



Office of  
**TOBACCO  
CONTROL**

# 2010

**Office of Tobacco Control  
Final Report**

## **Mission Statement**

The Office of Tobacco Control is committed to supporting Government's policy of promoting a tobacco free society by performing the functions assigned to it under the Public Health (Tobacco) Acts 2002 to 2009 in a professional and independent manner.

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## Foreword from the Chairperson

I am very pleased to introduce this Final Report of the Office of Tobacco Control which provides an account of our activities during 2010, in addition to the Office's Financial Statements.

The Office of Tobacco Control was established in May 2002 to implement the Government's policy as outlined in the *Towards a Tobacco Free Society* Report. This Report was the final in a series of reports published by Government at the time, highlighting the need for urgent action to reduce the level of smoking in our society and to prevent our children from starting to smoke. The Report identified the need for an independent and dedicated agency to tackle the tobacco epidemic.

Smoking takes an enormous toll on society. Tobacco is the leading cause of premature death and ill health in Ireland. One in two smokers will die from a tobacco related disease and each year 5,500 people die as a result of smoking. Tobacco is highly addictive and breaking the cycle of addiction is an enormous challenge. We know from research that virtually all new smokers become addicted while they are still children and this is why the protection of children is so important.

Since its establishment, the Office has played a major role in tackling the tobacco epidemic through its pursuit of evidence-based measures and progressive legislation.

The challenges and pressures faced by the Office during 2010 were significant, particularly the reduction in staff numbers. Acknowledging the challenging environment, the Department of Health advised the Office to deliver a "care and maintenance" programme in line with available resources. However, my Board and I were keen to ensure that the momentum created by the Office during the last 10 years was maintained.

One of the primary obligations for the Office in 2010 was processing applications to the Register of retailers of tobacco products. This is a statutory Register which came into effect in July 2009 and everyone selling tobacco products must apply to the Office. During 2010 the Office processed almost 2,900 applications and worked closely with the HSE to build compliance with this new measure.

Building and maintaining compliance with the provisions of the Public Health (Tobacco) Acts is an ongoing priority for the Office. The National Inspection Programme focussed on areas of potential non-compliance in order to ensure effective use of resources. This Report outlines in detail inspection and prosecution data; and once again the results in 2010 are very positive. The Office issued legal proceedings against two tobacco companies on foot of

investigations done in 2009 and I would like to particularly acknowledge the instrumental role of the Environmental Health Service of the HSE in this work. These cases will come before the courts in 2011.

Protecting children from tobacco has always been at the heart of the Office's agenda and was a key part of its work in 2010.

The Office commissioned its fourth independent national retail audit to evaluate compliance with sales to minors legislation and a range of other retail provisions. The results show a small but steady improvement year-on-year, with 70% of retailers refusing to sell cigarettes to minors.

We also launched an information campaign, *Don't KID Yourself*, to further support compliance with sales to minors legislation. I strongly urge all retailers of tobacco to think about their actions and to recognise that by selling tobacco to underage youth not only are they breaking the law, they are setting these children on a path to lifelong addiction, ill health and ultimately premature death.

Repeated surveys over the last 10 years show a small but definite decline in the number of young people smoking, which is a positive sign. The Office's tracker survey indicates smoking prevalence of 23%. Sustained effort by all stakeholders is required to reduce these rates to below 20%.

I very much welcome the announcement by the Department of Health of its decision to establish a working group to update the seminal policy report, *Towards a Tobacco Free Society*. This Report has provided excellent guidance during the last 10 years, so it is timely that a review is planned to set the agenda for the next decade so as to ensure that tobacco control remains a top priority for public health and political leaders.

In June 2010, the Office was advised of the Government's decision to merge the Office into the HSE. The Board recognised the enormous challenge of protecting the tobacco control agenda in a much larger organisation with multiple priorities, and established a sub-committee to support the Executive plan for a smooth and effective transition.

The dissolution of the Office on 1 January 2011 also brings to conclusion my time as Chairperson. I wish to thank sincerely my fellow Board members for their support and expert guidance during my term.

On behalf of the Board and staff of the Office, I would like to acknowledge the support of the Minister for Health and Children, Ms Mary Harney TD, the Minister of State at the Department of Health, Ms Áine Brady TD, and the officials

in the Department of Health, in particular the Tobacco Control Unit.

I also wish to thank the management and staff of the Environmental Health Service of the HSE for their ongoing co-operation and dedication to compliance and enforcement of tobacco legislation.

I would like to express my gratitude to the NGO community who has supported the work of the Office and ensured the tobacco control agenda remains a Government priority.

Finally, I would like to thank the Office's staff, led by Acting CEO, Marie Killeen, for their unrelenting commitment, enthusiasm and continued hard work.

2011 will see the tobacco control agenda move to a new phase as the HSE takes responsibility for the programme. It is my hope that the HSE seizes this opportunity to build on the momentum of the last 10 years and in doing so that it will create a dynamic and sustainable plan for this critical public health measure. It is imperative that tobacco control remains at the forefront of public health policy and practice in Ireland.



**Norma Cronin**  
Chairperson



## Chief Executive's Review

This is the Final Report of the Office of Tobacco Control, and in addition to presenting the outputs for 2010 it is timely to reflect on the highlights of the past decade.

2010 was a significant year of challenge and change for the Office. The combined impact of the programme of rationalisation of State Agencies and the moratorium on recruitment in the public sector presented unique difficulties for the Office. Despite these challenges a number of key projects were successfully delivered.

I would like to acknowledge the many people who have collaborated with the Office and contributed extensively to the tobacco control agenda over the past ten years. Much has been achieved thanks to the alliances, partnerships and coalitions nurtured both nationally and internationally.

Over the last decade we worked extensively with the Department of Health in developing and implementing comprehensive ground breaking legislation to underpin tobacco control policy in Ireland. Undoubtedly, the most significant legislative development in this regard was the introduction on 29 March 2004 of smoke-free workplaces to protect people from exposure to second hand smoke. This was a catalyst for other jurisdictions to introduce similar measures and many millions of people around the world now work and socialise in smoke-free environments.

In July 2009 a range of prohibitions were commenced removing point-of-sale advertising and displays from the retail environment. Prior to this, tobacco almost invariably occupied the most prominent display space behind the counter in retail outlets. It was positioned among a

whole range of familiar products in the shops creating the false impression that tobacco is much more socially acceptable and commonly used than is really the case. Research undertaken by the Office in 2010 shows almost universal compliance with the law, and research published in *Tobacco Control* in November 2010 shows positive impacts already accruing. Real gains will be realised in the longer term as future generations of young people grow up without exposure to tobacco advertising in retail stores.

However, the introduction of the tobacco control legislation and its enforcement has not been without its challenges. Within days of publication of the Public Health (Tobacco) Act 2002 the tobacco and linked industries initiated a legal challenge against key provisions of the Act. The Office invested substantial efforts in the defence of this case, which was withdrawn in January 2007, days before the case was due to open. Further proceedings have recently been issued against the State by the tobacco industry. Smoke-free legislation has also been tested in the High Court, and upheld on each occasion. In 2010, a judgment in relation to a specific exemption for outdoor areas/smoking shelters provides valuable clarification for enforcement officers in assessing compliance. The use of minors in test purchasing for underage sales of tobacco has also been the subject of High Court proceedings. A judgment in 2006 endorsed the use of minors in such circumstances, stating it was necessary for the protection of children.

While strong legislation is the keystone of tobacco control policy, progress on reducing smoking rates requires a comprehensive, sustained and integrated strategy.

Findings from our research programmes have guided and influenced tobacco control policy and practice over the last decade, most notably in relation to smoke-free legislation, prohibitions on tobacco advertising, tobacco taxation and protection of children. The Office has been assisted in these programmes by a diverse range of national and international experts and organisations. In 2010, the Office's programme included the continuation of a number of monitoring surveys and audits, in addition to research on illicit trade, quitting behaviour and perceptions of smoking rates.

One of the key elements of the Office's strategy has been to change attitudes towards smoking and to build public support for tobacco control measures right across Irish society. In this context the Office has engaged in proactive media relations campaigns and organised conferences and seminars to inform audiences on various aspects of tobacco control. In addition, it has undertaken a number of public information campaigns to build and sustain this public support. In 2010 we launched a new campaign *Don't KID Yourself* aimed at ensuring that

retailers ask young people for ID – a critical issue in relation to sales to minors that was highlighted by our compliance research in retail environments. Also in 2010 we worked with the HSE to develop a social marketing campaign aimed at encouraging smokers to quit, and this campaign will be launched in 2011.

Building and maintaining compliance with tobacco legislation is also a strategic priority for the Office. Through an integrated approach combining communications, education, and proactive enforcement initiatives we have engaged public support for tobacco legislation which in turn has led to better compliance levels. The Office has built a strong relationship with the HSE and together we have refined the National Inspection Programme to ensure effective targeting of areas of non-compliance. In 2010, 12 prosecutions were initiated by the HSE for breaches of smoke-free legislation, seven of these related to non-compliant outdoor areas/smoking shelters. 12 cases were also taken for non-compliance with sales to minors legislation. Proceedings were also taken for breaches of tobacco advertising and incorrect health warnings on cigarette packs. The Office issued proceedings against two tobacco companies in relation to promotional activities in retail outlets.

The Office continued to manage the National Register of Tobacco Retailers with 11,437 premises registered at year end. In 2010, six retailers were suspended from the Register following convictions under sales to minors legislation; suspension periods varied from 24 hours to 14 days. A total of €510,750 has been generated in fees since the Register was launched in July 2009.

A key focus in 2010 was strengthening our relationship with the HSE in advance of the planned merger of the Office. The decision to embed the HSE's Tobacco Control Framework within the Office's remit provides an opportunity to work towards broadening ownership of the tobacco free agenda within the HSE and to deepen the commitment of the health services to a tobacco free future for Ireland.

Of course, none of the achievements of the past decade would have been possible without the active and enthusiastic support of so many different people and organisations.

At a political level, the former Minister for Health and Children, Mr Micheál Martin TD, demonstrated great courage and leadership in delivering smoke-free workplaces in the face of a concerted and vigorous campaign of opposition. His successor Ms Mary Harney TD, ensured that other key elements of the tobacco control agenda, including the ban on all forms of advertising in the retail environment were progressed.

Our international colleagues, in the statutory, NGO and research sectors, provided essential support and input to the Office's work and their contribution cannot be underestimated.

The Irish NGO community including ASH, the Irish Cancer Society, the Irish Heart Foundation, the wider network of NGOs and trade unions have been pivotal partners in driving public and civil society support for tobacco control.

The scientific community here in Ireland has also shown professional and personal courage in their commitment to this public health issue.

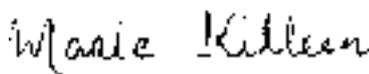
I would like to acknowledge the crucial role of the Department of Health, in particular the Tobacco Control Unit for its expertise, assistance and support to the Office.

The Environmental Health Service of the HSE has been a highly committed strategic partner to the Office and I would like to thank both management and staff for their steadfast support and dedication to the agenda.

I am very grateful to the Chairperson, Ms Norma Cronin and Members of the Board for their commitment, guidance and encouragement since 2008 and especially in 2010. I would also like to thank the first Board of the Office, under the stewardship of Dr Michael Boland, for its valuable contribution.

I wish to conclude by acknowledging the tremendous efforts of all of those who worked with the Office, in particular the Office's first Chief Executive, the late Tom Power for his vision, dynamism and leadership. I also wish to convey my sincere gratitude to the dedicated team who worked with the Office in 2010, for their professionalism and enthusiasm in very challenging circumstances.

Together, we have all been united in a common endeavour to tackle the tobacco epidemic. We have made good progress and delivered positive change along the way leading to longer, healthier lives for many people. There is still much to be done to achieve our goals, to reduce smoking rates to less than 20% and further reduce the number of deaths from tobacco related diseases. We look forward to continuing to deliver on this agenda in a new environment in 2011.



**Marie Killeen**  
Acting Chief Executive

The Office of Tobacco Control is a statutory body set up to implement and manage the Government's tobacco control policy as outlined in the report *Towards a Tobacco Free Society*. The policy, published in 2000 identified four key strategic objectives:

1. To change attitudes towards tobacco use
2. To support and empower smokers to quit
3. To protect people from second-hand smoke
4. To focus on children.

The Office is committed to supporting the Government's policy of promoting a tobacco free society and reducing the burden of disease caused by smoking by performing in a professional and independent manner, the functions assigned to it under the Public Health (Tobacco) Act 2002 as amended.

The functions of the Office are as follows:

1. To advise the Minister for Health and Children, and assist him or her in the implementation of policies and objectives of the Government, on the control and regulation of tobacco products generally
2. To consult with relevant national and international bodies on developments in tobacco control
3. To advise the Minister on any further actions that should be taken to reduce or eliminate smoking or its effects
4. Organise research and disseminate the results
5. Co-ordinate a national inspection programme in co-operation with the Health Service Executive (HSE)
6. To advise the Minister as required on the manufacturing and marketing activities of the tobacco industry
7. To establish and maintain a register of retailers of tobacco products
8. To undertake compliance testing on tobacco products
9. To perform such other functions as the Minister may assign to the Office from time to time.

## Dissolution of the Office of Tobacco Control

In Budget 2009, the Government announced that the Office of Tobacco Control would merge with the Food Safety Authority of Ireland and the Irish Medicines Board as part of the overall Programme of Rationalisation of State Agencies. In June 2010 this decision was amended and an alternative proposal was announced to merge the Office with the Health Service Executive.

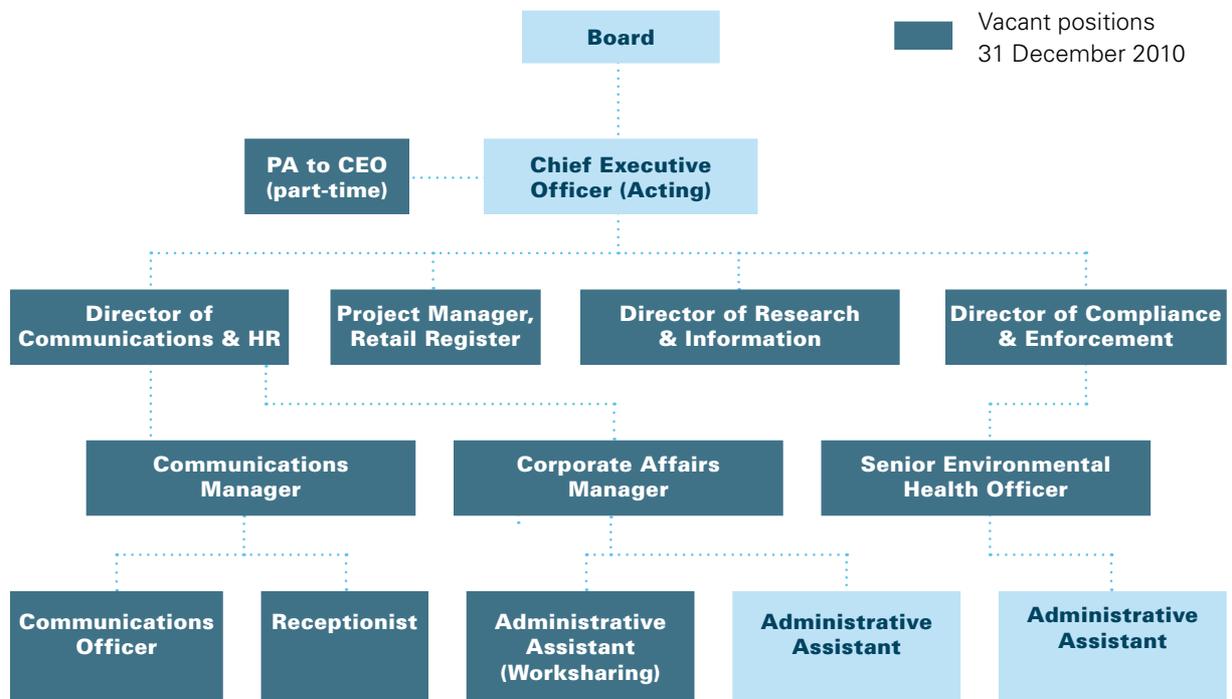
Legislation to dissolve the Office was passed on 22 December 2010 in the form of the Public Health (Tobacco) (Amendment) Act 2010. The Act provides, inter alia, that the functions previously vested in the Office are transferred to the HSE. It also provides for the transfer of the three members of staff to the HSE. The date of effect of the Act is 1 January 2011.

The transition to the HSE was a significant piece of work managed by the Acting CEO during 2010, in parallel with managing the delivery of the Office's Annual Business Plan. A number of structures were established to oversee the transition plan including:

- a specific Sub-Committee of the Board to guide the process;
- a tri-part working group with representation from the Department of Health, the HSE, and the Office;
- staff briefings.

A Position Paper was developed by the Office to guide the integration process. This Paper identified the critical issues to be addressed in order to support an effective and efficient transition including: Strategy Implementation, Identity, Service Planning, Reporting Arrangements, HR/IR Arrangements and Budgetary Provision.

## Structure of the Office of Tobacco Control



## Board Members

The Board of the Office of Tobacco Control was appointed by the Minister for Health and Children, Mary Harney TD, in March 2008. The Board members are drawn from a variety of backgrounds including public administration, advocacy, health service management, academia, social partnership, business and youth affairs.

The Chair of the Board is Ms Norma Cronin, Health Promotion Manager for Tobacco Control at the Irish Cancer Society.

The Board of the Office met seven times in 2010.

### **Ms Norma Cronin, Chair**

Health Promotion Manager,  
Tobacco Control  
Irish Cancer Society



### **Prof. Shane Allwright**

Associate Professor,  
Epidemiology  
Trinity College Dublin



### **Prof. Farrel Corcoran**

Professor of  
Communications  
Dublin City University



### **Ms Mary Cunningham**

Director  
National Youth Council of  
Ireland



### **Dr Patrick Doorley**

National Director,  
Health and  
Patient Information  
Health Service Executive



### **Mr Paddy Donnelly**

Former Assistant Secretary  
Office of the Revenue  
Commissioners



**Mr Dennis Drought**  
Student



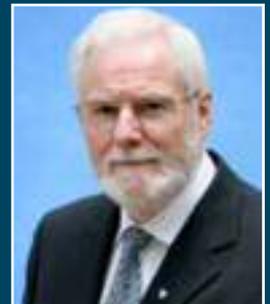
**Ms Annette Fitzgerald**  
Principal Environmental  
Health Officer  
HSE West



**Ms Eimear Killian**  
Deputy Manager  
Glenlo Abbey Hotel, Galway



**Mr Owen Nulty**  
Former General Secretary  
MANDATE Trade Union



**Ms Rosaleen O'Grady**  
Senior Clinical Nurse  
Manager, HSE West  
Councillor, Sligo Borough  
Council



# Objective 1

To **ensure compliance** with the relevant provisions of the Public Health (Tobacco) Act, 2002 as amended



The Office of Tobacco Control has a range of monitoring and inspection responsibilities to ensure compliance with the relevant provisions of the Public Health (Tobacco) Acts 2002 to 2009. Specifically, the Office's role includes:

- Development and monitoring of the National Tobacco Control Inspection Programme;
- Acting as an authorised officer and initiating legal action as necessary;
- Development and monitoring of the national legal requirements on the tobacco and linked industries;
- Evaluating existing and proposed statutory provisions on tobacco control and making proposals where necessary;
- Monitoring international developments in tobacco control litigation and law making;
- Establishment and maintenance of a Register of retailers of tobacco products.

A significant feature of the Public Health (Tobacco) Act 2002 as amended has been the high compliance levels recorded each year. These high rates of compliance have been achieved through a combination of widespread public support, stakeholder education initiatives and active enforcement.

In 2010, the Office prioritised this strategic objective in its care and maintenance programme. Five critical work areas were identified:

- Maintenance of the Register of retailers of tobacco products in accordance with Section 37 of the Public Health (Tobacco) Act 2002 as amended;
- Collaboration with the HSE to ensure active enforcement of key tobacco measures;
- Operation and management of lo-call Compliance Line;
- Monitoring the tobacco industry's marketing and promotional activity;
- Revising the National Inspection Protocols for Environmental Health Officers in conjunction with the HSE and the Department of Health.

## National Register of Tobacco Retailers

From 1 July 2009, all persons selling or intending to sell tobacco products by retail, whether over the counter or from a self-service vending machine, are required to register with the Office. Self-service vending machines are allowed only in licensed premises/registered clubs and both the vending machine operator and the licensed premises owner must register. A registration fee of €50 per applicant applies. A person registered under Section 37 of the Public Health (Tobacco) Act 2002 as amended who is convicted of an offence under the Acts will be suspended from the Register for a period prescribed by the courts.

A Project Steering Group, chaired by the Office, was established in 2008 to guide the development and implementation of the Register. The Group comprised of officials from the Department of Health, the HSE and the Office. The final meeting of this Group was held in January 2010.

Since the Register was established in July 2009, 10,934 applications have been received with 2,830 of these applications being received in 2010. Of the 2010 applications, 2,560 related to new applications, 122 were for registration of additional premises and 148 were in respect of change of details to existing registrations. Seventy per cent of submissions are paper-based, and the remaining thirty per cent are made online.

A total of 9,389 retailers have been registered by 31 December 2010 covering 11,437 premises. A breakdown of registered premises by business category is included in Table 1.

€510,750 has been generated in registration fees since the Register was established. €114,600 was generated in 2010.

The Office handled 1,222 queries from applicants in 2010.

**Table 1: Registered Premises by Business Category, 31 December 2010**

Category of Premises	Total Number of Premises Registered
Licensed premises (pubs, hotels, nightclubs and restaurants)	5,882
Retail shops	5,443
Other	112
<b>Total</b>	<b>11,437</b>

## National Tobacco Control Inspection Programme

The Office is responsible for the co-ordination of the National Tobacco Control Inspection Programme in co-operation with the HSE. Environmental Health Officers (EHOs), the authorised officers under the Public Health (Tobacco) Act 2002 as amended, are charged with the investigation and prosecution of breaches of the legislation.

The Office worked closely with the HSE to revise National Inspection Protocols for EHOs and to ensure continued priority was afforded to the programme. The 2010 National Inspection Programme prioritised the following four areas:

- Investigation of complaints;
- Inspections of licensed premises with an outdoor area/smoking shelter;
- Test purchases for sales to minors, and;
- Compliance building initiatives in respect of the Retail Register.

### Inspections

Tobacco control inspection data are drawn from the programme of inspections undertaken by EHOs in each HSE area. This information is generated by the use of national protocols under the National Tobacco Control Inspection Programme. All inspection activity is now recorded on the HSE's National Tobacco Control Information System which went live in July 2009.

### Smoke-Free Workplaces

Table 2 provides a summary of the data on inspections and compliance levels relating to smoke-free workplaces.

**Table 2: Smoke-Free Workplaces – Inspections by Business Type**

Business Type	Section 47 – Smoking			Section 46 – Signage		
	Total Inspections	Compliant Inspections	% of Compliant Inspections	Total Inspections	Compliant Inspections	% of Compliant Inspections
Hotel	736	723	98%	721	687	95%
Restaurant	3860	3838	99%	3657	3494	95%
Licensed Premises	3646	3519	96%	3545	3264	92%
Other	8874	8775	99%	8419	7795	93%
<b>Total</b>	<b>17116</b>	<b>16855</b>	<b>98%</b>	<b>16342</b>	<b>15240</b>	<b>93%</b>

The overall findings from the data are that national compliance levels have again remained high during 2010. In respect of the smoke-free workplace provision, (Section 47), 98% of premises inspected were found to be compliant.

It is increasingly evident that the exemptions provided for under Section 47(7)(c & d) – which permit smoking in outdoor premises or parts of a premises are a challenging aspect of the smoke-free legislation. This is reflected in the number of prosecutions taken under this provision in 2010.

With regard to the 'No Smoking' signage provision (Section 46), there is 93% national compliance based on inspections undertaken.

Table 3 presents the percentage of compliant inspections by HSE area in respect of both the smoke-free workplace provision and the 'No Smoking' signage provision.

**Table 3: Smoke-free Workplaces – Inspections by HSE Area**

HSE Area	Section 47 – Smoking			Section 46 – Signage		
	Total Inspections	Compliant Inspections	% of Compliant Inspections	Total Inspections	Compliant Inspections	% of Compliant Inspections
HSE Dublin Mid-Leinster	7901	7808	99%	7418	7065	95%
HSE Dublin North East	2069	1999	97%	2028	1867	92%
HSE South	2251	2224	99%	2212	1791	81%
HSE West	4895	4824	99%	4684	4517	96%
<b>Total</b>	<b>17116</b>	<b>16855</b>	<b>98%</b>	<b>16342</b>	<b>15240</b>	<b>93%</b>

### Sales to Minors

Section 45 of the Public Health (Tobacco) Act 2002 was commenced by the Minister for Health and Children in April 2007. Under Section 45, it is an offence to sell cigarettes or other tobacco products to persons under 18 years of age. Test purchasing is used by EHOs to enforce this legislation.

During 2010, 402 test purchase inspections were conducted reporting a national compliance of eighty-two percent. Inspection data by HSE area are set out in Table 4 below.

**Table 4: Sales to Minors – Inspections by HSE Area**

HSE Area	Total Inspections	Compliant Inspections	% Compliant Inspections
HSE Dublin Mid-Leinster	25	23	92%
HSE Dublin North East	277	230	83%
HSE South	3	3	100%
HSE West	97	73	75%
<b>Total</b>	<b>402</b>	<b>329</b>	<b>82%</b>

### Advertising and Display of Tobacco Products

On 1 July 2009, Sections 33 and 43 of the Public Health (Tobacco) Act 2002 as amended were commenced. These provisions prohibit all advertising of tobacco products in retail premises in which tobacco products are

sold. Ninety-three per cent of premises inspected were found to be compliant. Table 5 presents national and regional breakdown of compliance based on inspections undertaken during 2010.

**Table 5: Tobacco Advertising and Display of Products – Inspections by HSE Area**

HSE Area	Section 43 – Product Display			Section 33 – Advertising		
	Total Inspections	Compliant Inspections	% of Compliant Inspections	Total Inspections	Compliant Inspections	% of Compliant Inspections
Dublin Mid-Leinster	2072	1995	96%	2401	2349	98%
Dublin North East	1069	969	91%	1399	1178	84%
South	983	897	91%	1321	1241	94%
West	1778	1638	92%	1596	1496	94%
<b>Total</b>	<b>5902</b>	<b>5499</b>	<b>93%</b>	<b>6717</b>	<b>6264</b>	<b>93%</b>

## Prosecutions

### Smoke-free Workplaces

Active enforcement by EHOs under the National Tobacco Control Inspection Programme plays a hugely important role in maintaining the success of the smoke-free workplace legislation.

During 2010, EHOs ensured that where evidence of a significant or sustained infringement of the legislation was found, prosecutions were initiated in the District Courts. As in previous years, the vast majority of these prosecutions were successful.

A favourable judgment from the High Court in 2010 presents valuable precedent in respect of outdoor areas/smoking shelters. The judgment found that a moveable roof did not fall within the exemption and the material

that makes up a roof is irrelevant – a roof is a roof. This clarification will assist future assessments regarding the compliance of such areas with the smoke-free legislation.

Twelve prosecutions were taken in the District Courts for offences under Section 47 of the Public Health (Tobacco) Act 2002 as amended, resulting in 12 convictions. The Probation of Offenders Act was applied in respect of one summons. A further five summonses were dismissed.

The co-operation of An Garda Síochána was essential in a number of cases.

A yearly comparison of the smoke-free workplace prosecution data is outlined in Table 6.

**Table 6: Smoke-free Workplaces – Total Prosecutions**

Year	Cases	Convictions	Probation Act	Dismissed
2010	12	12	1	5
2009	25	19	3	6
2008	24	19	6	2
2007	43	47	2	2
2006	35	37	4	4
2005	39	45	3	1
2004	13	16	2	0

Table 7 outlines the number of prosecutions taken by each HSE area.

**Table 7: Smoke-free Workplaces – Prosecutions by HSE Area**

HSE Area	Cases	Convictions	Probation Act	Dismissed
HSE Dublin Mid-Leinster	2	3	0	0
HSE Dublin North East	4	4	1	1
HSE South	1	1	0	0
HSE West	5	4	0	4
<b>Total</b>	<b>12</b>	<b>12</b>	<b>1</b>	<b>5</b>

An analysis of the 12 cases shows that:

- 11 were in respect of licensed premises, and six of these cases related to non-compliant outdoor areas;
- One related to a non-compliant outdoor area in a nightclub.

### Sales to Minors

12 prosecutions were taken for breaches of Section 45 of the Public Health (Tobacco) Act 2002. Eight convictions were secured. The Probation of Offenders Act was applied in one case. A further six summonses were dismissed by the courts.

In six cases, Courts Orders were issued removing registered persons and their premises from the Register, in accordance with Section 37 of the Public Health (Tobacco) Act 2002 as amended. This provision came into effect on 1 July 2009. The sale of tobacco products is prohibited by the registered applicant on those premises, for the period specified by the court. Removals varied in duration from one to 14 days as follows:

- Two premises were removed for 24 hours (HSE Dublin Mid-Leinster, HSE Dublin North East);
- Two premises were removed for four days (HSE West);
- One premises was removed for seven days (HSE Dublin North East) and;
- One premises was removed for 14 days (HSE West).

A yearly comparison of sales to minors prosecution data is presented in Table 8.

**Table 8: Sales to Minors – Total Prosecutions**

Year	Cases	Convictions	Removal from Register	Probation Act	Dismissed
2010	12	8	6	1	6
2009	8	6	n/a	1	4
2008	23	19	n/a	1	4

A breakdown of sales to minors prosecutions by HSE area is shown in Table 9.

**Table 9: Sales to Minors – Prosecutions by HSE Area**

HSE Area	Cases	Convictions	Removal from Register	Probation Act	Dismissed
HSE Dublin Mid-Leinster	4	3	1	0	1
HSE Dublin North East	2	2	2	0	3
HSE South	2	0	0	1	1
HSE West	4	3	3	0	1
<b>Total</b>	<b>12</b>	<b>8</b>	<b>6</b>	<b>1</b>	<b>6</b>

### Tobacco Advertising in Retail Premises

There was one prosecution taken against a retailer for a breach of Section 33 of the Public Health (Tobacco) Act 2002 as amended. This was the first prosecution taken by the HSE under this provision leading to a successful conviction.

### Health Warnings on Tobacco Products

There were two prosecutions taken against a retailer, resulting in six convictions under the European Communities (Manufacture, Presentation and Sale of Tobacco Products) Regulations 2003 and 2008. The prosecutions in HSE Dublin North East were in respect of non-compliant health warnings on cigarette packs on sale at the premises.

### Promotion

The Office issued legal proceedings against two tobacco companies for breaches of Section 36 of the Public Health (Tobacco) Act 2002 as amended. The hearings will come before the courts in 2011.

## Lo-call Compliance Line 1890 333 100

The Office manages a lo-call compliance line that facilitates public engagement in relation to potential non-compliance of tobacco control legislation. As a key support mechanism for the National Inspection Programme, it assists in the targeting of enforcement resources by the HSE. All complaints are prioritised in inspection activities.

During 2010, a total of 392 complaints were received:

- 83% related to complaints about smoke-free workplace legislation;
- 213 (66%) of these complaints related to the hospitality sector, 188 of which were in respect of licensed premises. 74 complaints in relation to licensed premises were in respect of outdoor areas/smoking shelters;
- Complaints in relation to sales to minors accounted for 8% of calls.

## Objective 2

To **advise the Minister for Health and Children** and assist her in the implementation of policies and objectives of the Government on the control and regulation of tobacco products

One of the primary functions of the Office of Tobacco Control is to advise the Minister for Health and Children in relation to tobacco use, its effects generally on people and to recommend measures which would reduce or eliminate smoking and its effect on society.

This duty to advise and inform Government in relation to tobacco control also extends to other Ministers and relevant authorities where the Office deems it appropriate. The Office also advises the Minister and the Department of Health on the effectiveness of Ireland's tobacco control legislation. This includes monitoring and reporting compliance with the smoke-free workplace measure, sales to minors and, since 1 July 2009, the removal of point-of-sale advertising and display as well as the retail Register.

Specifically, the Office has responsibility for assisting the Minister in the implementation of the policies and objectives of the Government concerning the control and regulation of tobacco products. The Office is tasked with providing advice on request regarding:

- The manufacture, importation, sale or supply and smoking of tobacco products;
- Strategies employed by manufacturers, importers, distributors or retailers of tobacco products;
- Technology used in the manufacture, production, marketing of tobacco products and related innovations in this regard.

## Tobacco Policy Review Group

The Office was invited to join the Department of Health's Tobacco Policy Review Group which was established by the Minister for Health and Children in 2010. The Group comprises officials from a number of directorates within the Health Service Executive, officials from the Department and the Acting CEO of the Office. The Group will undertake a review of progress to date in respect of the seven tier action plan contained in the *Towards a Tobacco Free Society* report; and develop recommendations to further advance the policy.

In June, the Department convened a Stakeholder Workshop to elicit their views and discuss potential new measures which could be considered as part of this process.

One meeting of the group was held in Autumn 2010, and the Group will continue its work in 2011.

# Objective 3

To **undertake research** and disseminate the results in support of evidence based tobacco control initiatives

A strong evidence base is required to underpin tobacco control programmes and in the development of effective public health policy. On-going, independent monitoring and evaluation of programmes is also necessary to assess the effectiveness of existing measures, identify new measures to be considered, and to ensure best use of available resources. Accordingly, significant emphasis has been given to both primary and secondary research within the Office of Tobacco Control's annual plans.

The Office's legal obligations in respect of research activities are outlined in Section 10 of the Public Health (Tobacco) Act 2002:

- Undertaking, sponsoring or commissioning of research aimed at identifying measures likely to reduce the incidence of smoking or its effects;
- Preparing and publishing relevant research reports.

The Office fulfils this function in a number of ways. In addition to commissioning specific projects from specialist research agencies, joint research initiatives are also undertaken with other organisations to address areas of mutual interest. Developing research capacity through shared networks, nationally and internationally has always been part of the Office's vision.

In 2010, the programme of activities was particularly restricted due to the Office's reduced capacity. The Office continued to invest in strategic research programmes to maintain trend data for surveillance of key measures, however it was not feasible to produce, publish and disseminate any reports during the year.

Research was undertaken on the following:

- Perceptions of smoking prevalence;
- Quitting behaviour;
- Audit in respect of sales to minors and advertising restrictions in retail environments;
- Compliance with smoke-free workplace legislation;
- Impact of the ban on point-of-sale displays and promotion;
- Illicit tobacco trade;
- Monthly smoking prevalence tracker.

## Perceptions of Smoking Prevalence

A number of international studies have found evidence of misperception of smoking prevalence in populations and the purpose of this piece of research, undertaken in collaboration with the HSE, was to investigate if this was the case here in Ireland. In this regard, two questions on smoking prevalence perceptions were posed as part of a telephone poll with a nationally representative sample of 1,000 respondents.

In relation to the population in general the survey found:

- Only 6% of smokers and 5% of non-smokers gave the right answer that between 21%-25% of the population smoked\*, with a fifth of both smokers and non-smokers saying that the smoking prevalence was less than 25%;
- 76% of smokers and 75% of non-smokers thought that more than 25% of the population smoked, with almost a third of smokers (32%) and a quarter of non-smokers (26%) thinking that more than 50% of the population smoked.

\* Rate reported in this survey

The sample was also asked to say what proportion of the population, within their own age group smoked:

- In the 25-34 year age group the actual smoking prevalence is between 31%-35%. Of the 72 smokers in this age group 24% said that the smoking prevalence was less than this, 1% got it right, and 74% thought it was higher, with 1% not having an opinion;
- Contrast that with the 158 non-smokers in this age group of whom 39% said that the smoking prevalence in this age group was less than the actual prevalence and 54% said it was greater than the actual prevalence. Smokers were nearly twice as likely as non-smokers to overestimate smoking prevalence in this age group;
- When looked at in total, smokers were significantly more likely than non-smokers to overestimate the prevalence of smoking in the various age groups;
- However, for both smokers and non-smokers, more than 50% overestimated smoking prevalence.

In summary, both smokers and non-smokers very much overestimate the prevalence of smoking in the population overall and within their own peer age group. The positive message that more than seven out of every 10 persons is tobacco free needs to be utilised more.

## Quitting Behaviour

In March 2010, the Office in conjunction with the HSE commissioned Ipsos MRBI to undertake research on quitting behaviour to assist in the development of a social marketing quit campaign. The Ipsos MRBI survey shows that:

- Most smokers in Ireland quit because of health concerns and to a lesser extent price;
- Most of those who quit did so on their second or third attempt;
- Half of all successful quit attempts were unplanned;
- 80% of smokers quit using willpower alone;
- Only 15% of quitters used pharmaceutical products to assist them, and very few used other interventions.

## Compliance with Smoke-Free Workplace Legislation

Independent monitoring of smoke-free workplace legislation was conducted in 2009 and again in 2010 by the Office. This research covered compliance in workplaces and also in licensed premises as observed by the general public. The research was conducted quarterly via OmniPoll – Ipsos MRBI's dedicated telephone omnibus – amongst a nationally representative sample of people aged 15+ years.

The results indicate very high compliance rates, correlating with data from the National Inspection Programme.

Key findings from licensed premises:

- 97% of Irish adults who had visited a licensed premises in the past two weeks stated there was no smoking indoors on the premises. This figure is unchanged from 2009;
- With regard to the type of licensed premises concerned, restaurants were the best performing in terms of compliance with just 1% witnessing smoking on the premises;
- 8% of respondents recalled seeing someone smoking in a nightclub.

The workplace compliance element of the research was conducted amongst persons who were working either full-time or part-time. The highlights of the annual results were as follows:

- In 2010 smoking was least likely to be observed in private offices, reception, meeting rooms and on the factory floor where just 1% of respondents claimed to have noticed smoking in these areas;
- 13% of respondents stated that they observed smoking in an enclosed car park.

## National Retail Audit

This is the fourth annual survey commissioned by the Office to examine the levels of compliance with sales to minors legislation, the prohibitions on point-of-sale displays and promotion in the Irish retail environment. The 2010 survey also included surveillance in respect of registration of tobacco retailers. The survey, which was carried out in 1,200 retail shops during August-September, showed that:

- 70% of retailers refused to sell cigarettes to minors, a slight increase on 2009;
- The incidence of being asked for ID continues to increase and is at 64% for 2010;
- 98% of all stores were compliant with point-of-sale advertising and cigarette displays;
- 70% of stores displayed the statutory signage – an increase of three points on 2009;
- 70% of stores displayed 'No ID, No Sale' signs.

The survey also looked at compliance in licensed premises, among a sample of 200 premises. Compliance rates were lower than those reported in the retail sample:

- Compliance with the sales to minors legislation was 56% – down from 65% in 2009;
- Only 47% of minors were asked for ID – this was higher where discs or tokens were required for the vending machines;
- 51% of such premises did not have the required statutory signage on display and 49% of vending machines did not have the retail registration number affixed to them.

## Impact of Removal of In-Store Tobacco Advertising

The Office of Tobacco Control, along with a number of other international partners, sponsored University of Nottingham, UK to conduct research to evaluate the point-of-sale legislation. The research looked at the impact on young people of the removal of point-of-sale tobacco advertising and displays. The research also examined the economic impact of these measures for retailers in Ireland.

The findings were published in *Tobacco Control Journal* in November 2010.

The research found that not only has awareness of tobacco displays decreased but attitudes to smoking prevalence, the availability of tobacco and to quitting smoking have also changed:

- Recall of tobacco displays among teenagers decreased from 81% before the legislation to 22% afterwards. Among adults this decreased from 49% to 22%;
- The proportion of youth believing more than 20% of children their age smoked decreased from 62% to 46%;
- The proportion of children believing that they would be able to purchase cigarettes successfully declined from 32% to 25%;
- 38% of teenagers, after implementation of the law, thought the measure would make it easier for children not to smoke;
- 14% of adult smokers thought the law made it easier to quit smoking (post legislation);
- Support for the law among adults increased from 58% before the legislation to 66% afterwards;
- The ban on display and advertising was having a greater impact on smokers than non-smokers. Before the measure was introduced, 59% of smokers compared to 46% of non-smokers were able to recall tobacco promotion at the retail counter while post legislation 20% of smokers recalled it compared to 23% of non-smokers.

The key findings in the economic study were:

- Removal of point of sale tobacco promotional displays had no statistically significant short term impact (one year post ban) on cigarette pack sales;
- There is a general downward trend in cigarette pack sales which preceded the point of sale policy by several years;

- Any impact on sales will likely take effect over a much longer period allowing retailers to adapt over time.

The study also found that claims of substantial revenue losses for retailers since the removal of point of sale tobacco promotional displays were not borne out by the data.

## Illicit Tobacco Trade

In 2010 the Office in conjunction with the Office of the Revenue Commissioners contracted Ipsos MRBI to conduct research amongst smokers as to the source of their cigarettes. The research was conducted amongst the broad Irish smoking population, including resident foreign nationals. The purpose of this research was to estimate the level of illegal cigarettes being consumed in Ireland annually.

This research was a follow-up to research conducted in 2009 and produced broadly similar results in terms of the breakdown between the consumption of legal and illegal cigarettes:

- As in 2009, some 14% of all respondents' packs were classified as illegal. In this context, "illegal cigarettes" means contraband or counterfeit cigarettes which were neither tax paid in the State, nor brought into the State by way of legal cross-border purchases;
- A further 6% of all packs were found to be legal non-irish duty paid, i.e. legal cross-border purchases.

## Monthly Smoking Prevalence Tracker

In July 2002 the Office began monitoring smoking prevalence and behaviour using a monthly telephone survey. The research is conducted by Ipsos MRBI amongst a nationally representative sample of persons aged 15 years and over. The key findings from this tracking research for the 12 month period ending December 2010 were as follows:

- Overall smoking prevalence was reported at 23% of the population – 25% of males and 21% of females;
- The highest percentage in rate of smokers are aged 18-34 years at 31%. Rates among over 65 year olds is 12% and for 15-17 year olds is 14%;
- In terms of social class farmers and the AB social groups had the lowest prevalence at 14% and 15% respectively. However, 29% of C2s and 28% of DEs said they smoke cigarettes.



# Objective 4

To actively **communicate the benefits** of a move towards a tobacco free society

A primary objective of the Office of Tobacco Control is to inform public opinion and build support for tobacco control measures. Evidence shows that environmental controls and comprehensive regulation of tobacco products play a vital role in reducing tobacco consumption particularly among young people.

Such controls, however, can only be effective when those affected by them are fully aware of their obligations, and when society in general supports them and demands compliance with them.

During 2010, a scaled back communications programme was planned in line with available resources. However a small number of important campaigns and initiatives were delivered by the Office.

## Sales to Minors Campaign

The main focus of the Office's communications activity was the development of the *Don't KID Yourself* advertising campaign to highlight the issue of sales to minors. This campaign featured on selected outdoor advertising sites, national and local radio and trade publications during Autumn 2010.

## Lo-Call Information Line

The Office continued to provide valuable support and information to a range of stakeholders through its lo-call compliance line, dealing with almost 1,600 calls in 2010.

## Partnership Programmes

Ensuring a partnership approach to tobacco control efforts in Ireland is an important goal for the Office. Clearly, in the context of enforcement activities, maintaining close links with a wide range of agencies and organisations is essential. Throughout 2010, the Office worked with the Department of Health, the HSE and Office of the Revenue Commissioners.

During 2010, the Office also continued its collaboration, in so far as possible, with other national and international tobacco control organisations. The Acting CEO worked very closely with the HSE on a range of different projects joining the HSE's Tobacco Control Framework Implementation Group and the HSE's Social Marketing Working Group on Tobacco. This latter Group was tasked with developing a new two to three year quitting campaign. The focus of the work during 2010 involved

reviewing the evidence base for such campaigns and sourcing international materials to inform the strategic planning phase.

The Acting CEO provided strategic support and advice to a range of international agencies and colleagues working in tobacco control. The Acting CEO also contributed as national counterpart for the *WHO, Report on the Global Tobacco Epidemic, 2011*.

## Media Relations

The Office issued press releases and responded to ongoing media queries, briefing journalists on current and emerging issues with respect to tobacco control. The press releases related to:

- The Office's 2009 Annual Report which was published and launched in June 2010;
- The European Court of Justice's ruling on minimum pricing of tobacco products;
- The Office's merger with the HSE;
- The publication of two research papers in *Tobacco Control* on the impact of the ban on point-of-sale promotion and display of tobacco products.

## Online Resources

**www.otc.ie** plays an important role in communicating the work of the Office and facilitates the dissemination of information to a wide variety of national and international audiences.

An additional website, **www.tobaccoregister.ie** was launched on 1 July 2009, facilitating online applications to the National Register of Tobacco Retailers.

# Objective 5

To continue to develop **the effectiveness and capacity of the Office** and its people to ensure it meets its functions as a statutory body

## Corporate Governance

Notwithstanding the very small staff levels, the Office worked diligently to achieve full compliance with all governance arrangements outlined in the *Code of Practice for the Governance of State Bodies*. The Office reviewed its processes and systems to ensure they were fit for purpose and implemented recommendations accordingly:

- The Audit Committee put in place interim measures to approve all expenditure by the Office in order to ensure appropriate segregation of duties in accordance with the Office's financial regulations;
- The Risk Register was reviewed in 2010 and updated to reflect emerging risks and identify mitigating actions.

## Financial Performance

The Office continued to prepare detailed budgets in order to monitor its expenditure carefully throughout the year. The Office produced regular reports for the Audit Committee and the Department of Health, and two internal audits were undertaken and recommendations implemented.

The Office actively strives to ensure value for money for all services procured by closely monitoring and reviewing all activity. It is committed to discharging its public procurement function honestly and fairly, and in a manner that secures best value for public money. The Office complies with all appropriate public procurement procedures and guidelines. One contract for research services was tendered for in 2010.

## Freedom of Information

During 2010, the Office received and processed one request and two appeals for information under the Freedom of Information (FOI) Acts 1997 and 2003.

## Human Resources

The Office managed its challenging programme through reassignment of roles and functions, and by continuing to outsource a small number of critical support functions.

In addition, the Office also relocated during 2010 following the expiry of the lease on its original offices. This was managed with minimal disruption to the Office's work programme.

## Report of the Chairperson on Corporate Governance Matters

The Office is committed to ensuring that its policies and practices reflect good corporate governance and that it is compliant with the Code of Practice for the Governance of State Bodies.

I as Chairperson acknowledge the following;

1. I confirm that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being performed by the Office.
2. Codes of Business Conduct for Members and Employees agreed by the Board have been put in place and are adhered to.
3. I confirm that the Government policy on the pay of Chief Executives and all state body employees is being complied with.
4. Seven Meetings of the Board were held in 2010. Attendance at Board Meetings by its Members was as follows:

Ms Norma Cronin	7
Prof. Shane Allwright	6
Prof. Farrel Corcoran	4
Ms Mary Cunningham	6
Dr Patrick Doorley	4
Mr Paddy Donnelly	7
Mr Dennis Drought	5
Ms Annette Fitzgerald	4
Ms Eimear Killian	5
Mr Owen Nulty	6
Ms Rosaleen O'Grady	5

5. I confirm that Government guidelines on the payment of Members' expenses are being complied with. No fees were payable to Members.
6. The Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector are being complied with.
7. I certify that the Government travel policy requirements are being complied with in all respects.
8. I confirm that the Code of Practice for the Governance of State Bodies has been adopted in full by the Board and has been implemented by the Office.
9. I confirm that the Office has complied with its obligations under tax law.
10. I confirm that in the year to 31 December 2010, the Board conducted a review of the system of internal financial controls.

**Norma Cronin**  
Chairperson

# Financial Statements

2010





## Comptroller and Auditor General

### Report for presentation to the Houses of the Oireachtas

#### Office of Tobacco Control

I have audited the financial statements of the Office of Tobacco Control for the year ended 31 December 2010 under the Public Health (Tobacco) Act 2002. The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the non-Capital Income and Expenditure Account, the Capital Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Generally Accepted Accounting Practice in Ireland as modified by the directions of the Minister for Health in relation to accounting for superannuation costs.

#### Responsibilities of the Health Service Executive

The Health Service Executive is responsible for the preparation of the financial statements, for ensuring that they give a true and fair view of the state of the Office of Tobacco Control's affairs and of its income and expenditure and for ensuring the regularity of transactions.

#### Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report on them in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethics Standards for Auditors.

#### Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of:

- whether the accounting policies are appropriate to the Office's circumstances, and have been consistently applied and adequately disclosed;
- the reasonableness of significant accounting estimates made in the preparation of the financial statements; and
- the overall presentation of the financial statements.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

#### Opinion on the Financial Statements

In compliance with the directions of the Minister for Health, the Office recognises the costs of superannuation entitlements only as they become payable. This basis of accounting does not comply with Financial Reporting Standard 17 which requires such costs to be recognised in the year the entitlements are earned.

Except for the non-recognition of the Office's superannuation costs and policies in accordance with Financial Reporting Standard 17 the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the Office's affairs at 31 December 2010 and of its income and expenditure for the period then ended.

In my opinion proper books of account have been kept by the Office, the financial statements are in agreement with the books of account.

#### Matters on which I report by exception

I report by exception if:

- I have not received all the information and explanations I required for my audit; or
- my audit noted any material instance where moneys have not been applied for the purposes intended or where the transactions did not conform to the authorities governing them; or
- the Statement on Internal Financial Control does not reflect the Office's compliance with the Code of Practice for the Governance of State Bodies; or
- there are other material matters relating to the manner in which public business has been conducted.

I have nothing to report in regard to the other matters to which reporting is by exception.

#### Dissolution of the Office

I draw attention to the fact that the Office was dissolved on 31 December 2010 and its assets and liabilities disposed of as outlined in the Statement of Accounting Policies.

John Buckley  
Comptroller and Auditor General

30 November 2011

## Statement of Board Members' Responsibilities

### Responsibilities of Office of Tobacco Control Board

The Office of Tobacco Control is required by Section 24 of the Public Health (Tobacco) Act, 2002 to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the Office of Tobacco Control and of its income and expenditure for that period.

The Office of Tobacco Control is responsible for keeping proper accounting records that disclose with reasonable accuracy at any time its financial position and to ensure that the financial statements comply with the Act and with the accounting standards specified by the Minister for Health. The Office of Tobacco Control is also responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and the detection of fraud and other irregularities.

### Responsibilities of Health Service Executive (HSE)

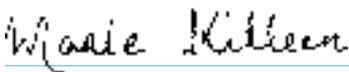
The Office of Tobacco Control was dissolved with effect from 31 December 2010 under the provisions of Section 2 of the Public Health (Tobacco) (Amendment) Act 2010.

The staff, assets, rights and obligations of the Office of Tobacco Control were transferred to the Health Service Executive in accordance with the Act.

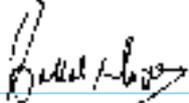
While the HSE is required by Section 11 of the Public Health (Tobacco) (Amendment) Act 2010 to prepare final accounts which give a true and fair view of the state of affairs of the Office of Tobacco Control (now dissolved) and of its income and expenditure for the period, the HSE did not have any governance or operational responsibility for the Office of Tobacco Control during the period of the account.

In preparing these financial statements, the HSE Board is required to:

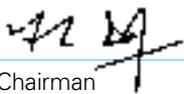
- Select suitable accounting policies and apply them consistently
- Make judgements and estimates that are reasonable and prudent
- Disclose and explain any material departures from applicable accounting standards, and
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Office will continue in existence.



Outgoing Acting Chief Executive Officer  
Office of Tobacco Control



Chief Executive Officer  
Health Service Executive



Chairman  
Health Service Executive

## Statement on Internal Financial Control

### Responsibility for System of Internal Financial Control

As required by the Code of Practice for the Governance of State Bodies, on behalf of the Board of the Health Service Executive, I as Chairman of the Health Service Executive make the following statement based on information certified by the outgoing Acting Chief Executive Officer of the Office of Tobacco Control and by the outgoing Chairperson of the Office of Tobacco Control.

During the period 1 January 2010 to 31 December 2010, the Board members of the Office of Tobacco Control were responsible for reviewing and ensuring the effectiveness of the organisation's system of internal financial control. The outgoing Acting Chief Executive Officer of the Office of Tobacco Control and the outgoing Chairman of the Office of Tobacco Control have certified that they had these responsibilities for the period 1 January 2010 to 31 December 2010.

The Board of the Health Service Executive has relied on the certifications of the outgoing Acting Chief Executive Officer of the Office of Tobacco Control and of the outgoing Chairperson of the Board of the Office of Tobacco Control for the purpose of making this Statement on Internal Financial Control.

The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

### Key Control Procedures

- i. The Board of the Office of Tobacco Control has taken steps to ensure an appropriate control environment by:
  - Clearly defining management responsibilities;
  - Establishing formal procedures for monitoring the activities and safeguarding the assets of the organisation;
  - Developing a culture of accountability across all levels of the organisation.
- ii. The Board of the Office of Tobacco Control has established processes to identify and evaluate the main business risks facing the Office. The Office has developed a Corporate Risk Register which was reviewed and updated in 2010, and will be monitored continuously by the Board.

#### The Risk Register

- Identifies the nature and impact of risks facing the Office;
  - Assesses the likelihood of identified risks occurring;
  - Assesses the impact on the Office of Tobacco Control should those risks occur.
- iii. The system of internal financial control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:
    - Appropriate budgeting system with an annual budget which is reviewed by senior management;
    - Regular review by senior management of periodic and annual financial reports which indicate financial performance against forecasts;
    - Regular meetings and reporting to audit committee;
    - Documented financial procedures.
    - Segregation of Duties
    - Financial reconciliations
    - Code of business conduct for directors and employees

iv. The Office of Tobacco Control has an outsourced internal audit function, which operates in accordance with the Framework Code of Best Practice set out in the Code of Practice for the Governance of State Bodies.

The work of internal audit is informed by the analysis of the risks to which the Office is exposed, and annual internal audit plans are based on this analysis.

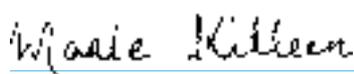
The analysis of risks and the internal audit plan are endorsed by the Audit Committee and approved by the Board.

The Audit Committee of the Office of Tobacco Control normally meets quarterly to review with the Internal Auditor the outcome of their audits and to confirm the ongoing adequacy and effectiveness of the system of Internal Financial Control. The Audit Committee met five times in 2010.

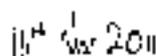
The Committee's monitoring and review of the effectiveness of the system of internal financial control is informed by the work of the Internal Auditor, the executive managers within the Office who have responsibility for the development and maintenance of the financial control framework, and comments made by the Comptroller and Auditor General in his management letter.

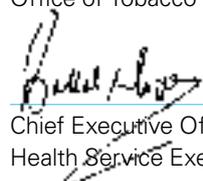
### Annual Review of Controls

I confirm that in the year ended 31 December 2010, the Board of the Office of Tobacco Control conducted a review of the system of internal financial controls.

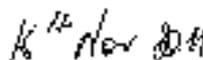


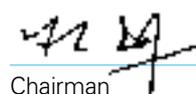
Outgoing Acting Chief Executive Officer  
Office of Tobacco Control

  
11<sup>th</sup> Nov 2011

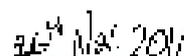


Chief Executive Officer  
Health Service Executive

  
16<sup>th</sup> Nov 2011



Chairman  
Health Service Executive

  
20<sup>th</sup> Nov 2011

Attention is drawn to the Statement of Board Members' Responsibilities which sets out the respective roles of the Office of Tobacco Control and of the Health Service Executive in relation to these financial statements.

## Statement of Accounting Policies

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the financial statements.

### A. Going Concern

The Public Health (Tobacco) (Amendment) Act 2010 provided for the dissolution of the Office of Tobacco Control. As all the functions, operations, staff assets and liabilities of the Office were transferred to the Health Service Executive on a going concern basis, the financial statements have been prepared on a going concern basis.

### B. Basis of Accounting

The financial statements are prepared under the accruals method of accounting, except as stated below, and under the historical cost convention in the form approved by the Minister for Health, with the concurrence of the Minister for Finance in accordance with Section 24 of the Public Health (Tobacco) Act, 2002.

Financial Reporting Standards recommended by the recognised accountancy bodies are adopted, as they become operative, with the exception of FRS 17 (see F below). The Office of Tobacco Control also complies with the accounting standards issued by the Minister for Health.

### C. Income

#### (i) State Grants:

Grants from the Department of Health are accounted for on a receipts basis.

#### (ii) Retail Register Income:

Retailers of tobacco products are required to register with the Office and pay a one-off fee of €50. Fees are accounted for on a cash receipts basis.

### D. Tangible Assets and Depreciation

Tangible fixed assets are shown at cost less accumulated depreciation. Depreciation is charged through the Capital Account on a straight-line basis, at the annual rates set out below, so as to write off the assets, adjusted for estimated residual value, over the expected useful life of each appropriate category.

(i) Computer equipment and software 33%

(ii) Fixtures and fittings 25%

(iii) Communications equipment 25%

A full year's depreciation is provided for in the year of acquisition.

### E. Capital Account

The Capital Account represents the unamortised value of income from the Department of Health used for capital purposes.

### F. Pensions

Pensions contributions deducted from staff were held by the Office pending payment over to a pension scheme approved by the Department of Health. However in 2010 the Department of Health directed that these deductions be retained by the Office. By the direction of the Department of Health no provision is made in the financial statements in respect of future benefits payable.

## Non-Capital Income and Expenditure Account For the year ended 31 December 2010

	Note	2010 €	2009 €
Grant Income	1	1,172,300	1,620,000
Retail Register Income	1	114,600	396,150
Sundry Income	2	965	449
		<u>1,287,865</u>	<u>2,016,599</u>
Transfer to Capital Income and Expenditure Account		(28,669)	(212,024)
		<u>1,259,196</u>	<u>1,804,575</u>
Salaries and Wages	3	175,349	594,437
Other Operating Costs	4	1,111,959	1,102,732
		<u>1,287,308</u>	<u>1,697,169</u>
Surplus/ (Deficit) for the year		(28,112)	107,406
Balance at 1 January		151,471	44,065
Balance at 31 December		<u>123,359</u>	<u>151,471</u>

With the exception of fixed asset depreciation which is dealt through the Capital Account, all recognised gains and losses for the year ended 31 December 2010 have been included in the Income and Expenditure Account. The net surplus/ (deficit) in both years arises from continuing operations.

*Wanda Killean*

Outgoing Acting Chief Executive Officer  
Office of Tobacco Control

*11<sup>th</sup> Nov 2011*

*[Signature]*

Chief Executive Officer  
Health Service Executive

*16<sup>th</sup> Nov 2011*

*[Signature]*

Chairman  
Health Service Executive

*20<sup>th</sup> Nov 2011*

Attention is drawn to the Statement of Board Members' Responsibilities which sets out the respective roles of the Office of Tobacco Control and of the Health Service Executive in relation to these financial statements.

The Accounting Polices and the Notes 1 to 15 form part of the financial statements.

## Capital Income and Expenditure Account For the year ended 31 December 2010

	Note	2010 €	2009 €
Transfer from Non-Capital Income and Expenditure Account		28,669	212,024
<b>Total Capital Income</b>		28,669	212,024
Computer Equipment		27,273	210,062
Fixtures and Fittings		1,396	1,962
<b>Total Capital Expenditure</b>		28,669	212,024
Surplus/ (Deficit) for the period		-	-
Balance at 1 January		-	-
Balance at 31 December		-	-

With the exception of fixed asset depreciation which is dealt through the Capital Account, all recognised gains and losses for the year ended 31 December 2010 have been included in the Income and Expenditure Account.

*Máire Killeen*

Outgoing Acting Chief Executive Officer  
Office of Tobacco Control

*15<sup>th</sup> Nov 2011*

*[Signature]*

Chief Executive Officer  
Health Service Executive

*16<sup>th</sup> Nov 2011*

*[Signature]*

Chairman  
Health Service Executive

*30<sup>th</sup> Nov 2011*

Attention is drawn to the Statement of Board Members' Responsibilities which sets out the respective roles of the Office of Tobacco Control and of the Health Service Executive in relation to these financial statements.

The Accounting Policies and the Notes 1 to 15 form part of the financial statements.

## Balance Sheet

### As at 31 December 2010

	Note	2010 €	2009 €
<b>Tangible Assets</b>	5	89,557	147,806
<b>Current Assets</b>			
Bank		220,977	338,507
Debtors and Prepayments	6	26,630	32,285
		<u>247,607</u>	<u>370,792</u>
<b>Creditors – Amounts falling due within one year</b>			
Creditors and Accruals	7	124,248	219,321
		<u>124,248</u>	<u>219,321</u>
Net Current Assets		123,359	151,471
<b>Total Net Assets</b>		<b>212,916</b>	<b>299,277</b>
<b>Financed by : Representing Net Assets Transferred to the HSE</b>			
Non Capital Income and Expenditure A/c		123,359	151,471
Capital Income and Expenditure A/c		(-)	(-)
Capital Account	8	89,557	147,806
		<u>212,916</u>	<u>299,277</u>

*Wanda Killean*

Outgoing Acting Chief Executive Officer  
Office of Tobacco Control

*11<sup>th</sup> Nov 2011*

*[Signature]*

Chief Executive Officer  
Health Service Executive

*16<sup>th</sup> Nov 2011*

*[Signature]*

Chairman  
Health Service Executive

*20<sup>th</sup> Nov 2011*

Attention is drawn to the Statement of Board Members' Responsibilities which sets out the respective roles of the Office of Tobacco Control and of the Health Service Executive in relation to these financial statements.

The Accounting Polices and the Notes 1 to 15 form part of the financial statements.

## Cash Flow Statement

### For the year ended 31 December 2010

	Note	2010 €	2009 €
<b>Net Cash inflow/(outflow) from Operating Activities</b>	12	<b>(89,661)</b>	<b>298,175</b>
<b>Return on Investments and Servicing of Finance</b>			
Deposit Interest Received		800	209
<b>Net Cash inflow From Servicing of Finance</b>		<b>800</b>	<b>209</b>
<b>Capital Expenditure</b>			
Payments to Acquire Tangible Fixed Assets		(28,669)	(212,024)
<b>Net Cash (outflow) from capital expenditure</b>		<b>(28,669)</b>	<b>(212,024)</b>
<b>Net cash (outflow) Before financing</b>		<b>(117,530)</b>	<b>86,360</b>
<b>Financing</b>			
<b>Net Cash Inflow From Financing</b>		<b>-</b>	<b>-</b>
<b>Net Cash Flow</b>		<b>(117,530)</b>	<b>86,360</b>
<b>Increase/(Decrease) in Cash in hand and bank balances in the year</b>	13	<b>(117,530)</b>	<b>86,360</b>

*Máire Killeen*

Outgoing Acting Chief Executive Officer  
Office of Tobacco Control

*[Signature]*

Chief Executive Officer  
Health Service Executive

*[Signature]*

Chairman  
Health Service Executive

*15<sup>th</sup> Nov 2011*

*16<sup>th</sup> Nov 2011*

*20<sup>th</sup> Nov 2011*

## Notes to the Financial Statements For the year ended 31 December 2010

	Notes	2010 €	2009 €
<b>1. Income</b>			
Department of Health Grant		1,095,000	1,620,000
Superannuation Deductions		77,300	-
Retail Register Fee Income	11	114,600	396,150
		<b>1,286,900</b>	<b>2,016,150</b>

## 2. Sundry Income

### *Non-capital Income and Expenditure Account*

Deposit Interest		800	299
FOI Requests		165	150
		<b>965</b>	<b>449</b>

## 3. Wages and Salaries

Staff Costs comprise:

Salaries and Wages		147,808	319,155
Seconded Salaries		13,378	238,128
Social Insurance Costs		14,163	32,051
Recruitment Costs		-	5,103
		<b>175,349</b>	<b>594,437</b>

The average number of staff for 2010 was 3. In 2009 the average number was 12.

## 4. Other Operating Costs

Audit Fee		11,000	12,500
Travel Expenses		6,640	14,055
Training		12,136	1,830
Insurance		3,510	5,984
Stationery, Publications and Postage		8,851	14,608
Telephone and Internet		17,507	18,786
Research		206,461	199,056
Cleaning and Housekeeping		8,963	12,898
National Inspection Framework		(320)	30,544
Retail Register	11	155,010	279,730
Rent and Service Charges		31,662	183,243
Legal and Professional Fees		258,030	171,209
Communications and Education		347,250	132,205
Other Operating Costs		45,259	26,084
		<b>1,111,959</b>	<b>1,102,732</b>

## 5. Tangible Fixed Assets

	Computer Hardware and Software €	Fixtures, Fittings and Communications €	Total  €
<b>Cost</b>			
As at 1 January 2010	<b>282,034</b>	<b>583,298</b>	<b>865,332</b>
Additions for this year	27,273	1,396	28,669
As at 31 December 2010	<b>309,307</b>	<b>584,694</b>	<b>894,001</b>
<b>Accumulated Depreciation</b>			
As at 1 January 2010	<b>142,620</b>	<b>574,906</b>	<b>717,526</b>
Charge for this year	79,185	7,733	86,918
As at 31 December 2010	<b>221,805</b>	<b>582,639</b>	<b>804,444</b>
<b>Net Book Value</b>			
<b>As at 31 December 2010</b>	<b>87,502</b>	<b>2,055</b>	<b>89,557</b>
<b>As at 31 December 2009</b>	<b>139,414</b>	<b>8,392</b>	<b>147,806</b>

## 6. Debtors and Prepayments

	Notes	2010 €	2009 €
Prepayments		26,540	27,126
Accrued Interest Receivable		90	90
Pension Levy	10	-	5,069
		<b>26,630</b>	<b>32,285</b>

## 7. Creditors and Accruals

	2010	2009
	€	€
Supplies and Services	91,903	136,788
Audit	11,750	12,500
Pension Contributions and other Deductions	1,424	70,033
PAYE and PRSI	5,016	-
Other Taxation	14,155	-
	<b>124,248</b>	<b>219,321</b>

## 8. Capital Account

	2010	2009
	€	€
<b>Balance at 1 January</b>	<b>147,806</b>	<b>128,563</b>
<b>Additions</b>		
Funds allocated to acquire fixed assets	28,669	212,024
	<b>28,669</b>	<b>212,024</b>
<b>Less Deductions:</b>		
Amount amortised in line with asset depreciation	(86,918)	(192,781)
	<b>(86,918)</b>	<b>(192,781)</b>
<b>Balance at 31 December</b>	<b>89,557</b>	<b>147,806</b>

## 9. Board Members' Interests

The Board adopted procedures in accordance with the guidelines issued by the Department of Finance in relation to the disclosure of interests by Board Members and these procedures have been adhered to in the year. There were no transactions in the year in relation to the Board's activities in which a Board Member had disclosed any beneficial interest.

## 10. Pension Levy

€8,628 of pension levies has been deducted and paid over to the Department of Health. There is a balance due of €1,056 to the Department of Health at 31 December 2010.

## 11. Retail Register

On 1 July 2009, Section 37(1) of the Public Health (Tobacco) Acts 2002-2009 was commenced, providing for the establishment and maintenance of a register of tobacco retailers by the Office of Tobacco Control. A one-off fee of €50 per applicant (irrespective of number of premises) was prescribed by the Minister for Health. In the case of licensed premises/registered clubs with self-service vending machines, both the vending machine owner and the premises owner are required to register.

### Retail Register Income and Expenditure

	2010 €	2009 €
<b>Income</b>	114,600	396,150
<b>Expenditure:</b>		
Capital	27,273	207,501
Project Manager	-	82,500
	<b>27,273</b>	<b>290,001</b>
<b>Operating Costs:</b>		
Retailer Communications Programme	(3,402)	103,151
Project Manager	22,438	-
Processing and Helpdesk Personnel	80,980	97,992
Printing Materials	11,195	31,603
Software Licences, Support and Maintenance	30,180	13,335
Postage	12,755	13,126
Misc. Consumables	642	10,620
Website	222	9,903
	<b>155,010</b>	<b>279,730</b>
<b>Total Expenditure</b>	182,283	569,731

## 12. Note to the Cash Flow Statement

	2010 €	2009 €
Surplus/(deficit) per Non-Capital I and E Account	(28,112)	107,406
Transfer to Capital I and E Account	28,669	212,024
Interest Received	(800)	(209)
Decrease in Debtors	5,655	15,674
(Decrease) in Creditors	(95,073)	(36,720)
<b>Net Cash inflow (outflow) from Operating Activities</b>	<b>(89,661)</b>	<b>298,175</b>

### 13. Reconciliation of Net Cash inflow to Movement in Net Funds

	2010 €	2009 €
Increase/(decrease) in cash in the year	(117,530)	86,360
Net funds at start of year	338,507	252,147
<b>Net funds at 31 December</b>	<b>220,977</b>	<b>338,507</b>

### 14. Board Members' Fees, Members' Expenses and CEO's Remuneration

	2010 €	2009 €
Members' Fees	-	-
Members' Expenses	4,003	4,157
Chief Executive Officer's Remuneration	85,345	125,893

#### **Acting Chief Executive Officer's Remuneration Package**

The Acting Chief Executive Officer's Remuneration Package for 2010 was made up as follows: Annual Basic Salary €73,996 (2009 €80,989), Higher Duty Allowance €11,349 (2009 €16,120), Employer's Pension Contribution Nil (2009 €28,784). The Acting Chief Executive Officer did not receive any performance related payments for 2010 or 2009. The Acting Chief Executive Officer's pension entitlements do not extend beyond the standard entitlements in the Civil Service Pension Scheme.

#### **Board Members' Expenses**

	Foreign Travel €	Mileage €	Travel €	Subsistence €	Misc €	Total €
<b>2010</b>						
Shane Allwright	0	0	13	0	26	39
Norma Cronin	0	46	204	0	71	321
Annette Fitzgerald	0	0	243	55	13	311
Eimear Killian	0	1,317	0	0	0	1,317
Paddy Donnelly	0	0	110	0	0	110
Rosaleen O'Grady	0	1,806	51	0	31	1,888
Dennis Drought	0	0	17	0	0	17
<b>Total</b>	<b>0</b>	<b>3,169</b>	<b>638</b>	<b>55</b>	<b>141</b>	<b>4,003</b>
<b>2009</b>						
Shane Allwright	0	0	13	0	15	28
Norma Cronin	479	58	182	0	98	817
Annette Fitzgerald	0	277	291	78	0	646
Eimear Killian	0	527	0	17	20	564
Owen Nulty	0	0	16	0	2	18
Rosaleen O'Grady	0	2,084	0	0	0	2,084
<b>Total</b>	<b>479</b>	<b>2,946</b>	<b>502</b>	<b>95</b>	<b>135</b>	<b>4,157</b>

### 15. Approval of Financial Statements

The financial statements were approved by the Board of the Health Service Executive on 10th November 2011.





**Office of Tobacco Control**

Willow House  
Millennium Park  
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Co. Kildare  
Ireland



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