misconduct;
- statute-based services, whereby auditors, liquidators and other interests are required to report in certain circumstances to the Office;
- general assistance offered to Office clients in dealing with telephone queries, correspondence, e-mails, etc. For instance, some 602 requests to the *info@odce.ie* account were promptly answered during the year.

Publications

Five formal publications were prepared and published during 2007 as indicated in **Appendix 1.1.1** to this Report. Of these, the Annual Report for 2006 was published in both the Irish and English languages.

As indicated earlier, the Director also issued a number of press statements, and a number of ODCE staff contributed papers and presentations to the national and professional media and business and other groups. Staff also participated in national and local media interviews on suitable occasions.

Website

The ODCE website at www.odce.ie was substantially redesigned in 2006 and re-launched early in 2007. The re-design followed a survey of users and had the primary aim of meeting the metadata standards, accessibility guidelines, Irish language & bilingualism policy and e-mail and archiving requirements as well as securing improvements to the website's aesthetic appearance in line with that common to other civil and public sector websites³⁶.

Accordingly, the new website was designed to adhere to the highest standards of public accessibility and to enable the Office to comply in due course with the requirements of the Official Languages Act 2003. Improvements to the navigation of the website should also ease access to the available corporate governance information. A second survey of users is planned in 2008 to confirm whether or not this aim has been achieved. The following **Illustration 5.3.1** contains a screen shot of the new home page.

Illustration 5.3.1: Screen Shot of the Home Page of the New ODCE Website



New information on the ODCE's work and associated corporate governance developments was regularly updated on the site during the year. New material posted to the website in 2007 included new Office publications, press statements and articles issued by the Director and other staff, the results of Court cases in which the Director prosecuted suspected breaches of company law or duty and the outcome of other Court decisions relevant to company law.

The website once again attracted large numbers of people interested in corporate governance matters. In 2007, some 150,000 visits were made. Analysis of the visitor statistics showed that approximately 80% were "unique visitors" to the site with only 20% visiting a number of times. The analysis also indicated that the duration of each visit has slightly lengthened.

³⁶ Department of the Taoiseach "Report of the Interdepartmental Group, Recommended Guidelines for Public Sector Organisations" – ISBN 0-7076-6275.

Compliance with Agreed Customer Service Standards

The ODCE is committed to providing a quality customer service to all members of the public who have dealings with it as well as to its own staff. The Office regularly reviewed and sought to improve further the service standard provided. The Feedback and Complaints Services on the website are part of this process. Within the constraints of a demanding workload, the Director considers that satisfactory compliance with our Customer Service Standards was achieved in 2007.

Monitoring the Effectiveness of the Office

As indicated in the earlier Goal 1 chapter, the ODCE commissioned market research from Millward Brown IMS in late 2007 as part of a series of occasional research which aims to ascertain the quality of the company law compliance environment and take soundings as to the ODCE's ongoing contribution to the indicated results. The latest research gave a positive picture of the overall situation at end-2007.

The research also addressed public perceptions of the effectiveness of the ODCE in discharging its remit. The accompanying **Illustration 5.3.2** summarises the views of 299 company directors, and overall, it indicates that some 75% of them rate the Office as effective in discharging its remit. This is a material improvement on the 68% result achieved in late 2005 when the last equivalent research was undertaken.

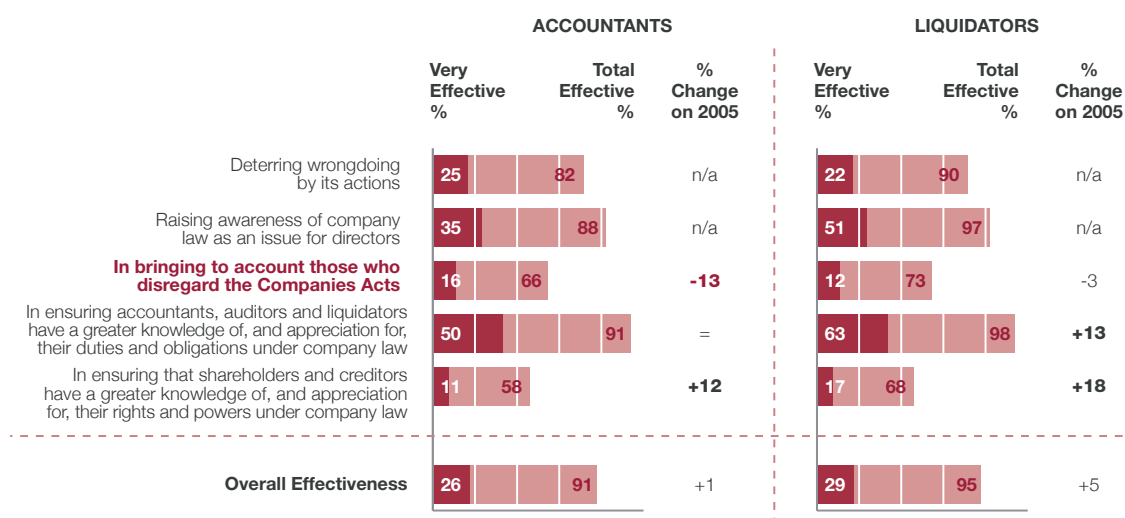
Illustration 5.3.2: ODCE Effectiveness – Views of Company Directors

	Very Effective %	Total Effective %	% Change on 2005	Up to 10 Employees %	11-50 Employees %	51+ Employees %
Detering wrongdoing by its actions	12	64	n/a	58	64	71
Raising awareness of company law as an issue for directors	21	73	n/a	65	70	86
In bringing to account those who disregard the Companies Acts	10	46	+3	52	38	49
In ensuring that shareholders and creditors have a greater knowledge of and appreciation for their rights and powers under company law	8	52	+13	46	54	56
Overall Effectiveness	11	75	+7	72	69	85

Q. I am going to read out a list of aims and activities associated with the ODCE, and for each one I would like you to tell me, in your opinion, how effective or otherwise you believe the ODCE to be. So firstly...

The following **Illustration 5.3.3** summarises the views of 100 accountants and 41 liquidators on the subject of ODCE effectiveness. More than nine out of every ten polled considered the Office to be effective which again represented an improvement on the equivalent results in late 2005. Both results were heartening for the Office's staff in discharging their respective compliance and enforcement remits.

With regard to the Office's publications, a majority of each of the groups of directors, accountants and liquidators who participated in the market research were aware of the ODCE's publications. Those who had an awareness of them gave them a mean score of 7.6 (out of 10) in terms of the quality of information and usefulness/relevance. Those who had been in contact with the Office in the last twelve months awarded an average score of 7.7 for the helpfulness of staff and 8.0 for knowledge of company law. The Office was awarded a mark of 7.2 for encouraging and facilitating compliance with company law as well as for satisfactory resolution of the matter in hand.

Illustration 5.3.3: ODCE Effectiveness – Views of Accountants and Liquidators

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Freedom of Information (FOI) Acts

The FOI Acts permit the disclosure of records concerning the general administration of the Office only. During 2007, the ODCE received no requests for records under the Acts.

Ombudsman Enquiries

The Ombudsman approached the Office on two occasions in 2007 on behalf of persons who were dissatisfied with the response which they had received from the Office. A detailed reply was provided in one case, and no further information was subsequently sought by the Ombudsman. The second enquiry was received close to the end of 2007, and a final reply was outstanding at year-end.

Data Protection Acts

The ODCE is registered with the Office of the Data Protection Commissioner as a Data Controller. The Data Protection Acts 1988 and 2003 protect against the improper use or disclosure of any information held about an individual. In 2007, the ODCE continued to adhere to this requirement by updating its registration, as well as by complying with its own strict confidentiality provisions contained in the Company Law Enforcement Act 2001. The Office handled one request for information under these Acts in 2007.

Prompt Payment of Accounts Act 1997

The Prompt Payments of Accounts Act provides for the payment of interest to suppliers whose invoices are unpaid at the prescribed date. In line with the Office's policy of arranging that all invoices are settled in a timely manner, the ODCE incurred no interest surcharge on payments in 2007.

Official Languages Act 2003

During the year, the Office was in contact with the Department of Community Rural and Gaeltacht Affairs regarding its Draft Scheme of commitments under the Act to provide services in the Irish and English languages. It is anticipated that the Scheme will be agreed in 2008.

Meetings with the Department of Enterprise Trade and Employment

The Director and his staff had two regular liaison meetings in 2007 with senior Departmental staff. These discussions included the performance of the Office in discharging its compliance and enforcement remit, its immediate plans, ODCE staffing and resources and Departmental/Office contacts.

Attendance at Oireachtas Joint Committee on Enterprise and Small Business

In March 2007, the Director attended before the Oireachtas Joint Committee on Enterprise and Small Business for the first time. After an opening statement giving an overview of the work of the Office and its achievements to date, the Director was invited to comment on a number of topics. Amongst these were the Office's work in response to the various Tribunals of Inquiry established by the State, the scale of prohibited loans to company directors as an issue for the Office, Office staffing and the performance of the construction industry vis-à-vis company law.

In response to a request for feedback on required legislative changes, the Director made mention of his Office's proposals in 2006, the objective of which was to improve in certain respects how company law operates. He noted that most of these were now with the Company Law Review Group for evaluation. (The subsequent results of that evaluation are now evident from the discussion in the earlier Goal 1 chapter.) The Director also commented, in reply to an enquiry, on the role of auditors and their importance in protecting the rights of shareholders.

Conclusion

Taking account of the ODCE's successes and the difficult challenges which the Office is facing, the Director believes that the Office has again delivered very good value for the State's investment in it in 2007.

Conclusion

The Annual Report has indicated that 2007 was another busy year for the ODCE. Substantial progress was made under each Goal.

The market research results were particularly encouraging in outlining the positive progress which has been made in recent years in changing the culture from one of non-compliance to one of general compliance with the Companies Acts. However, our ongoing experience indicates that there are continuing deficiencies which are causing problems in business and social enterprises. The area of property management companies is one which has been a frequent subject of complaint, and the Office plans to do further work to improve the governance of these companies in 2008.

Some useful initiatives were taken on the enforcement front in 2007, and the Office plans to continue to focus resources on the more difficult issue and case. It is hoped to progress during 2008 and beyond some more of those case types which the Office has on hands.

After five years of supervising companies in liquidation, it was useful in this Report to review what had happened in that period. Certainly, the judgments of the High Court have given useful guidance on the nature of a director's duties and responsibilities in a failing company, and that has helped liquidators and the ODCE to discharge their respective roles under Section 56 of the Company Law Enforcement Act 2001. Our remit in the statutory framework is to act as a filter and gatekeeper – to separate those cases which warrant High Court attention from those which do not. The figures outlined earlier in the Report have indicated that the Office has discharged that role effectively in selecting appropriate cases for decision by the Court.

As we face into 2008, we are anxious to continue our work to promote compliance with the requirements of the Companies Acts. Greater assurance with respect to the quality of the environment in which business and social enterprises operate will provide improved confidence in their future decision-making. At a time of some uncertainty with respect to market conditions generally, a stable and predictable legal environment will assist with the competitiveness of decision-making at company level as well as maintaining the reputation of Ireland as a good place to do business.