

VOTE 40. - SOCIAL, COMMUNITY AND FAMILY AFFAIRS

35. Overpayments

The Department of Social, Community and Family Affairs administers some 50 welfare schemes paid through Vote 40 and the Social Insurance Fund. Expenditure on assistance and insurance schemes was £2.61bn and £2.11bn respectively in 1999.

The following tables outline overall expenditure on various schemes over the period 1995 to 1999, and for the same period, the amounts recorded as overpayments, the amounts of overpayments attributed to fraud or suspected fraud and the Department's cumulative record of recovery since 1995.

Table 20 - Total Scheme Expenditure

	1995	1996	1997	1998	1999
	£m	£m	£m	£m	£m
Social Insurance	1,868	1,794	1,842	1,983	2,112
Social Assistance	2,152	2,399	2,491	2,567	2,614
TOTAL	4,020	4,193	4,333	4,550	4,726

Table 21 - Number and Amount of overpayments recorded for recovery

(Numbers shown in brackets)

	1995	1996	1997	1998	1999
	£m	£m	£m	£m	£m
Social Insurance	4.13 (12,914)	4.12 (12,366)	4.48 (12,925)	4.14 (13,897)	6.03 (18,080)
Social Assistance	12.31 (17,769)	14.73 (20,243)	16.30 (21,759)	18.08 (22,054)	16.38 (21,346)
TOTAL	16.44 (30,683)	18.85 (32,609)	20.78 (34,684)	22.22 (35,951)	22.41 (39,426)

Table 22 - Number and Amount of overpayments attributed to fraud or suspected fraud

(Numbers shown in brackets)

	1995	1996	1997	1998	1999
	£m	£m	£m	£m	£m
Social Insurance	1.96 (3,505)	2.23 (3,074)	2.01 (3,271)	2.16 (4,810)	2.53 (5,821)
Social Assistance	9.66 (7,315)	11.41 (7,486)	12.50 (7,914)	8.54* (9,383)	9.56 (9,273)
TOTAL	11.62 (10,820)	13.64 (10,560)	14.51 (11,185)	10.70 (14,193)	12.09 (15,094)

* This fall of almost £4m was principally due to a change in the way the Department classified overpayments arising from the finalisation of the estates of recipients of non-contributory social welfare scheme payments. Prior to 1998 such overpayments were deemed to be attributable to fraud or suspected fraud.

The amount of overpayments attributed to fraud or suspected fraud compared to total overpayments since 1995 is summarised in Figure 2.

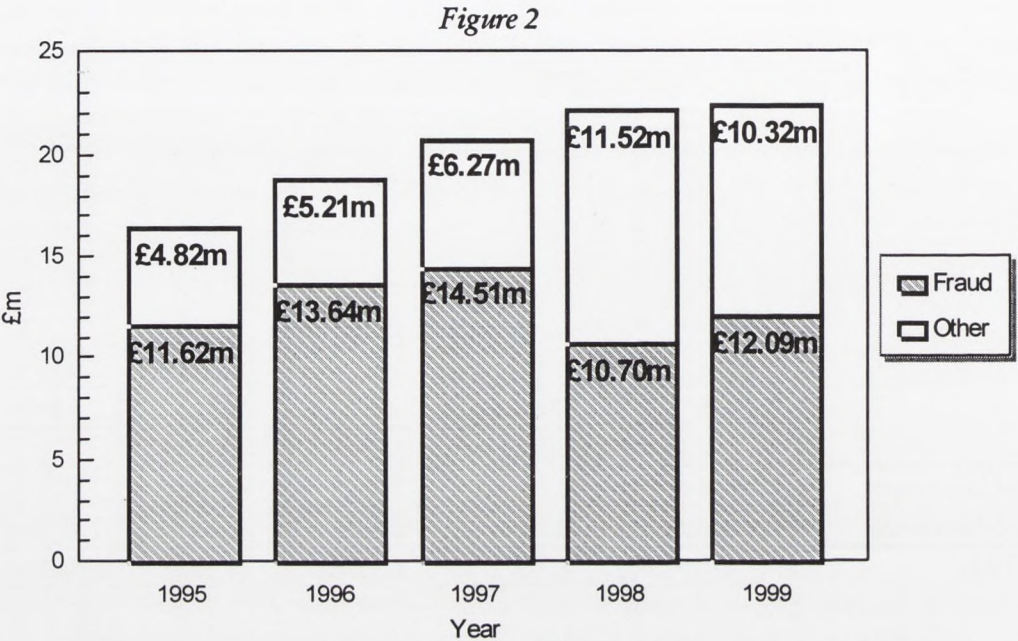


Table 23 - Department's record of recovery of overpayments 1995 to 1999

	1995 £'000	1996 £'000	1997 £'000	1998 £'000	1999 £'000
Overpayments not disposed of at 1 January	31,945	31,423	35,082	37,579	42,229
Overpayments recorded for recovery	16,438	18,853	20,781	22,221	22,405
<i>less:</i> overpayments recorded in prior years cancelled	(436)	(430)	(301)	(378)	(230)
sums recovered in cash	(3,895)	(4,399)	(4,638)	(5,335)	(4,059)
sums withheld from current entitlements	(2,712)	(3,311)	(4,274)	(3,880)	(3,307)
amounts written off as irrecoverable	(9,917)	(7,054)	(9,071)	(7,978)	(9,326)
Overpayments not disposed of at 31 December	31,423	35,082	37,579	42,229	47,712

36. Prosecutions

Cases involving abuse of the system are considered with a view to taking legal proceedings. Prosecutions are taken against employers who fail to carry out their statutory obligations and persons who defraud the social welfare payments system. Prosecutions can either be by summary or indictment proceedings. Civil proceedings are taken to facilitate the recovery of scheme overpayments or the collection of PRSI arrears. Such cases are only taken where it has been established that the debtor has sufficient means to discharge the debt.

During 1999, 329 criminal cases (1998 - 234 cases) and 9 civil cases (1998 - 9 cases) were forwarded to the Chief State Solicitor's Office for prosecution.

Table 24 - Criminal cases forwarded to the Chief State Solicitor

	1998	1999
Unemployment Assistance	117	171
Unemployment Benefit	34	77
Disability Benefit	10	27
Invalidity Pension	2	1
One Parent Family Payments	13	10
Other Schemes	1	3
Offences Committed by Employers	57	40
Total	234	329

A total of 107 prosecutions (1998 - 117 prosecutions) involving social welfare recipients were finalised in court in 1999. The total amount of overpayments assessed in cases of persons who attempted to or obtained benefits/assistance fraudulently was £426,078 (1998 - £411,510). The results of these 107 court cases and the penalties imposed are given in **Table 25**.

Table 25 - Results of Court Cases involving Social Welfare Recipients

	Fines Imposed	Communi-ty Service	Imprison-ment	Probation Act	Proven No Penalty
Unemployment Assistance	24	5	9	19	10
Unemployment Benefit	7	3	6	4	2
Disability Benefit	6	1	-	2	1
Invalidity Pension	1	-	-	1	-
One Parent Family Payments	3	-	-	1	1
Other Schemes	-	-	-	1	-
Total	41*	9	15#	28	14

* Fines to a value of £9,728 were imposed by the courts (£14,095 in 1998 in 59 cases)

9 subsequently suspended

The prosecution of 37 cases involving employers (1998 - 43 employers) were also finalised. The results of these court cases and the penalties imposed are given in **Table 26**.

Table 26 - Results of Court Cases involving Employers

	1999
Cases Fined	31*
Prison Sentence	-
Probation Act	1
Proven/No Penalty	5
Total	37

* Fines to the value of £10,006 were imposed by the courts (1998: £13,050 in 37 cases)

There were no civil cases finalised in 1999 (1998 -zero cases)

The number of prosecutions finalised in the courts since 1995 is summarised in Figure 3.

Figure 3



37. Recovery of Maintenance Contributions

Introduction

One Parent Family Payment (OPFP) is payment for both men and women who for a variety of reasons are bringing up a child(ren) without the support of a partner. A person who is unmarried,¹⁸ widowed, a prisoner's spouse, separated¹⁹, divorced or whose marriage has been annulled and who is no longer living with his/her spouse is eligible to apply for payment. The other schemes that may apply in this area are Deserted Wife's Allowance and Benefit.

Liable Relatives and the Recovery of Maintenance

Part III of the Social Welfare Act 1989 (as amended by Part IX of the Social Welfare (Consolidation) Act 1993) imposed an obligation on spouses to maintain each other and their children. The Act also imposed a liability on the spouses or partners of certain social welfare recipients to contribute to the Department of Social, Community and Family Affairs (the Department) towards payments of Lone Parent Allowance and Deserted Wife's Allowance and Benefit. The legislation was effective from 29 November 1990 and was subsequently amended to provide for OPFP when it replaced some of the earlier schemes in 1997.

The issue of maintenance payments is first and foremost a private matter for the persons concerned and if they cannot resolve the problem, for the courts through Family Law provisions. Social welfare payments act as a safety net for people who have failed to obtain adequate maintenance, but those claiming must satisfy the Department that they have made reasonable efforts to obtain such maintenance. The Department encourages the parent caring for the children to pursue the other parent for maintenance in line with the conditions of the OPFP scheme. Take-up of schemes for lone parents has grown significantly over the years. This is mainly due to social change (more births outside marriage, increasing marriage breakdown) but also because scheme conditions have been extended, thus allowing more people to remain qualified - e.g. an earnings disregard of £115 per week on the OPFP scheme now applies.

Persons who are liable to contribute to the maintenance of lone parents and their children who are being supported through OPFP are known as liable relatives. Where the lone parent has failed to secure any, or adequate, maintenance then the Department can take direct action to recover some or all of the cost of OPFP issued to the lone parent. It should be borne in mind that the Department's action to get contributions is aimed at a liable relative target group that has already shown a marked reluctance to make maintenance payments to their spouse and children.

¹⁸ *Efforts to seek maintenance prior to award of OPFP is not a qualifying condition but unmarried recipients are expected to make efforts to seek maintenance after the OPFP claim is awarded.*

¹⁹ *It is a condition that a separated OPFP claimant must make efforts to seek maintenance before the claim is awarded.*

Statistics

Table 27 - Expenditure on Schemes covered by Maintenance Provisions

	1998 £'000	1999 £'000
One Parent Family Payment	307,039	342,730
Deserted Wife's Allowance	6,696	6,598
Deserted Wife's Benefit	69,772	67,707*
Total	383,507	417,035

* *Provisional*

Table 28 - Number of Recipients

Year	Total
1990	37,711
1991	42,446
1992	47,180
1993	51,662
1994	56,465
1995	62,195
1996	67,441
1997	75,312
1998	81,194
1999	85,342

Table 29 -Recipients by Number of Qualified Children 1999

Without Qualified Children	7,362 ²⁰
With 1 child	46,934
With 2 children	18,992
With 3 children	7,546
With 4 children	2,932
With 5 children	1,029
With 6 or more children	<u>547</u>
Total	<u>85,342</u>

²⁰

This consists of Deserted Wife's Benefit, Residual Deserted Wife's Allowance and Prisoner's Wife's Allowance claimants.

Audit Objective

The audit objective was to assess the performance of the Department's Maintenance Recovery Unit (MRU), set up in 1990, in implementing the liable relative regulations and in particular their assessment, administration and collection of maintenance contributions under the regulations to ensure that the Department recovers all moneys rightly due to it.

The audit did not address the policy issues relating to the design of the OPFP scheme, including the maintenance payable formula.

Extent and scope of audit work carried out

- The relevant regulations and legislation were examined
- Statistics on OPFP payments and contributions from liable relatives were obtained and analysed
- The Department's procedures and systems for implementing the regulations were documented and tested
- A sample of files was examined to ascertain the current status of liable relatives who were receiving social welfare payments or were untraceable when OPFP was originally awarded in 1998
- Discussions with relevant officials in the Department

Audit Findings

- (a) At 31 December 1999 the position in the MRU was as follows
- 537 liable relatives were active for maintenance contributions
 - Total maintenance contributions received in 1999 from cases active in that year was £630,751 from total maintenance assessed of £1,902,563
 - The target for recovery in 1999 was £700,000.
- (b) The Department also calculates that 2,323 OPFP cases are in receipt of maintenance privately as a maintenance amount was included in the means assessment for the OPFP decision. These cases result in savings of £2.7m per annum and are achieved mainly by the action initiated by the Department at the processing of the OPFP claim by requiring applicants to make their own efforts to obtain maintenance.
- (c) The operation of the maintenance recovery provisions also yielded savings on scheme expenditure. These savings arise where the recovery operation has resulted in the termination of a claim by the Department on receipt of new facts. From the setting up of the MRU in 1990 to 30 June 2000, 137 claims have been terminated yielding savings of almost £1.5m. Further savings of £251,000 have been achieved as a result of 192 claims being reduced in cases where Departmental action has led to the commencement of regular maintenance payments being made directly to the client.

- (d) Only a liable relative in employment or self employed (35% of total) at the time of the award of OPFP are assessed for maintenance. If the liable relative is on a social welfare payment (43%) or untraceable (22%) at time of decision no further action is taken. Audit tests revealed that
- in April 2000, of 100 cases where the liable relative was in receipt of a social welfare payment at the time of OPFP decisions in 1998, 21 were no longer in receipt of such payment
 - of 50 cases where the liable relative was untraceable at the time of OPFP decisions in 1998, there were 12 cases where the liable relative had made social welfare contributions or had received a social welfare payment since.
- (e) At 31 December 1999 there was a 2 year backlog in assessing liable relative cases that were classified as working or self employed at time of decision on OPFP. At that date there were 14,895 cases (5,741 separated and 9,154 unmarried) on hand where the liable relative was in employment.
- (f) The issue of staff resources in the MRU is currently under review in the Department. The limited staff resources in the MRU - at present 7 officials at a direct salary cost of approximately £150,000 per annum - means that it currently concentrates on pursuing maintenance payments from liable relatives who were in employment or self employment at the time of assessment as these result in a better financial return.
- (g) An important consideration for MRU in deciding how best to allocate resources is that in the case of separated families the liable relative is liable for maintenance for spouse and children and that in the case of unmarried OPFP the liable relative is liable for maintenance in respect of children only. The MRU concentrates its resources on the separated cases (current total 16,127) as the maintenance payments are generally larger and the financial return to the Department is greater.
- (h) Where a liable relative is employed or self employed and is informed of maintenance assessment and the liable relative makes no response, or starts payment and subsequently stops payment, the Department have no follow-up procedures.
- (i) No procedures exist to review the income of a liable relative after the initial assessment for maintenance contribution.
- (j) The Department's debt collection policy has the following shortcomings
- no individual debtor accounts maintained
 - no aged analysis of debtors maintained
 - no procedures for the follow-up of defaulters
 - no debt review procedures
 - no procedures for the write off of uncollectable amounts

- no legal case was taken against defaulters until 1998 when the Department forwarded 3 cases to the Chief State Solicitor for action but they have not yet reached the courts
 - no risk analysis strategy *i.e.* the prioritisation of debt.
- (k) The Department has, since November 1999, operated a new computerised debtor system for MRU. Staff are familiarising themselves with the capability of the system which is said to have the potential for the compilation of a complete database of liable relatives which will enable the MRU to operate a comprehensive debt collection procedure. The previous system in MRU was only capable of recording details of the payments made to the Department.
- (l) The only output performance indicator the Department has is a savings indicator. The Department does not have detailed measurable performance indicators such as
- the proportion of liable relatives paying maintenance for their children
 - the proportion of maintenance cases in collection compared to a set target
 - the proportion of maintenance assessed that is actually collected
 - collected maintenance total as a proportion of cost of collection.
- (m) A lone parent can receive tax relief if the child resides with him/her. The qualifying period for residence is one night. The Department does not provide or seek information from the Office of the Revenue Commissioners in relation to persons in receipt of this tax allowance. A liable relative in default of maintenance payments could be in receipt of a tax allowance for the child as there is no constraint on the allowance being granted to both parents. This potential area of shared information between the Office of the Revenue Commissioners and the Department should be reviewed taking cognizance of existing legislation and data protection matters.
- (n) There is inconsistency in the treatment of maintenance between different social welfare schemes. Maintenance payments for children are not assessed as means for Unemployment Assistance and some claimants refuse to transfer to OPFP for this reason. This has the effect of underestimating the number of OPFP claimants.

Conclusions

- It is important that maintenance should be fairly, firmly and efficiently enforced with appropriate safeguards for those who are not able to provide financial support.
- The total of 2,860 liable relatives (537 to the Department and 2,323 by personal arrangement) making maintenance contributions is 3.5% of total recipients of OPFP. This is a very small proportion of total liable relatives.
- While it is appreciated that it is the failure of liable relatives to maintain their spouses and/or children in the first place that gives rise to their liability to contribute to the Department, the small proportion of liable relatives making maintenance contributions, when taken with the

absence of court proceedings, suggests that the Department's performance in the collection of maintenance could be interpreted as ineffective and of little deterrent value for liable relatives to meet their commitments. If the public perception is that the prospect of assessment and active pursuit, legal and otherwise, is low or non-existent then the major deterrent to discourage avoidance of maintenance contributions is severely compromised.

- The Department needs to develop a strategy to establish a climate where the payment of maintenance by a liable relative is regarded as a normal, not exceptional, contribution towards the maintenance of lone parents and/or their children.
- While acknowledging that the Department has to allocate resources to the areas where they can be most cost effective, nevertheless the MRU is unable at present to fully implement the liable relative regulations due to insufficient resources.
- The Department should ensure that systems and guidelines in the area of maintenance collection becomes an area of diligent assessment and pursuit. It must carry out the collection of maintenance due to the State in the most cost effective way. In this regard, the Department should exploit the total capability of the new computerised debtor system. MRU procedures should be updated to specifically ensure that
 - controls exist to regularly review the status of liable relatives who were not liable or traceable at the time of the original OPFP assessment
 - procedures are in place to record the income of liable relatives after the original assessment
 - a robust debt collection policy with detailed follow up, review and write off is followed
 - a risk analysis strategy is devised to develop a more focused approach to the use of resources
 - indicators are put in place that effectively measure the performance of the Department in collecting maintenance contributions.
- The Department should have a monitoring system to ensure that procedures and guidelines are properly implemented and performance indicators attained.
- The Department should consider ways where relevant data on liable relatives can be exchanged with the Office of the Revenue Commissioners and speedily conclude an agreement on the matter of transfer of data.
- The Department should consider the standardisation of the treatment of maintenance payments in all means tested social welfare schemes.

The Accounting Officer offered the following comments on the report

- While one-parent families may be entitled to maintenance under Family Law, they may in practice receive little if any support from their spouses. It has been variously estimated that payments under maintenance orders are actually made regularly in only 12 - 20% of cases.

- The implementation of the statutory provisions to recover contributions from liable relatives is one element in a range of activities designed to minimise misuse/abuse of the social welfare system, including activities to detect fraud and to secure recoupment of moneys which control activities have identified as having been wrongly received.

The activities in any one area of control activity must be viewed in the wider context of the whole range of controls which the Department operates and the relative effectiveness of the various measures employed.

The Pensions Services Office, in which the OPFP administration and MRU are situated, manages an old age, widowed and lone parent client base of 500,000 and deals with 170,000 new claims and revisions per year. Out of a staff complement of around 460, 36 staff are devoted fully to control activities of various types, including 7 in the MRU specifically. In addition, Social Welfare Inspectors in each region deal with the investigative aspects of liable relative assessment in support of MRU work. The collective work of the staff currently deployed yields some £1m per annum in contributions and indirect scheme savings.

- The Department has implemented the liable relative provisions over the years as vigorously as possible having regard to the resources available and to the other control and customer service demands arising. The aggregate results from this process are estimated at some £23m over the 9 year period from end-1990 to end-1999. This aggregate amount mainly comprises an estimated £18m in reduced Lone Parent's Allowance/OPFP rates due to the requirement on applicants to satisfy the Department that they have made reasonable attempts to obtain maintenance. The balance is made up of £3.2m in direct contributions from liable relatives and scheme savings of £1.8m indirectly arising through liable relative investigative work.
- The Department is currently undertaking a widescale review of overall staffing in the Pensions Services Office in the light of changing workloads and other priorities. As part of this, the options for stepping up activity in maintenance recovery and other control areas are being assessed. In addition, a small database system developed by the Unit in the mid-1990s was recently replaced by a more comprehensive debt management system and staff are being trained to use this enhanced system as a means of tracking liabilities and identifying defaulters.
- Furthermore, a major review of financial support for lone parents has recently been completed by the Department. One of the objectives of the current scheme is to support and encourage lone parents to consider employment as an alternative to long-term welfare dependency. On foot of this review²¹, a new programme of supports to assist lone parents to find employment is being developed. The review also put forward a number of possible options for enhanced action in the area of maintenance recovery from liable relatives and these are being considered.
- The review also addresses the matter of liable relatives receiving tax relief for their child(ren) while they are not contributing to the cost of the social welfare payment to their spouse

²¹

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and/or child together with improving data transfer arrangements with the Revenue Commissioners in this regard.

- The question of inconsistencies in treatment of maintenance between different social welfare schemes has been considered in the context of the review. Any changes in this regard would require legislation.
- The Department is also making arrangements for greater localisation of the OPFP scheme. Ultimately it is envisaged that the administration of this scheme will be transferred to social welfare local offices and a working group has been established to progress this. The localisation of claims would, *inter alia*, enable a more effective use of staff resources in this area and closer control for payments.
- Consideration is being given to targeting a percentage of cases where an employed or self-employed liable relative either does not respond to an assessment or begins contributing and then defaults, subject to an assessment of the impact of this on new case work and the resulting overall yield within the resources available. It should be noted that some reviews do take place either at the request of the liable relative or when the Department receives information which might affect the liability due by the liable relative.
- The Department is conscious of the need to enforce the maintenance provisions fairly, firmly and efficiently. Where there are resource constraints and conflicting priorities, the focus is on getting maximum return for resource allocation.
- The Department has to work within a finite level of staff resources and has had to make choices in deploying these to deal with an increasing claimload and to deal with controls having regard to the risks and the return on the effort involved. However, the Department is currently engaged in a widescale review of overall staffing in the light of changing workloads and is reviewing the resource requirements of the Maintenance Recovery function specifically within that process.
- It is the Department's intention to initiate a regular number of cases for prosecution under the liable relatives provisions each year. The fact that no cases submitted have yet reached court is outside the Department's direct control, but does not indicate any unwillingness on the part of the Department to take prosecutions.
- The level of recourse to the scheme(s) and international experience both demonstrate the marked resistance to contribute which exists among people who walk away from their responsibilities. This is the backdrop against which the Department operates. The position will be reviewed in the light of the experience gained.

The extension of the Family Mediation Service, as is already happening, is also expected to make an impact in the case of couples prepared to participate in mediation.

- The new computer system will be used increasingly in support of maintenance recovery work. The degree to which the other matters outlined in the Report can be achieved - will depend, *inter alia*, on the impact of the new computer system.