

Goal 5 – Providing Quality Customer Services

Introduction

The ODCE continued to provide quality customer services to its clients during 2004. The final results of initial market research undertaken in late 2003/early 2004 on the first two years of the Office were generally positive. The following services in particular attracted praiseworthy comment:

- the Office's educational initiatives, including its Information Books;
- its consultations with professional interests;
- its accessibility in facilitating presentations and training seminars;
- the increased regulation of corporate insolvency matters;
- the combination of educational and enforcement activity which has helped to improve overall compliance levels.

During 2004, the Office sought to consolidate these strengths and to develop further its enforcement role in line with the feedback indicated in this research.

Goal 5.1: Securing and Managing Resources

5.1.1 Staffing

Although several vacancies arose during 2004, with not all being immediately filled, the ODCE remained close to its full staffing complement throughout the year. **Appendix 5.1.1** provides a breakdown of the Office's staffing at the end of the year.

The ODCE lost six staff last year as a result of promotion, retirement or transfer. The Director acknowledges the significant contribution which Sharon Bracken, Ian Drennan, Diarmuid Ó'Grúagáin,

Kevin Roche, Phyllis O'Connor and Mary Solan-Avison made to the ODCE's initial success.

The ODCE was pleased that the commitment, conscientiousness and hard work of two of its staff, Damien Kelly and Ellen Reilly, were recognised by the Department of Enterprise Trade and Employment in its Merit Awards for 2004.

5.1.2 Financial Resources

The administrative costs of the Office in 2004 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 are provided in the following table.

Subhead A09, Vote 34	2004 Allocation	2004 Expenditure
	€000s	€000s
Pay	1,686	1,682
Non-Pay	2,564	1,385
Total	4,240	3,067

A detailed breakdown of the above figures is contained in **Appendix 5.1.2**.

Overall expenditure by the ODCE in 2004 amounted to €3.07 million, an 8% increase on the outturn of €2.84 million in 2003.

While pay expenditure was very close to the allocation, a surplus was recorded on the non-pay budget. This was primarily due to legal and other professional costs being less than anticipated.

In accordance with Government Accounting Procedures, the surplus allocation was surrendered at the end of 2004.

5.1.3 Organisational Development

The online access to the CRO database secured in 2003 was further enhanced during 2004. The link was updated to ensure that the information received by the ODCE is synchronised with the latest data available to the CRO. This greatly assisted in expediting case evaluation and maintaining the quality of assessment employed in progressing investigations.

The effectiveness of the Office in 2004 was also improved by the further development of a database to record and track its cases in the detection, enforcement and insolvency areas. The system is designed to integrate information from these functions across the Office. Phase 1 was implemented during September 2004.

The ODCE had occasion in 2004 to engage external expertise to assist it in undertaking its investigative and enforcement work in particular. The operation of the Office's legal and accounting expert panels was reviewed in 2004, and a streamlining of procedures is underway at year-end.

5.1.4 Risk Management Action Plan

During 2004, the ODCE co-operated with the Department of Enterprise Trade and Employment in establishing a risk management system in accordance with the recommendations of the Mullarkey Report.

The overall objective of the policy is to ensure that appropriate actions are taken to identify, assess and manage effectively the principal risks to which the business of the Department and its Offices may be exposed.

The system builds on existing informal risk management practices, processes and procedures, making best use of the limited management time that is available. Staff within the ODCE have been designated as a "Response Team" in the event of an occurrence causing disruption to the business of the Office.

Goal 5.2: Developing Staff

5.2.1 Performance Management

The Office implements the Performance Management and Development System which applies across all Government Departments and Offices.

Taking into account the goals identified in the ODCE's Strategy Statement 2003-2005, staff contributed to the development of the Office's Business Plan for 2004. ODCE staff were involved in relating their individual roles to meeting the identified tasks in the Business Plan and in identifying the competencies, skills and knowledge

required to complete those tasks successfully. Staff roles were reviewed during 2004, and adjustments to tasks and training requirements were made as necessary in the light of work-related developments.

In 2004, some 60 external training days were provided to ODCE staff across all grades, of which 21 training days were IT-related. The Department of Enterprise Trade and Employment provided an additional eight days of IT-related training for each of three ODCE staff, and internal training was also provided in-house.

5.2.2 Team-Based Working

Multi-disciplinary teams operate within the ODCE in order to handle the Office's rising volume of casework. This is particularly so in the detection, enforcement and insolvency areas. The teams' operating procedures and performance were reviewed, developed and adjusted during the year, in order to improve the quality and quantity of case evaluation and throughput. A pictorial representation of the respective involvements of ODCE staff by functional area is at **Appendix 5.2.1**.

During 2004, the Director made a number of revisions to the powers delegated to designated staff under section 13 of the Company Law Enforcement Act 2001 in support of the work of the Office. In all, ten members of staff working in various teams and areas of the Office were formally delegated to discharge on his behalf one or more of the Director's legal functions. This consisted of five changes to existing delegations and five new delegations.

The Office Management Committee, chaired by the Director and representative of all staff, met on a regular basis in 2004, dealing predominantly with policy and organisational issues affecting the Office's continuing development.



The Audit Committee Institute Ireland were briefed by Mr. Appleby on the requirements regarding Directors' Compliance Statements

Goal 5.3: Developing Quality Services

5.3.1 Services Offered

ODCE has committed considerable resources to develop and use new 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 made available through the Office's website, publications, etc. (some 220 customers registered in 2004 to be notified of new information on the website);
- talks, seminars and other compliance initiatives provided by Office staff;
- 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.

Internal and external customer concerns are key issues for the ODCE and have been addressed in its Strategy Statement, Business Plans and Annual Report. During 2004, staff of the Office continued to make every effort to provide quality services both to its internal and external customers.

5.3.2 Publications

The following publications were prepared and issued during 2004:

- the Director's End-of-Year Statement and Review of 2003;
- the ODCE Annual Report for 2003 (in both the Irish and English languages);

- Consultation Paper C/2004/1 on Directors' Compliance Statements and the associated Draft Guidance;
- Information Note on the Companies (Auditing and Accounting) Act 2003 (Commencement) Order 2004 (Statutory Instrument No. 132 of 2004);
- The Report of the Inspectors into the affairs of National Irish Bank Ltd. and National Irish Bank Financial Services Ltd.;
- Revised ODCE Guidance on the Directors' Compliance Statements;
- lists of companies which are the subject of a liquidator's report pursuant to section 56 of the Company Law Enforcement Act 2001.

The ODCE also contributed articles and papers to the national and professional media and collaborated with the CRO in a Bulletin on topical company law issues which was issued to Irish company directors.



Revised Guidance on Directors' Compliance Statements

5.3.3 Website

A key element of ODCE services is the provision of information via the ODCE website. New information relating to the ODCE's work and associated corporate governance developments was regularly posted to the Office's website in 2004. This included the following:

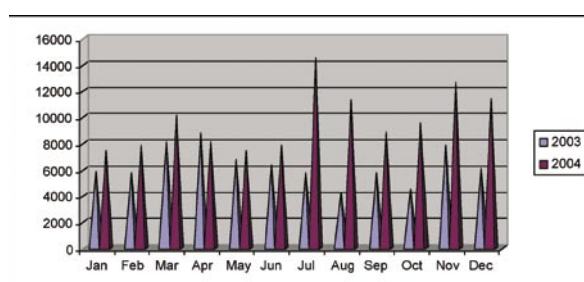
- new Office publications as indicated above;
- copies of presentations made by Office staff to business, professional and related interests;

- 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 and other Court decisions relevant to company law.

The results of the 2003 survey of customer satisfaction with its website were analysed and reviewed. A report setting out recommendations for the planned redevelopment of the website was completed and agreed in 2004. These recommendations include improvements to its accessibility, particularly for persons with disabilities. Work has begun at year-end to implement a number of these improvements.

The success of the website in terms of the quality and quantity of the featured company law materials is evident in the continuing growth of traffic. Some 116,783 visits were made to the website in 2004, a 54% increase on the 75,597 figure achieved in 2003.

The following chart indicates the monthly distribution of visits. Some of the higher monthly counts can be explained by the issue of new ODCE publications. For instance, the 'spike' in July can be attributed to the publication of the Inspectors' Report into National Irish Bank Ltd. (NIB) and National Irish Bank Financial Services Ltd. (NIBFS) which resulted in a surge of visits to the website to view and download portions of the Report.



Some 59,261 downloads of information on the ODCE website were recorded in 2004, a substantial increase on the comparable figure of 26,408 in 2003. The downloads related to a total of 191 documents (89 in 2003), and the Office's Decision Notices, Guidance Booklets and Information Notes, as well as the NIB/NIBFS Report, featured prominently among the most popular documents. **Appendix 5.3.1** itemises the classes of documents in most demand in 2004.

A report on the website by Silicon Republic (www.siliconrepublic.com/) gave the ODCE website a favourable review, saying inter alia that it "appears to do a good job of giving companies the material they need to act responsibly and fulfil their growing list of obligations in the area of corporate governance."



5.3.4 Freedom of Information (FOI) Acts

The FOI Acts permit the disclosure of records concerning the general administration of the Office only. During 2004, the ODCE received no new requests seeking records under the Acts. One request received in December 2003 was finalised in January 2004, the request being partially granted.

5.3.5 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 disclosure of any information held about an individual. The ODCE continues to adhere to this requirement, as well as complying with its own strict confidentiality provisions contained in the Company Law Enforcement Act 2001.

5.3.6 Prompt Payment of Accounts Act 1997

The 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 be settled in a timely manner, the ODCE incurred no interest surcharge on payments in 2004.

5.3.7 Compliance with Agreed Customer Service Standards

The ODCE finalised its Customer Service Plan in 2004 and received clearance late in the year for its contents from the Department of Enterprise Trade and Employment. This will be published early in 2005.

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 the internal customer. The Office regularly reviewed and sought to improve further the standard of services provided. The Feedback Service and Complaints Service on the website is part of this process, as is the proposed redevelopment of the website to WAI compliance level 3 (accessibility for users with disabilities).

While the Director is very satisfied overall with the standard of service provided by Office staff to its customers, he did receive a small number of complaints during the year relating in particular to delays in the evaluation of reports and complaints made to the Office. These delays are due to the accumulated workload which has arisen during 2003 and 2004 due to the volume of alleged unlawful activity which the Office is being asked to examine. Because of the profile of the Office in the compliance area, we are also in receipt of a significant volume of requests for information on company law obligations which we are anxious to deal with promptly and professionally.

Despite the successful application of team-working in the Office and the use of technology to speed evaluation and throughput of cases, present staff numbers are simply not adequate to deal with public enquiries and manage the current case volumes on a professional basis. It will accordingly be necessary in the short term to secure additional staff for these purposes. Otherwise, there will be increasing dissatisfaction with the service standards available from the ODCE in 2005 and beyond.

Conclusion

The ODCE responded well to a number of key challenges in 2004. The Office recognised that some companies would face difficulty in introducing the new obligation to prepare and publish statements of compliance, and it initiated the process of developing guidance to help company directors and managements meet this requirement. In producing high quality guidance in partnership with business, professional and regulatory interests during the year, the Director believes that the credibility of the ODCE as a positive agent for change in improving corporate compliance was enhanced.

The Office's work appears to be achieving real benefits. Auditor reports of the commission of suspected company law offences were regularly accompanied in 2004 by directors' statements that the defaults in question had been regularised. The Office also continued its valuable work in responding to public complaints and acted in many cases to rectify current non-compliance and/or deter future misconduct to the benefit of those disadvantaged by unlawful practices.

Notwithstanding a heavy and growing workload, the Office managed to increase the number and range of its successful civil and criminal enforcement actions and achieved a number of notable Court decisions in support of its mandate.

The ODCE's remit with respect to insolvent companies continued to have a positive impact with signs of improved director behaviour. The Office also began to focus more attention on the problem of unliquidated insolvent companies given their disruptive effect on a fair and competitive market.

Overall, the visibility of the Office in the compliance and enforcement area appears now to be improving as evidenced by the growing number of visits to the Office website and the public appetite for receiving compliance-related information.

As we face into 2005 however, the Office still has much unfinished business. It has a large and growing backlog of cases for investigation and enforcement, and it is clear that this cannot be professionally cleared

without an increase in staff. Our success is also generating additional demands on the Office. While staff remain committed to advancing the Office's compliance and enforcement agenda, it is the case that the Office could be achieving more in both areas with additional staffing resources.



At the Seminar on Taxation

The Director is accordingly anxious to increase the Office's staffing in 2005 in a number of key areas. Pending a decision on this issue, he and his staff will continue to make inroads into the ODCE's current programme of work in the interests of creating better conditions for enterprise development. The Office wants to see less unscrupulous activity, greater market transparency and improved legal conduct in corporate affairs.

The ability of the Office to fulfil its statutory mandate will continue to depend on receiving the support of corporate and professional interests and the general public. We hope that people at large will continue to recognise the overall benefits of corporate compliance and act in a manner consistent with achieving this result.