

the scrutiny of their conduct that is applied to directors of insolvent companies in liquidation under the section 56 process described earlier.

Where companies are struck off the Companies Register, the assets of every company are vested in the Minister for Finance in accordance with the provisions of the State Property Acts. It is the policy of the Office to bring to the attention of the Department of Finance cases where a company held significant assets at the time of strike-off.

Conclusion

With a further 107 director restrictions and 18 director disqualifications known to be directly related to insolvent companies in 2006, the ODCE continues to make progress in collaboration with liquidators and the Courts in deterring irresponsible or unlawful conduct in this area in the overall interests of good order in the market.

Goal 5 – Providing Quality Services to Internal and External Customers

Introduction

The ODCE's aim of providing quality services for all its customers continued to be a priority in 2006. Customer service in this context includes the provision of services to the public and to Office staff by ensuring that the necessary infrastructure is in place to allow the functions of the Office to be carried out efficiently and effectively. The main features of our developing corporate services during 2006 is outlined below.

Sub-Goal 5.1: Securing and Managing ODCE Resources

Staffing

The ODCE's staffing level was slightly below its approved complement of 37 staff for much of 2006 due to a time lag in the replacement of departing staff. **Appendix 5.1.1** provides a breakdown of the Office's 34.8 full-time staff equivalents at year-end.

Some further contacts took place during the year with the Department of Enterprise Trade and Employment in relation to the ODCE's May 2005 submission for increased staffing resources. This included the production of an update document which was forwarded to the Department in August 2006. At year-end, a definitive decision on this submission was still awaited.

The Director wishes to acknowledge the valuable contributions made by Jim Clavin, Mary Farrell, Damien Kelly, Seán Melia, Geraldine Noone, Pauline Smith and Donal Sullivan to the work of the Office during their times here. All seven left the Office in 2006 to take on new challenges.

Financial Resources

The Office's administrative costs in 2006 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 2006 figures is contained in **Appendix 5.1.2**.

Subhead A09, Vote 34	2006 Allocation (€000s)	2006 Expenditure (€000s)
Pay	1,899	1,915.3
Non-Pay	2,814	1,440.4
Total	4,713	3,355.7

The outturn of just over €3.355 million represented a 16% increase on the equivalent figure of €2.899 million in 2005. 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 2007 relative to 2006. In accordance with Government Accounting Procedures, the surplus of some €1.357 million was surrendered at the end of 2006.

Organisational Development

An upgrade and expansion of the Office's database (which records and tracks the Office's detection, enforcement and insolvency cases) was extensively tested during 2006. The planned implementation of this development will further enhance the Office's ability to share information among staff on past and ongoing casework.

In 2006, the ODCE again engaged external expertise to assist in undertaking its investigative and enforcement work in particular. The ODCE maintained its Legal and Accounting Panels which contain the names of persons or firms wishing to be considered for appropriate expert assignments. These Panels remain open to applicants who wish to provide such services to the Office, and it is planned to re-advertise for expressions of interest early in 2007.

Risk Management Action Plan

The ODCE co-operated with the Department of Enterprise Trade and Employment during 2006 in reviewing and further updating the Office's risk management plans. This was put in place as a result of the recommendations of the Mullarkey Report which dealt with accountability issues in the areas of internal financial controls, internal audit arrangements and risk management.

Sub-Goal 5.2: Developing Staff

Performance Management

The Office implements the Performance Management and Development System which applies across all Government Departments and Offices. The system is directly related to the Business Plan of the Office and ensures clarity of objectives as well as linking training requirements directly to the role of each staff member.

In 2006, some 69 training days were provided from ODCE resources to 26 staff across all grades. The Department of Enterprise Trade and Employment provided an additional 48.5 days of training to 17 ODCE staff, of which 22.5 days were IT-related training benefiting eight ODCE staff. In-house seminars on various topics were also undertaken relating to the work of the Department, the Office and the public service generally.

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 5.2.1**.

During 2006, 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, four 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 three changes to existing delegations.

The Office Management Committee, chaired by the Director and representative of all staff, met quite regularly in 2006 to deal with policy and organisational issues affecting the Office's continuing development and direction.



Two of the Director's staff ready to provide information at the National Ploughing Championships

Sub-Goal 5.3: Developing and Maintaining Quality Customer Services

Services Offered

The ODCE continued in 2006 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. In this context, some 127 customers self-registered in 2006 with a view to being notified of new information being placed on the website;
- talks, seminars and other compliance initiatives provided by Office staff. As indicated earlier, the Office took a trade stand at the National Ploughing Championships for the first time;
- 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-mail, etc. For instance, some 379 requests to the info@odce.ie account were promptly answered during the year.

Publications

Eight formal publications were prepared and issued during 2006 as indicated in **Appendix 1.1.1** to this Report. Three of these were published in both the Irish and English languages as follows:

- the ODCE Annual Report for 2005;
- Decision Notice D/2006/1: ODCE Guidance on Audit Committees and
- Decision Notice D/2006/2: Revised Guidance on Auditor Reporting to the ODCE.

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 request.

Website

The ODCE website was continually updated in 2006 with information on the ODCE's work and associated corporate governance developments. New material posted to the website included the following:

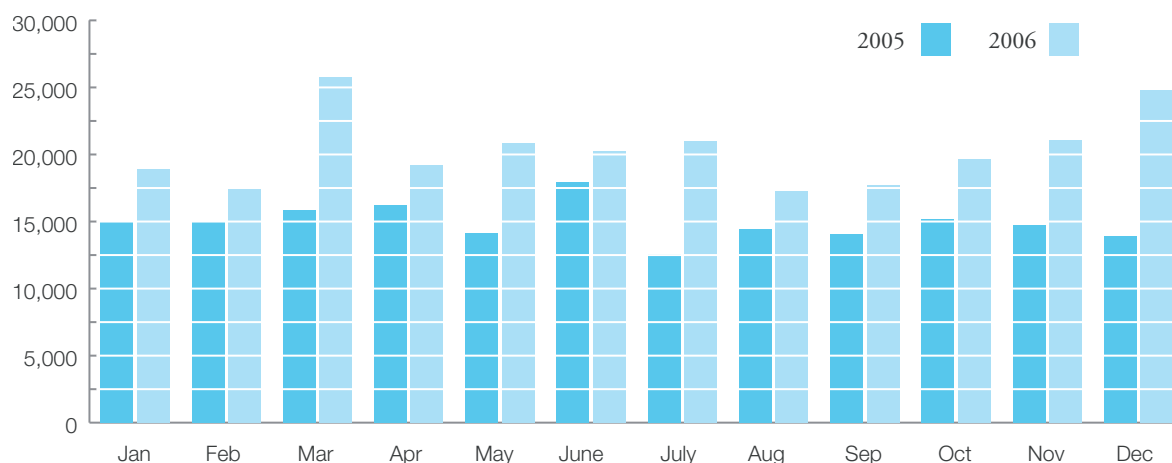
- new Office publications as indicated above;
- copies of certain presentations made by Office staff to business, professional and related interests;
- press statements, articles, etc. issued by the Director and other staff and
- the results of Court cases in which the Director prosecuted suspected breaches of company law or duty and other Court decisions relevant to company law.

The Office's website at www.odce.ie once again attracted increasing numbers of visitors interested in corporate governance matters. In all, some 243,914 visits were made, a 36% increase on the equivalent figure of 178,904 achieved for 2005 (which itself was up 53% on the 2004 figure of 116,783). The chart below indicates the monthly distribution of visits from which it can be seen that traffic in every month in 2006 exceeded its equivalent monthly performance in 2005. March and December were the site's busiest months.



The Director and two of his staff face the Press at the launch of the Office's Consultation Paper on Property Management Companies

Visits to www.odce.ie in 2005 and 2006



Some 325,435 downloads of information on the ODCE website were recorded in 2006, a substantial increase (41.5%) on the comparable figure of 229,961 in 2005. These downloads related to a total of 448 documents (335 in 2005), reflecting the growth in content on the website.

Appendix 5.3.1 itemises the classes of documents most in demand in 2006. The growth in usage indicates that there is a wide interest in the various categories of documents on the website.

Work on the redevelopment of the website continued during 2006 and was almost complete at year-end. When launched in early 2007, it will bring the website to the highest standards of public accessibility. In addition, the website will contain much information in Irish as the Office moves towards compliance with the requirements of the Official Languages Act 2003. The new website, designed for ease of navigation, will improve access to the available corporate governance information.

Freedom of Information (FOI) Acts

The FOI Acts permit the disclosure of records concerning the general administration of the Office only. During 2006, the ODCE received two requests for records under the Acts. One request was withdrawn by the requester, while the other was granted outside of the terms of the Act in ease of both the requester and the Office as the requested information was regarded as publishable.

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 2006, 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.

No request for information under these Acts was received by the Office in 2006.

Prompt Payment of Accounts Act 1997

The Prompt Payment 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 2006.

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 is part of this process, as is the ongoing redevelopment of the website. Within the constraints of a demanding workload, the Director considers that satisfactory compliance with our Customer Service Standards was achieved in 2006.

Official Languages Act 2003

During the year, the Office prepared its Draft Scheme under the Official Languages Act which outlines the ODCE's proposals for the provision of its services in the English and Irish languages. At year-end, this Scheme was under review within the Department of Community Rural and Gaeltacht Affairs.

Conclusion

Taking account of ODCE successes and the difficult challenges which the Office is facing, the Director is of the opinion that the Office has again delivered very good value for the State's investment in it in 2006.

Conclusion

As the rest of this Report has indicated, the ODCE made a number of valuable contributions in 2006 to improving compliance with the Companies Acts and to enhancing corporate governance standards in general.

As we move into 2007, it is worthwhile recalling that the Office has now been in existence for just over five years. With the passage of this milestone, it is timely to reflect on the results of our first five years of work. In general, the scorecard is positive in each of the Office's areas of work as is indicated in the following summary of achievements.

Compliance

Some 40 ODCE publications have been issued since 2001 comprising in particular guidance documents, consultation papers and information notices on company law issues. These have informed company stakeholders in an accessible manner of their duties and obligations under the Companies Acts. Our Information Books on the duties of companies and company directors remain popular as do the equivalent Books for other company stakeholders.

Office staff have underpinned our publications effort with a programme of regular presentations, articles and media work to people involved in business, the professions and relevant public sector and voluntary organisations.

Detection

While compliance has improved, we have nevertheless received about 2,500 reports and complaints of possible corporate misconduct (other than annual return defaults) over the last five years. Most of these have come from auditors pursuant to their mandatory reporting obligations and from the general public.

Many cases have been dealt with administratively as a result of problems being corrected voluntarily or following our intervention. However, a small proportion of cases have been referred for evaluation from an enforcement perspective.

Enforcement

Pursuant to the ODCE's criminal enforcement powers, some 220 companies, company directors and others have been convicted over the last five years. Many of these convictions have been obtained against:

- persons acting as directors and auditors while not entitled to so act,
- companies and directors for failing to keep proper accounting records and
- directors for providing false information or for falsifying company documents.

On occasion, the Office has also used its civil enforcement powers to require the rectification of company law defaults or to seek to impose disqualifications or restrictions on company directors and others for a certain period in the public interest. These enforcement options have been successfully employed in recent years against persons criticised by High Court Inspectors and against company directors whose behaviour constituted a serious abuse of their company law responsibilities.

Insolvent Companies

The liquidator reporting regime which is supervised by the ODCE has worked very well in identifying dishonest or irresponsible behaviour by the directors of insolvent companies. Although constituting a minority of all affected directors, the High Court has restricted over 650 directors in recent years in response to liquidator applications made with the ODCE's assent.

The ODCE has also successfully piloted action in the area of unliquidated insolvent companies which can include phoenix-type company practices. In all, more than 40 directors and others have been disqualified or restricted in this area or as a result of the Office's other enforcement initiatives.

Quality Customer Services

The continuing growth in the popularity of our website is tangible evidence of an increasing interest in company law compliance and enforcement and in corporate governance matters generally. Visits have grown year on year and reached some 244,000 in 2006 which was more than a third higher than the preceding year.

Market research undertaken on our behalf in late 2005 indicated that 68% of company directors have rated the Office as effective in discharging its remit. 74% of directors also believed that the company law compliance environment had improved in the preceding five years. The corresponding results for professionals like accountants and liquidators have been consistently higher.

These results are positive, and it is clear therefore that the Company Law Enforcement Act 2001 has served its purpose well. At an annual average cost of about €3 million, the ODCE has delivered significant results in improving market conduct and in reducing the risks of consequential financial loss for business and other company stakeholders.

Obviously, more remains to be done on a number of levels, and the ODCE is keen to extend its impact over time and to continue to support responsible corporate conduct in the public interest. Public confidence and our international reputation requires that we maintain an effective, open and reliable company law framework supporting investment and facilitating commerce on a fair basis.