



**Comptroller and Auditor General
Special Report**

The Nursing Homes Support Scheme (Fair Deal)

Report of the Comptroller and Auditor General

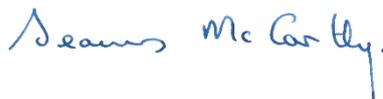
The Nursing Homes Support Scheme (Fair Deal)

I have carried out an examination of the operation of the Nursing Homes Support Scheme (Fair Deal) under the provisions of Section 9 of the Comptroller and Auditor General (Amendment) Act 1993. In accordance with the provisions of Section 11 of the Act, I have prepared this report on the findings of my examination.

This report was prepared on the basis of information, documentation and explanations obtained from the public bodies referred to in the report. The draft report was sent to the Department of Health and the Health Service Executive. Relevant extracts were sent to the National Treatment Purchase Fund and the Office of the Revenue Commissioners. Where appropriate, comments received from the Departments and the other bodies were incorporated in the final version of the report.

This report was largely complete when the COVID-19 outbreak occurred. Therefore, it does not consider the risks and uncertainties associated with this global public health issue or their likely significant impact on the nursing home sector.

I hereby submit my report for presentation to Dáil Éireann in accordance with Section 11 of the Act.



Seamus McCarthy
Comptroller and Auditor General

8 May 2020

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Glossary

CHO	Community healthcare organisation
DEASP	Department of Employment Affairs and Social Protection
DPER	Department of Public Expenditure and Reform
ESRI	Economic and Social Research Institute
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
NTPF	National Treatment Purchase Fund
Revenue	Office of the Revenue Commissioners
Scheme loan	Ancillary State support
the 2009 Act	Nursing Homes Support Scheme Act 2009
the Scheme	Nursing Homes Support Scheme

Summary

Summary

The Nursing Homes Support Scheme — generally referred to as 'Fair Deal' — was established in 2009 to provide financial support to eligible residents towards the cost of their nursing home care.¹ Residents are required to make a contribution towards the care costs, depending on their means, with the HSE contributing the balance.

By 2018, the HSE was providing financial support in respect of just over 23,300 individuals. The HSE reported that this support amounted to €969 million in 2018, including some €51 million in the form of loans to residents to assist them in paying their contributions. The HSE estimates that an additional €343 million was paid directly to nursing homes in 2018, in the form of residents' contributions.

Almost 550 nursing homes are involved in providing care within the Scheme. Four out of five homes are privately run or are operated by voluntary bodies. The remainder are public nursing homes, operated by or on behalf of the HSE.

In practice, operation of the Scheme is complex and involves activities and functions carried out by a range of State agencies. This examination was carried out to provide an overview of the Scheme after its first ten years of operation.

This report was largely complete when the COVID-19 outbreak occurred. Therefore, it does not consider the risks and uncertainties associated with this global public health issue or their likely significant impact on the nursing home sector.

Scope of care subvented

In 2009, the Department of Health and the HSE detailed the list of goods and services that would constitute nursing home care for the purposes of the Scheme. These — known as the 'cost components' — comprise accommodation, bedding, food, nursing and personal care, laundry and standard aids and appliances to assist with day-to-day living. Although the standards and regulations surrounding the provision of nursing home care have been revised since the Scheme commenced, no review of these components has taken place.

Both public and private nursing homes arrange for or provide a range of goods and services not covered by the Scheme rate, for example, access to social programmes. The examination team noted that, within a sample of contracts of care in private nursing homes, the level of detail provided on additional fees charged to Scheme residents varied. It appears that residents of private nursing homes are more likely than those in public nursing homes to incur charges for additional services. The Department of Health and the HSE established a project team in 2018 to review the additional charges in place in nursing homes.

¹ The Scheme was established under the Nursing Homes Support Scheme Act 2009.

Calculation of weekly charge rates

The 2009 Act requires that the charges for care services to be provided to an individual supported by the Scheme are expressed in terms of a weekly rate. An individual weekly rate is calculated for each nursing home participating within the Scheme. The weekly rate calculated is the same for each resident within the nursing home, regardless of the level of dependency, age, or any other factor.

In 2018, the average charge rate for public nursing homes was €1,564 a week. The agreed average maximum price chargeable for private or voluntary homes was €968 a week. The difference was 62%. However, because the methods used to determine the weekly rates are different for each sector, a meaningful comparison of the charge rates is difficult. The Department of Health is currently carrying out a value for money review comparing the costs of care across the nursing home sector.

Weekly cost of care in public nursing homes

Section 33 of the 2009 Act provides the HSE with the authority to charge for the provision of long-term residential care services, but stipulates that the charge should not exceed the cost to the HSE of providing the service. The weekly charge rate for public nursing homes is derived from prior period Scheme costs adjusted for the number of scheme beds available and on the assumption of 95% occupancy. However, as the HSE does not have a single integrated financial system, the process of identifying and isolating the historic costs relevant to the Scheme is not straightforward. This creates risks around the completeness and accuracy of the cost of care based charge rates calculated and published by the HSE.

Budgets are allocated to public nursing homes based on the calculated weekly charge rate. Funding shortfalls may arise for those nursing homes where the occupancy rate is less than expected, or the current operating costs of the nursing home are higher than the prior period costs. For 2018, additional funding of €23 million was required from other Exchequer resources to meet such deficits.

The HSE committed in 2015 to publishing the weekly cost of care based charge rates for public nursing homes. Charge rates were published for 2016 but not for 2017. Furthermore, the charge rates published in February 2018 were not revised to reflect the application of pay adjustments. As a result, the internal weekly rates used for HSE funding and accounting purposes in 2018 were on average 3% higher than the published rates. However, this had no implications on most Scheme beneficiaries, since their contributions were related to their means, and not to the weekly cost of care rate.

Weekly agreed maximum price in private nursing homes

Section 40 of the 2009 Act provides for price arrangements to be made for the provision of long-term residential care by negotiation with private and voluntary nursing homes. The National Treatment Purchase Fund (NTPF) is the body designated by the Minister for Health to manage the negotiation process and to enter into pricing agreements with those nursing homes.

When the Scheme was first introduced in 2009, the NTPF offered each nursing home the average weekly price that it had been receiving on the open market. The objective of doing so was to avoid any delays or capacity shortfalls that could otherwise have arisen in the short-term. In many cases, these initial charge rates have influenced subsequent negotiations.

Prior to entering into negotiations with a nursing home, the NTPF carries out a financial analysis of information submitted by the nursing home. This typically includes an analysis of room occupancy rates, a calculation of the nursing home's weekly unit cost and other information on the nursing home's turnover, profit before interest and tax, and finance costs.

The NTPF advised that the following criteria are also considered

- costs reasonably and prudently incurred by the nursing home and evidence of value for money
- price(s) previously charged
- the local market price
- budgetary constraints and the obligation on the State to use resources responsibly.

While the average dependency level of residents is not formally recognised as a criterion, the examination noted that there is some evidence that general dependency levels in the nursing home are discussed during price negotiations. However, the NTPF has not provided a model explaining how the various criteria are weighed and combined, stating that all the criteria are considered in the aggregate. Consequently, it is unclear how these criteria influence the negotiation of the price that is agreed with the nursing home.

A Department of Health review of the Scheme in 2015 recommended that the NTPF review the present price negotiation system with a view to

- ensuring that there is adequate capacity for those who require complex care
- ensuring value and economy, with the lowest possible administrative cost
- increasing the transparency of the pricing mechanism so that existing and potential investors in nursing homes can make informed decisions

This review has been completed but has not yet been published.

While negotiation by its nature involves the exercise of judgement, it is important that sufficient documentary evidence is retained by the NTPF to enable evaluation of the key decisions made during the negotiation process. The examination found that the NTPF does not have internal written procedures or a guidance manual for its staff involved in the negotiation process.

Where a negotiation fails to reach an agreement, the nursing home can seek a review by the CEO of the NTPF. Pending the outcome of a negotiation or a review, the NTPF may offer a nursing home an extension to their deed of agreement, at the current price, for a period of up to three months, or longer where the negotiation becomes protracted. The NTPF does not generate management information on the factors giving rise to protracted negotiations, or the number and frequency of contract extensions.

The legislation specifies that the price agreed between the NTPF and the nursing home is the maximum price that can be charged in respect of the 'within scope' care components for an individual resident supported under the Scheme. However, the examination found that, in practice, there is no deviation from this price. The agreed maximum price becomes the set price charged by the nursing home for each resident over the term of the agreement.

Demand for the Scheme

The Scheme is cash-limited which means that the HSE must restrict access to the Scheme benefits if there is an expectation that the available funding for a specified period will be exhausted. The risks in such circumstances are that persons who medically require long term residential care do not receive it in a timely way and/or that costs are borne instead by other parts of the health service, or by applicants and their families.

While the number of persons in receipt of support under the Scheme fluctuates over time, the annual number of applications for support under the Scheme is relatively constant at around 10,000 a year. The cash limited nature of the Scheme budget impacts on the time applicants approved for support spend on the national placement list while they await funding approval. The HSE has set a target that the maximum time on the placement list should not exceed four weeks averaged over a year. The target has generally been met but by September 2019, the maximum waiting time had increased to eight and a half weeks, and just over 1,200 people were on the national placement list.

In 2018, the majority of applicants took up their places in a nursing home within four weeks of receiving funding approval. However, at the end of 2018, there were 848 people who had been approved for funding but had yet to be admitted to a nursing home. In 20% of these cases (166 cases) funding approval had been in place for more than six months.

The HSE has put in place short-term transitional care arrangements to facilitate the discharge of older persons from an acute hospital to a long-term residential care setting pending approval of Scheme funding. Costs associated with transitional care are not met from the Scheme budget but are met from other Exchequer resources. Payments to private or voluntary nursing homes in respect of transitional care increased from €7.2 million in 2015 to just under €12 million in 2018 — an increase of 67%. The cost of the provision of transitional care for Scheme applicants in public nursing homes is not known. Furthermore, residents' contributions are not collected while transitional care is being provided.

Assessment of residents' contributions

Through their contributions, residents of nursing homes supported by the Scheme cover around 30% of the cost of the standard nursing home care they receive.

A resident's contribution to their cost of care is calculated in a financial assessment process, based on

- a maximum of 80% of their weekly income
- 7.5% of the value of their home (and in certain circumstances, farm or business assets), subject to a three-year cap, and
- 7.5% of the value of their other assets per year.¹

¹ Including farm and business assets that do not meet the criteria to qualify for a three-year cap.

² Or commensurately for part of the three-year period.

An individual's principal residence (and qualifying farm or business) is only included in the financial assessment for the first three years (referred to as the 'three-year-cap') regardless of the length of time spent in nursing home care. The 7.5% contribution on the value of such assets is disregarded in the case of individuals receiving and paying for nursing home care privately for three years prior to applying to the Scheme.²

When an individual makes an application to the Scheme, s/he is required to provide the HSE with details of her/his income and assets, and supporting documentary evidence. In contrast to the medical card scheme, the examination found that the HSE does not specify the nature of the documentary evidence required for many types of income and assets, or how recent that evidence should be.

By law, the HSE must receive a schedule of assets on the death of a resident. This does not happen in all cases. Where schedules of assets were received, reviews did not identify additional liabilities in nine out of ten cases. Additional liabilities were identified in 10% of cases. Where they had been quantified, the average value of the additional liability was €16,100.

Lending to nursing home residents

An optional loan element is part of the Scheme. This is designed to ensure that an individual does not have to sell their home or property assets in order to pay for long-term residential care. The loan can be repaid at any time, but normally falls due for repayment upon the individual's death, or on the sale/transfer of the property. The HSE formally registers a charge on the property in question.

Just over 10,600 individuals had availed of the loan element of the Scheme up to December 2018. The total amount of loan funding advanced at that date was €239 million.

By the end of December 2018, Revenue had been notified of 5,650 loans worth €114.1 million where it was appropriate to commence recoupment. By the end of February 2020, Revenue had recovered €105.7 million or 93% in full settlement. A further €1.6 million had been received in partial settlement cases. The remaining loans, to the value of €6.8 million, were overdue for repayment.

The Scheme legislation allows 12 months from the date of death or six months in the case of the sale or transfer of the property to repay the loan. After the due date, interest becomes payable on any outstanding loans (or outstanding balances). The examination noted some delays in the time taken for the HSE in notifying Revenue and the accountable person of the amount to be recouped following the relevant event. This reduces the time available for recovery before interest may be levied.

By the end of February 2020, Revenue had collected late-payment interest to the value of €1.65 million on loans notified up to the end of 2018. Interest to the estimated value of a further €1.7 million had not been applied or had been waived in other cases finalised. Revenue has stated that its general approach is not to apply interest, or to waive it, where delays in settling estates were due to processing delays by other State bodies.

**The Nursing Homes Support Scheme
(Fair Deal)**

1 Introduction

- 1.1** The Nursing Homes Support Scheme, also known as 'Fair Deal', was established under the Nursing Homes Support Scheme Act 2009. The Health Service Executive (HSE) has statutory responsibility for administering the Scheme.

Support for care costs

- 1.2** Under the Scheme, a person who requires long-term residential care in a nursing home can apply to the HSE for financial support.¹ The cost of care is shared between the resident and the HSE based on an assessment of the income and assets of the resident, including savings and the value of residential or other property.
- 1.3** In 2018, the financial support provided by the HSE towards the cost of long-term residential care amounted to €969 million.² This represented an increase of 2.5% on the 2017 level of expenditure, and a cumulative increase of 10.6% since 2014. In addition to these payments, the HSE estimates that residents' contributions, amounting to around €343 million in 2018, were also paid directly to nursing homes.
- 1.4** About 550 nursing homes participate in the Scheme. Around 80% of these are private (for-profit or not-for-profit) operators. The remainder are public (HSE-run) facilities.
- 1.5** A nursing home resident has the option to avail of a loan facility — known as ancillary State support — to meet a portion of their contribution to the cost of their care. This aspect of the Scheme was designed to ensure that an individual would not have to sell their home (or property assets) during their lifetime in order to pay for nursing home care. About 14% of eligible residents avail of the loan facility. By the end of December 2018, the State had provided cumulative loans under the Scheme amounting to €239 million.

¹ Long-term residential care is defined in the 2009 Act as maintenance, health or personal care services, or any combination thereof, provided to a person for a period of not less than 30 consecutive days, or periods in the aggregate amounting to not less than 30 days within a period of 12 consecutive months, in a facility that is predominantly for the care of older people.

² This includes expenditure of €20 million on long term residential care schemes that pre-date Fair Deal, and loan payments amounting to €51 million that will ultimately be repaid to the Exchequer.

³ *Projections of Demand for Healthcare in Ireland, 2015–2030*, Economic and Social Research Institute, October 2017.

⁴ The Department of Public Expenditure and Reform's *Public Financial Procedures* states that, in a cash-limited scheme, entitlement to Scheme funding is contingent on the availability of funds.

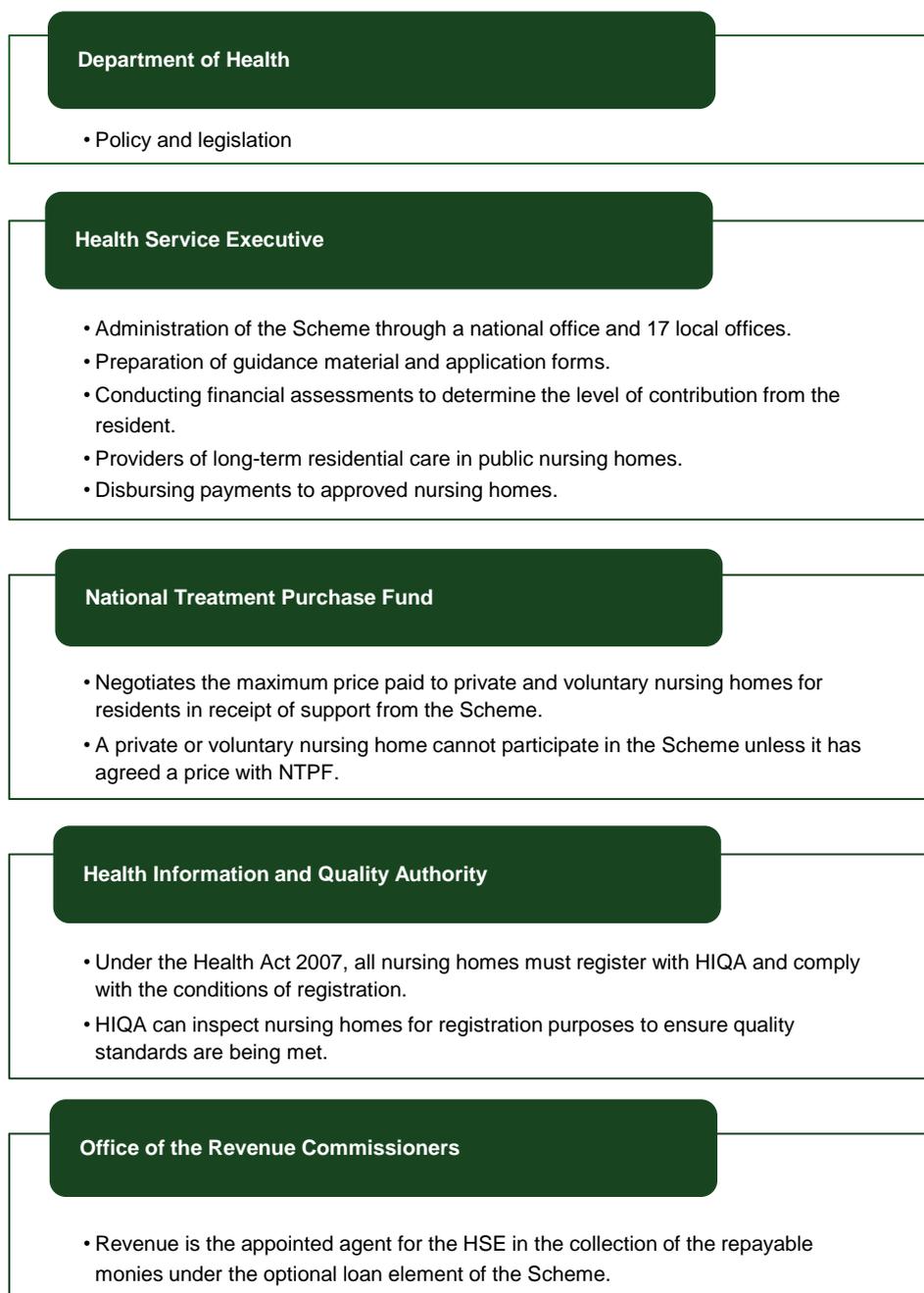
Demand for support

- 1.6** The numbers of residents supported by the Scheme rose moderately from just over 22,000 in 2012 to 23,300 by the end of 2018. However, demand for long-term care is expected to increase significantly in the medium to long term. Research conducted on behalf of the Department of Health suggests that demand for long-term residential care is likely to increase by between 40% and 54% between 2015 and 2030.³
- 1.7** The budget approved for the Scheme is cash limited.⁴ In order to manage the budget across the year, the HSE registers individuals on a national placement list until funding becomes available. The length of time spent on the waiting list depends on the number of individuals currently receiving financial support, the number of new applications in the year and the budget allocation. HSE records indicate that, in 2018, funding was approved and made available in all cases within four weeks of the application being assessed.

Roles and responsibilities

- 1.8 The HSE administers the Scheme through 17 local processing offices located around the country and through a central unit in Tullamore. As at March 2020, the HSE was in the process of reducing the number of local processing offices.
- 1.9 A number of other State bodies are also involved in aspects of the Scheme. These include the Department of Health, the NTPF, Revenue and HIQA. Figure 1.1 summarises their respective roles and responsibilities.

Figure 1.1 Roles and responsibilities under the Nursing Homes Support Scheme



Review of the Scheme

- 1.10** After a number of years of operation, the Department of Health carried out a review of the Scheme, reporting in July 2015.¹ The review report made a number of recommendations in relation to the administration of the Scheme, the price of long-term residential care and residential care capacity.

Focus of this examination

- 1.11** This examination was undertaken to review the economy and efficiency of the Scheme. In particular, it addressed the following questions.
- Are the weekly charge rates set for the provision of nursing home care to residents that participate in the Scheme properly based?
 - Can applicants for support under the Scheme access the care they need in a timely manner?
 - Is the assessment of residents' means to determine personal contributions to the cost of care carried out efficiently and effectively?
 - Are HSE loans to residents to assist them in meeting their contributions to the cost of their care repaid promptly and in full?
- 1.12** Information and data on the Scheme was obtained from the HSE, the Department of Health, Revenue, the NTPF, and HIQA. During the course of the examination, the team conducted site visits in the central unit in Tullamore and in three of the local offices — Naas, Donegal, and Cork. The examination included a review of a sample of cases. Details of these reviews are set out in the relevant sections of the report.
- 1.13** The HSE provided the examination team with detailed reports from the Scheme's case recording system dating from February 2018 and December 2018. These reports allowed the team to analyse Scheme data at snapshots in time. The results of this analysis are referenced throughout the report.

Structure of the report

- 1.14** The report is set out as follows
- Chapter 2 examines the charges for nursing home care and how they compare between public and private nursing homes.
 - Chapter 3 examines the demand for long-term residential care and how the HSE manages the demand.
 - Chapter 4 examines the sharing of nursing home costs between residents and the State, and the efficiency and accuracy of the application and assessment process.
 - Chapter 5 examines the management of State lending for residents of nursing homes who receive ancillary support under the Scheme.

COVID-19 pandemic

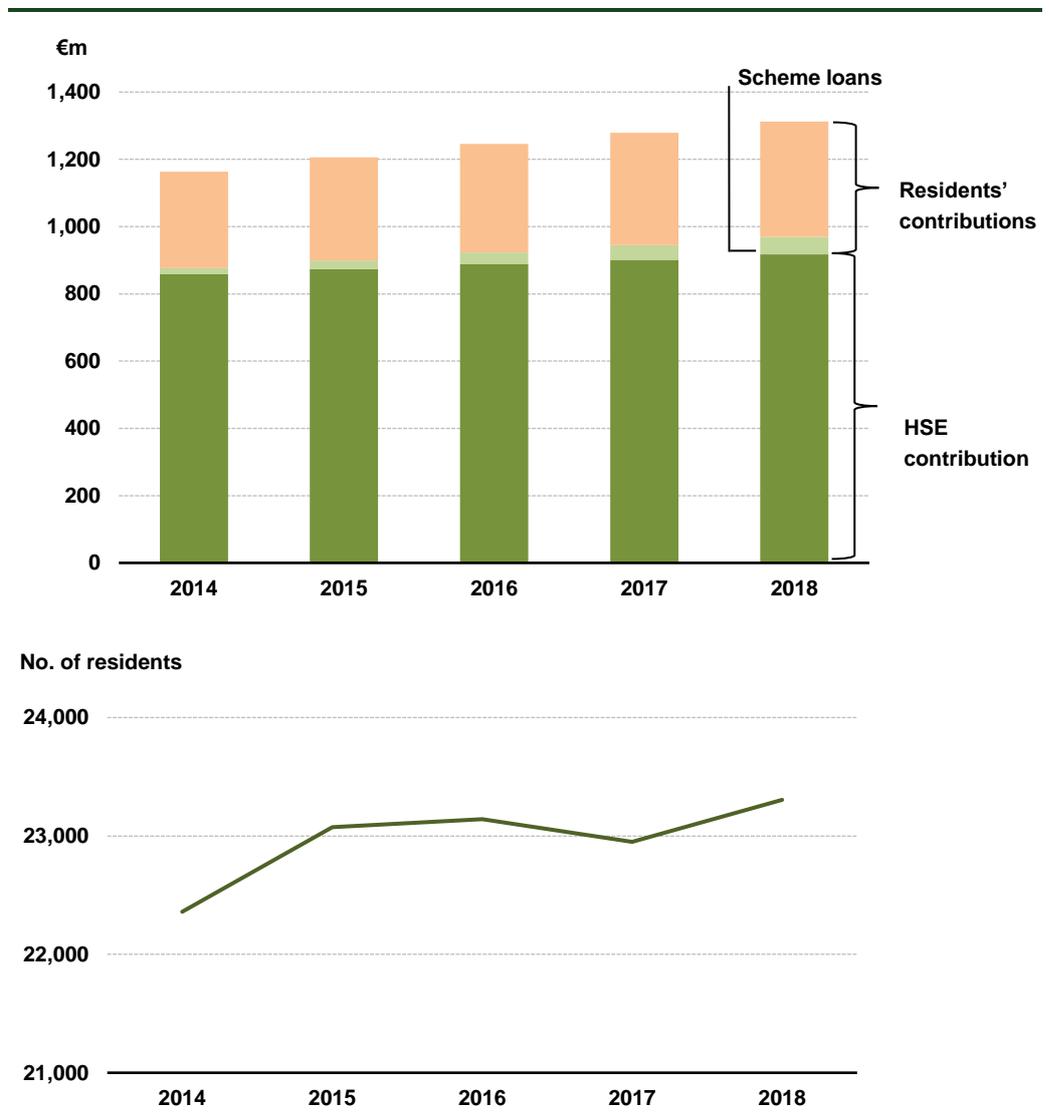
- 1.15** The outbreak of the COVID-19 pandemic has created major challenges for the health system including the nursing home sector. Work on this report was substantially completed prior to the outbreak. This report does not consider the risks and uncertainties associated with the pandemic or the likely significant impact on the nursing home sector.

¹ *Review of the Nursing Home Support Scheme, A Fair Deal* Department of Health, 2015.

2 Charges for nursing home care

2.1 The total cost of the nursing home care supported by the Scheme in 2018 is estimated at just over €1.3 billion. Residents' contributions to the cost of their care were estimated to be in the region of €394 million. As loan amounts advanced by the HSE will ultimately be repaid by the resident (or their estate), these are presented as part of the residents' contributions.¹ The cost to the HSE of care provided under the Scheme was €918 million (i.e. excluding the loans which are recoverable in time). The State's net contribution in 2018 accordingly amounts to 70% of the total cost of care (see Figure 2.1).

Figure 2.1 Overview of Scheme costs and numbers supported, 2014 to 2018^a



¹ For 2018 residents' contributions comprised €343 million in direct payments from residents to nursing homes, and €51 million paid by the HSE on behalf of residents in the form of Scheme loans.

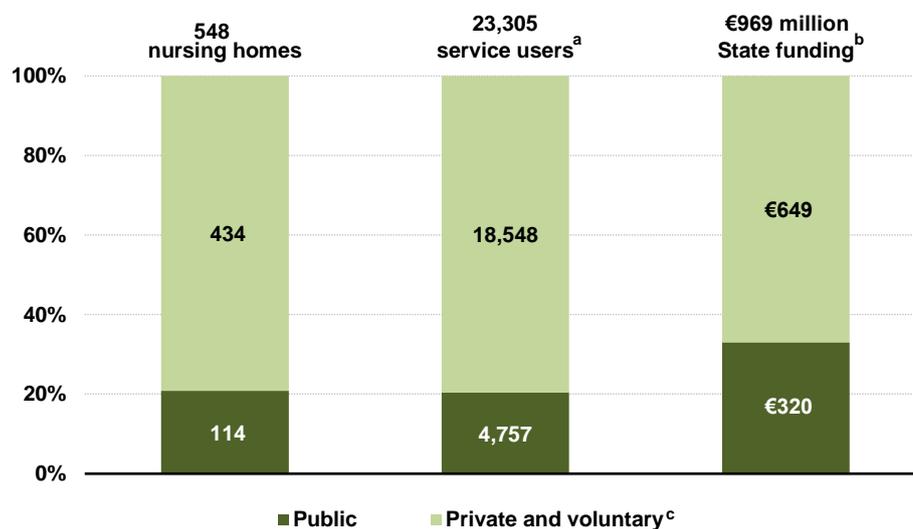
Source: Health Service Executive

Note: a Includes a number of residents (2018: 790) who were in long term residential care prior to the commencement of the Scheme. These residents are supported by schemes that precede Fair Deal and are no longer open to new applications.

Providers of nursing home care

- 2.2** Long-term residential care is provided by a mix of public, private and voluntary nursing homes. The 2009 Act distinguishes between care provided
- by or on behalf of the HSE, in public nursing homes
 - by private or voluntary operators, in approved nursing homes.
- 2.3** Six health agencies funded under Section 38 of the Health Act 2004 provide long term residential care for older people on behalf of the HSE. The HSE considers these facilities to be public nursing homes. The term 'voluntary nursing home', for the purpose of this report, means long-term residential care facilities for older people operated by
- health agencies funded by the HSE under Section 39 of the Health Act 2004
 - not-for-profit or charitable bodies.
- 2.4** Figure 2.2 provides an overview of the number of nursing homes, service users and the funding level associated with each type of provider in 2018. Public beds account for about 33% of the total Scheme funding allocated in 2018. Two-thirds of the funding was paid to private and voluntary homes to support almost 80% of the service users.
- 2.5** The Scheme data maintained by the HSE does not distinguish between private for-profit and not-for-profit nursing homes. Therefore, there is no definitive number of such voluntary operators, or of the number of beds provided by this sector. The NTPF estimates that the voluntary sector accounts for 10% of the non-public nursing homes, but the level of payments to such not-for-profit homes is not known.

Figure 2.2 Nursing homes support scheme providers, 2018



Source: Health Service Executive and the National Treatment Purchase Fund

- Notes:
- a Includes 790 residents (404 in public nursing homes and 386 in private and voluntary nursing homes) who were in long term residential care prior to the commencement of the Scheme and who continue to receive support under previous schemes.
 - b Includes €51 million paid on behalf of residents in the form of Scheme loans.
 - c Due to limitations with HSE data, it is not possible to separate the voluntary 'not-for-profit' providers from private operators.

- 2.6** All providers of long-term residential care in Ireland must be registered with HIQA, which is responsible for monitoring nursing home compliance with the Health Act 2007 Regulations 2013 (the regulations), and for promoting national standards for residential care settings for older people in Ireland (the standards).^{1,2}
- 2.7** The HIQA register at the end of 2018 lists 581 nursing homes operating in the State. Around 94% of these participate in the Scheme.

Scope of care to be provided

- 2.8** The 2009 Act defines long-term residential care services as the maintenance, health or personal care services provided to a person residing in a nursing home. The Department of Health has specified the basic services and provisions which are deemed to fall within the scope of long-term residential care (see Figure 2.3).
- 2.9** The Department has stated that the scope of services included within the Scheme was derived from those services which had been included under the previous nursing home subvention scheme, with the exception of incontinence wear which is now provided under the primary care reimbursement scheme.³ All nursing homes participating in the Scheme, whether public, private or voluntary, must provide the specified services within the contract payment amount and at no additional cost to the care recipient.
- 2.10** A written agreement, setting out the terms and conditions for the care and welfare of the resident must be put in place between the nursing home and each resident on admission. It must also include details of the services to be provided under the Scheme, or otherwise, and the fees, if any, to be charged for non-Scheme services. The agreement is typically referred to as a 'contract of care'.

¹ Statutory Instrument No. 415 of 2013, Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013, came into effect on 1 July 2014.

² The National Standards for Residential Care Settings for Older People in Ireland came into effect on 1 July 2016, replacing February 2009 standards.

³ Prior to the commencement of the Scheme, individuals who required long-term residential care could apply to the HSE to subvent the cost of their care in a private nursing home under the *Nursing Homes (Subvention) Regulations 1993*. Regulation 16.2 sets out the basket of services considered to be essential to the maintenance of a person in a nursing home.

Figure 2.3 Scope of services and provisions under the Scheme

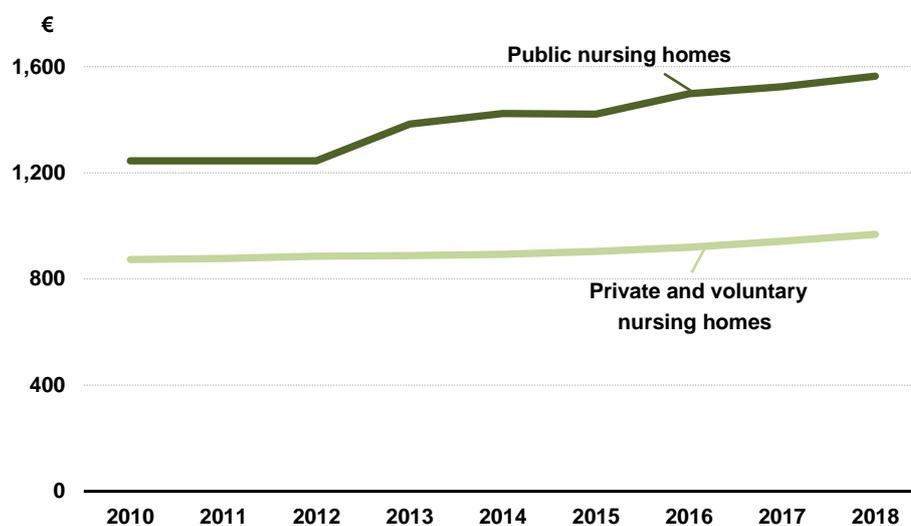
 Services included	 Services not included
Accommodation Bedding Food Nursing and personal care appropriate to care needs Laundry service Standard aids and appliances to assist with daily living	Primary care services Therapies Toiletries Transport services Social programmes Hair dressing Dry cleaning Specialised equipment Daily newspapers

Source: Department of Health

Charges for care

- 2.11** The 2009 Act requires that the charges for care services to be provided to an individual are expressed in terms of a weekly rate. An individual weekly charge rate is calculated for each nursing home participating in the Scheme. Even though individuals' care needs could vary greatly, the weekly rate calculated is the same for each resident supported by the Scheme in the nursing home, regardless of the level of dependency, age or any other factor.¹
- 2.12** In accordance with the 2009 Act (see Appendix A), there are two methods for determining the weekly charge rate as follows
- **cost of care method** — applied to public nursing homes
 - **agreed maximum price method** — applied to private and voluntary nursing homes.
- 2.13** As shown in Figure 2.4, over the period 2010 to 2018, the average weekly charge rate in public nursing homes was consistently higher than the average weekly charge rate for private and voluntary nursing homes. In 2018, the average charge rate for public nursing homes was €1,564 per week. The agreed average maximum price chargeable for private or voluntary homes was €968 per week. This equates to a differential of 62%.

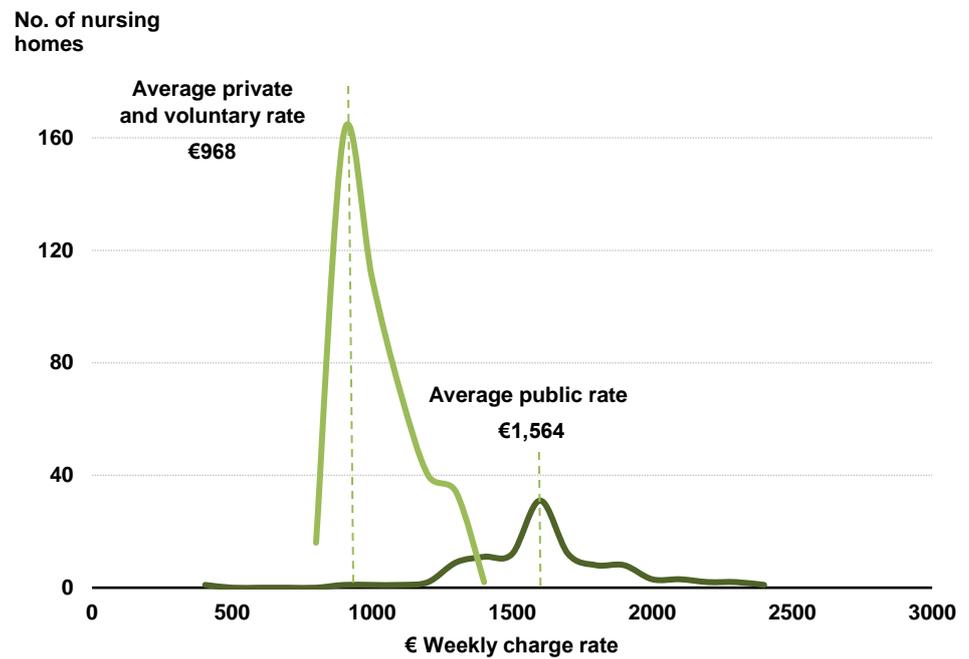
Figure 2.4 Average weekly charge rate for nursing homes, 2010 to 2018



Source: Health Service Executive and the National Treatment Purchase Fund

¹ Payment of the total cost of care services (the weekly rate) is split between the HSE and the resident based on the resident's means. This is explained further in Chapter 4.

- 2.14** As charge rates are determined for individual nursing homes, a range of weekly charge rates exists for each sector. In 2018, the agreed charge for private and voluntary nursing homes ranged from €765 to €1,325, whereas the charge for public nursing homes ranged from €404 to €2,300 (see Figure 2.5).

Figure 2.5 Distribution of weekly charge rates by sector, 2018

Source: Analysis by the Office of the Comptroller and Auditor General

2.15 The HSE has stated the higher average weekly charge rate for public homes is attributed to a range of factors such as

- better pay and conditions for staff in public nursing homes, including the implementation of national pay awards
- higher staff-to-resident ratios in public nursing homes
- a higher proportion of maximum dependency residents
- higher costs associated with older buildings used as nursing homes, which typically were not purpose built for long-term residential care
- some public nursing homes located in rural or isolated areas may not be commercially viable.

However, the HSE has not undertaken formal analysis of these cost drivers.

Charges for public nursing home care

- 2.16** Section 33 of the 2009 Act allows the HSE to charge for the long-term residential care services it provides directly, but stipulates that the charge should not exceed the cost of providing the service. The legislation also requires a detailed list of goods and services which constitute long-term residential care services to be laid before the Houses of the Oireachtas.
- 2.17** A working group with representatives from the HSE and the Department of Health produced a detailed report on the cost components of a public long-term residential care bed.¹ In considering the cost elements to be included, the working group stated that they were guided by the following principles
- services and supports which are general and common to all residents should be included
 - the Scheme must not result in double counting, by including items or services provided to residents that are already financed by other schemes
 - major capital expenditure should not be included as a Scheme cost.
- 2.18** The report of the working group, which was completed in 2009, recommended that the charge for public care services should only include the pay costs of
- management staff directly related to the running of the facility
 - nursing and support staff directly involved in managing and providing health and personal care services, and
 - support staff directly involved in maintaining the facility and its residents.
- 2.19** Notably, the group concluded that superannuation costs of nursing home staff should be excluded from the cost of care calculations. The group decided that, as private care providers were unlikely to have access to similar pension arrangements, excluding the cost of superannuation of staff employed in public nursing homes from the cost of care calculation would promote equity for residents across the Scheme.
- 2.20** The report also recommended maximum allowances for certain operating expenses within each public nursing home. Accordingly, recognition of the following amounts is allowed in calculating the cost of care for each home
- minor capital works — up to €7,000 per annum
 - general equipment and furniture — up to €7,000 per annum, and
 - training and education costs — up to 4% of gross direct payroll costs.
- 2.21** In October 2009, a detailed list of goods and services which constitute care services, as recommended by the report of the working group, was laid before the Houses of the Oireachtas. The report of the working group also recommended that the cost components of a public long-term bed be kept under periodic review, to ensure that relevant cost developments within the public nursing home sector are adequately reflected within the cost of care rates. The cost components and operating expense ‘caps’ set out in 2009 have not been updated, and are still in use in 2019.

¹ The high level implementation group, consisting of representatives from the HSE, the Department of Health, and the NTPF, established a financial monitoring sub-group with representatives from the HSE and the Department. The subgroup was responsible for establishing and agreeing the cost components underpinning public long-term residential care bed prices.

Determining the cost of care rate

- 2.22** The HSE has stated that the weekly cost of care rate is intended to recover the cost of providing the approved service in a public nursing home. The weekly rate is derived by reference to approved Scheme costs incurred in a prior period (historic cost) and the number of Scheme beds available in the home — an average occupancy rate of 95% is assumed.¹
- 2.23** The HSE does not have a single integrated financial system. Expenditure incurred under the Scheme is recorded in nine separate financial systems within the HSE's Community Healthcare Organisations (CHOs), and is recorded and classified in accordance with the annual financial statements reporting requirements.² This makes the process of identifying the approved Scheme costs challenging for the HSE and creates risks around the accuracy and completeness of the information used to determine the cost of care rate.
- 2.24** In order to identify the approved Scheme costs, the HSE must first extract all CHO expenditure recorded in each CHO's financial system. This information is then uploaded to a central IT system, referred to as the CFI system, which has been designed to separate all nursing home related costs from other expenditure incurred by the CHO.³ This produces a total operating cost for each public nursing home.
- 2.25** The CFI system then removes any costs incurred but not allowable under the Scheme, and any costs allowable under the Scheme not directly attributable to a Scheme bed. This leaves the total approved Scheme costs for each nursing home.
- 2.26** Information provided by the HSE indicates the total operating cost of public nursing homes for 2018 was around €590 million. Just under two thirds of these costs were deemed to be related to the Scheme and were funded by the Scheme budget (€320 million) and residents' contributions (€68 million).
- 2.27** The remainder of the nursing home operating costs (just over €200 million) was funded from general HSE resources on the following basis
- €125 million — costs associated with non-Scheme beds or services provided by the nursing home such as respite, short stay or day care services.
 - €54 million — costs associated with the provision of long-term residential care in the homes but not allowable under the Scheme, such as medical supplies, transportation costs, fees for GP visits' and costs in excess of specified 'caps' on minor capital work, furniture, training etc.
 - €23 million — costs associated with the variation between expected and actual occupancy and the variation between expected and actual operating costs.
- 2.28** Figure 2.6 presents an illustrative example of how the weekly cost of care rate is worked out for an individual nursing home.

1 Historic costs are based on the previous calendar year, but a different period may be selected where there has been a material change in circumstances and an alternative period would provide a more accurate estimate. Adjustments are also made for the estimated impact of pay increases.

2 Expenditure in the HSE's annual financial statements is classified as pay or non-pay, and not classified on a programme basis. As a result, Scheme costs are spread across a number of pay and non-pay expenditure headings in the financial statements. Information on the total Scheme costs is disclosed by way of a note.

3 The consolidated financial intelligence solution (CFI) is a platform for financial reporting at a national level across the HSE.

Figure 2.6 Public nursing home cost of care calculations — illustrative example

	Description	Result	Formula
A	Total operating cost	€3,850,000	
	Excluded costs (not allowable)		
	Pay		
	Physiotherapist	€60,000	
	Pharmacist	€65,000	
	Occupational therapist	€55,000	
	Social worker	€40,000	
		€220,000	
	Non-pay		
	Radiology services	€40,000	
	Medical supplies	€55,000	
	Travel – residents	€25,000	
	Drugs and medicines	€60,000	
	Vehicle costs	€25,000	
	Dental fees	€30,000	
	Chiropody	€20,000	
	GP fees	€40,000	
		€295,000	
	Excluded costs (apportioned to other services)		
	Nursing pay	€300,000	
	Support staff pay	€240,000	
	Overheads	€90,000	
		€630,000	
B	Total excluded costs	€1,145,000	
C	Total approved Scheme costs	€2,705,000	A–B
D	Number of beds available	35	
E	Number of bed days	12,775	D*365
F	Assumption of 95% occupancy	12,136	E*95%
G	Weekly cost of care rate	€1,560	(C/F)*7

Source: Office of the Comptroller and Auditor General

2.29 As part of this examination, the cost of care rate calculations for a sample of seven public nursing homes were reviewed. This found that, in general, the costing model was applied as designed. However, some anomalies were identified.

- One unit in a nursing home in the sample had been closed for a long period for refurbishment. This impacted on the number of bed days available in the nursing home, and the loss of economy of scale resulted in a sharp spike in the cost of care rate for that nursing home. As a result, the 2017 weekly rate of €2,399 was over €600 (33%) higher than that which was applied in 2016. The effect of the unit closure continued to impact on the 2018 weekly rate which was €2,270 per week.
- For another nursing home in the sample, an exercise completed by the HSE in 2014 had identified issues with non-care costs being incorrectly apportioned to Scheme cost centres. Scheme costs for 2018 allocated to that nursing home were 18% (€3.3 million) less than those reported in 2014. However, as the nursing home also reduced its bed capacity by 23% over the same period, the reduction in costs allocated to the Scheme did not result in a reduction in the nursing home's weekly cost of care rate — €1,874 in 2018, and €1,788 in 2014.

Publishing the weekly cost of care

2.30 In 2015, the HSE committed to publishing the weekly cost of care rates applicable in public nursing homes on its website. On publication of rates for 2016, the HSE stated that, in the interest of transparency, the rates would be published on an annual basis. However, no rates were published for 2017.

2.31 In February 2018, the HSE published cost of care rates effective from 1 February 2018. However, in March 2018, the HSE revised the rates, and backdated them to 1 January 2018. The HSE stated that this revision to the cost of care rates reflected the application of public sector pay adjustments. The examination found that, on average across the 114 public nursing homes, the revised cost of care rates was €41 per week higher than those published. The revised rates were not published.

2.32 The HSE used the unpublished, revised rates to allocate funding from the Scheme budget to public nursing homes, and for financial reporting purposes.¹ As at the end of May 2019, the HSE website had not been updated with the corrected 2018 cost of care rates, or the 2019 cost of care rates.

2.33 The HSE has pointed out that the weekly cost of care rates for 2019 were published in June 2019 and clarified that while the published cost of care rate may at times have been incorrect, the residents of public nursing homes were at no time overcharged. Residents' contributions are based on an assessment of their means, and in almost all cases are not affected by the timing of publication of weekly charge rates.

¹ These were used for budgetary purposes from 1 January 2018.

Reviews of the cost of care

- 2.34** The Department of Health review in 2015 referred to an initiative underway within the HSE, whereby a taskforce had been established to examine the costs of public nursing homes, starting with the most expensive homes.
- 2.35** The HSE has stated that site visits were carried out in 2014 in 41 public nursing homes by a service improvement team (SIT) comprising senior managers and clinicians focusing on areas such as
- the ratio of direct care staff to each resident
 - the skills mix between nursing staff and health care assistants
 - a review of agency and overtime costs
 - legacy issues within the nursing homes
 - the charging of costs to nursing home cost centres
 - the findings of recent HIQA reports.
- 2.36** The HSE does not have any form of report available summarising the main findings from those visits. However, the HSE stated that the main issues identified were pay-related, along with variations in staffing levels and skill mix. The HSE has been unable to progress any changes to staffing levels or skills mix as those changes require agreement with staff and their representatives in consultation with the Department of Health.
- 2.37** The Department of Health is currently carrying out a value-for-money review comparing private and public nursing home care costs. The review commenced in March 2018 under the direction of a steering committee comprising representatives of DPER, the NTPF, the HSE and the ESRI. The purpose of the review is to identify, quantify, and analyse the reason for any cost differential between public and private sectors and to make recommendations aimed at improving value for money.

Charges for private nursing home care

2.38 Section 40 of the 2009 Act provides for price arrangements to be made for the provision of long-term residential care by negotiation with private and voluntary nursing homes. The NTPF is the body designated by the Minister for Health under the Act to manage the negotiation process and enter into pricing agreements with those nursing homes.

2.39 The prices negotiated for specified periods are the maximum amounts that may be charged by the private nursing homes for the care of those supported by the Scheme. Prices agreed are fixed for the term of the agreement. At the end of the agreement term, a new process of negotiation is entered into with the nursing home with all issues including price open for discussion and agreement.

Negotiating the agreed maximum price

2.40 When the Scheme was first introduced in 2009, the NTPF offered each nursing home the average weekly price that it had been receiving on the open market. The objective of doing so was to avoid any delays or capacity shortfalls that could have otherwise arisen in the short-term. In many cases, these initial prices have influenced subsequent negotiations. The 2015 Department of Health review of the Scheme concluded that this resulted in inherited price variations such as

- higher prices in Dublin, other East coast counties and Cork related to a lack of supply of places prevailing in 2009
- prices reflecting higher land and building costs for recent builds, as compared to prices for longer established facilities
- prices within some of the voluntary homes reflecting employment costs that had been linked to public sector pay rates.

2.41 The Finance Directorate in the NTPF is responsible for conducting the price negotiations with the private and voluntary homes. Negotiations are carried out by three regional contract managers and are overseen by a financial controller and a finance director.

2.42 Private and voluntary nursing homes are categorised into three regional groupings. Each contract manager is responsible for conducting negotiations with the nursing homes within his/her assigned region. The NTPF does not have a rotation policy between regions but noted that contract managers have rotated naturally over the last number of years due to staff movements and retirements.

2.43 Negotiation by its nature involves the exercise of a significant degree of judgement. As a consequence, it is important that the NTPF retains adequate records of the negotiation to enable evaluation of the key decisions made during the process. The records of each negotiation should include at a minimum

- a plan setting out the objectives of the negotiation and the range of outcomes that are considered acceptable based on the findings of the NTPF's review of the nursing home's financial and other information
- documentation of key decisions made during the negotiation (and, where applicable, the review process), including the NTPF's rationale for accepting the final price agreed and the terms of the agreement.

- 2.44** The NTPF does not have internal written procedures or guidelines for staff conducting negotiations. Instead, the NTPF relies on on-the-job training. When an agreement with a private nursing home comes up for renewal, the NTPF sends the nursing home a renewal pack, approximately 12 weeks before the expiry date, requesting declarations and information such as
- the registered name and address of the nursing home
 - the owners and operators of the nursing home
 - details of the organisation structure including whether the nursing home is part of a group of nursing homes
 - capacity of the nursing home and occupancy levels
 - staffing levels of the nursing home
 - the nursing home's most recent set of financial statements
 - information on the operating costs of the nursing home
 - a copy of the standard contract of care between the nursing home and the resident.
- 2.45** Prior to entering into negotiations with a nursing home, the NTPF carries out a financial analysis of the information provided. While there is no standardised approach to completing the analysis, it typically includes
- an analysis of room occupancy rates
 - a calculation of the nursing home's weekly unit cost derived from the nursing home's operating costs allowable under the Scheme
 - other information on the nursing home's turnover, profit before interest and tax and finance costs.
- 2.46** The NTPF has stated that the following criteria are also considered
- costs reasonably and prudently incurred by the nursing home and evidence of value for money
 - price(s) previously charged
 - the local market price
 - budgetary constraints and the obligation on the State to use resources responsibly.
- 2.47** While the average dependency level of residents is not formally recognised as a criterion, the examination noted that there is some evidence that general dependency levels in the nursing home are discussed during price negotiations. However, a model has not been provided by the NTPF explaining how the various criteria are weighed and combined.
- 2.48** Once the NTPF contract manager has reviewed the financial information, and considered these criteria, a proposed price is estimated and documented on the financial analysis worksheet. The contract manager may use this proposed price to guide discussions during the negotiation process.
- 2.49** The negotiation process involves a series of contacts and face-to-face meetings between the contract manager and each nursing home proprietor. Matters such as current operating conditions and changes facing the industry, as a result of new regulations or standards, form part of the discussions.

- 2.50** Documentary evidence of negotiations is retained on paper files. Each contract manager determines what documents are retained on the basis of what is considered relevant to the negotiation. Typically, a paper file will contain
- copies of information provided by the nursing home
 - a copy of the financial analysis
 - handwritten notes of meetings with the nursing home including items discussed, offers tabled, offers rejected and offers accepted
 - copies of correspondence with the nursing home.
- 2.51** The examination reviewed five negotiations conducted by the NTPF in 2018. While a financial analysis had been completed in all cases, documentary evidence of specific items discussed with the nursing homes during the negotiation varied.
- 2.52** Three files contained detailed handwritten notes outlining the specific items discussed with the nursing home during the negotiation, while two files did not contain any such information. The NTPF has stated that while all criteria considered during a negotiation may not be documented on the paper file, each contract manager has access to benchmarking information that is considered in preparation for a negotiation.
- 2.53** Once the negotiation has concluded, an agreement, referred to as the deed of agreement, is signed by the NTPF¹ and the nursing home setting out
- the agreed maximum price per week for care of Scheme supported residents
 - the term of the agreement, and
 - the definition of long-term residential care, including the services to be provided within the Scheme.
- 2.54** The term of the deed of agreement can be a number of months or years. In 2017, the average term was two and a half years; the typical range was between one and five years; and there was one nursing home with an agreement put in place for seven years. Prices are fixed for the term of the agreement.
- 2.55** The legislation, and the deed of agreement, specify that the price agreed between the nursing home and the NTPF is the maximum price that can be charged. However, the examination team noted that, in practice, there is no deviation from this price. The agreed maximum price becomes the set price charged by the nursing home for each resident over the term of the agreement.
- 2.56** Where price negotiations fail to result in agreement, the NTPF negotiator writes to the nursing home advising them of the proposed final offer and outlining the process available to them to request a review. The CEO of the NTPF is responsible for completing these reviews. Since 2014, the rate of review has averaged at two per year.²
- 2.57** Pending a price negotiation or review outcome, the NTPF may offer the nursing home an extension on their deed of agreement at their current price. The examination found that in one of the sample cases reviewed, the nursing home had been placed on a series of consecutive extensions at its existing price for over a year. Negotiations began in early 2017 but failed to reach agreement. Discussions continued into early 2018 when the nursing home requested a review. However, when the nursing home was offered another three-month extension to cover the review period, it withdrew its request for review and accepted the final offer in June 2018.

¹ Deeds of agreement are signed by the NTPF Finance Director under formal delegated powers from the Board of the NTPF.

² A total of 38 reviews were completed between 2009 and 2018.

2.58 The NTPF stated that extensions to the deed of agreement are granted for a short period, usually one to three months, but can be rolled over consecutively where necessary. The NTPF stated that rolling extension agreements at existing prices is fairly common but it does not record information on the circumstances that lead to protracted negotiations, or the number or frequency of extension agreements granted.

2.59 The NTPF notifies the HSE of the prices agreed with each nursing home on a monthly basis. The list of agreed maximum prices with private and voluntary nursing homes is published on the HSE's website and updated regularly.

Department of Health review of agreed maximum price

2.60 The Department of Health review of the Scheme in 2015 recommended that the NTPF review the present price negotiation system with a view to

- ensuring that there is adequate capacity for those who require complex care
- ensuring value and economy, with the lowest possible administrative cost
- increasing the transparency of the pricing mechanism so that existing and potential investors in nursing homes can make informed decisions.

2.61 This review has been completed and the NTPF presented its report including the findings and recommendations to the Minister on 28 May 2019.

Additional nursing home charges

- 2.62** Both public and private nursing homes provide a range of goods and services not covered by the Scheme rate, for example, access to social programmes or transportation costs to appointments. In line with the HIQA regulations, the contract of care between the resident and the nursing home must include details on
- all the services provided to residents, whether covered by the Scheme or not, and
 - the fees, if any, to be charged for non-Scheme services.
- 2.63** The examination team reviewed a sample of 12 contracts of care — six from private nursing homes and six from public nursing homes. Figure 2.7 presents a summary of the key characteristics of those contracts.

Figure 2.7 Key characteristics of sample contracts of care

	Public	Private and voluntary
Contract format	Standardised ranging from 16 to 18 pages	Varied ranging from 1 to 21 pages
Dependency level of resident	No reference to dependency	5 of the 6 contracts reviewed include references to a change in fees if resident's dependency level changes
Social programmes	No additional fees	Additional fees — mandatory or voluntary, and vary between nursing homes
Third party services e.g. hairdressing and chiropody	Paid directly by resident to service provider	Varying fees charged by nursing home
Incontinence wear	No additional fees	Charges for the provision of additional incontinence wear ^a

Source: Analysis by the Office of the Comptroller and Auditor General

Note: a The HSE provides a supply of incontinence wear free of charge to eligible people both in the community and in residential settings (public and private). A clinical decision as to a person's necessity for products, and a determination of the number of pads required per day is made, on a case-by-case basis, by a HSE continence advisor or public health nurse. It is HSE policy not to levy charges in cases when a resident of a public nursing home requires additional incontinence wear. In private nursing homes, the cost of required additional incontinence wear is typically passed on to the resident.

- 2.64** The examination team found that five of the six private nursing homes' contracts of care reviewed included provisions for possible increases in charges if the resident's level of dependency changed.
- 2.65** The NTPF has stated that, under the terms of the Scheme, private and voluntary nursing homes must provide care appropriate to the level of care needs of the resident for the maximum price agreed. This is reflected in the deed of agreement between the NTPF and the nursing home. Additional fees for increased dependency are therefore not allowed for Scheme-supported residents.

- 2.66** The NTPF also stated that the contracts between a nursing home and a resident may be based on a template that could apply to either a private fee paying resident and/ or a Scheme resident; that the contracts differentiate between these two groups of residents and the clauses relating to additional fees for increased dependency would not apply to a Scheme resident. However, the examination team found that it was difficult to identify this differentiation from the contracts included in the sample. This could give rise to confusion around whether or not additional charges apply when a resident's dependency level changes.
- 2.67** The examination team also noted that, within the sample of contracts of care in private nursing homes, the level of detail provided on the additional fees charged to Scheme residents varied (see Figure 2.8).
- Two contracts included an itemised listing of additional charges and associated fees.
 - Three contracts referenced mandatory supplementary payments for access to social programmes — one disclosed a rate of €14 per week, another was €100 per month, and in the third case the supplementary payment rate was not quantified.
 - Four contracts stated that 'fees for additional services are available on request'.
- 2.68** In May 2019, the Competition and Consumer Protection Commission published consumer protection guidelines for contracts of care in nursing homes. On the issue of additional fees, the guidelines noted that
- all fees should ideally be included in the upfront fee for the services to be provided
 - where additional fees are genuinely optional, then this should be clearly communicated to the resident, and the resident should be given the option whether or not to avail of the service.
- 2.69** In 2018, the Department of Health and the HSE established a project team to review the additional charges in place in public and private nursing homes. This work is ongoing.

Figure 2.8 Additional charges from a sample of public and private nursing home contracts

	Private nursing homes						Public nursing homes					
	A	B	C	D	E	F	G	H	I	J	K	L
The Scheme weekly rate	€880	€900	€925	€1,210	€1,325	€1,250	€1,036	€1,593	€1,205	€1,513	€2,270	€1,874
Sample additional services												
Increased dependency	●	●	●	●	●	●	●	●	●	●	●	●
Access to social programmes	●	●	€14 per week (mandatory)	●	€100 per month (mandatory)	●	●	●	●	●	●	●
Incontinence wear ^a	●	●	Cost price	●	€61 per box	●	●	●	●	●	●	●
Escort to hospital appointment	●	●	€15–€25 per hour	●	€25 per hour	●	●	●	●	●	●	●
Transportation costs for appointments	●	●	€45 single or €90 return journey	●	€15 return journey	●	●	●	Payable by resident	●	●	●
Hairdressing services	●	●	€10–€50	●	€8–€50	●	€10–€45	Payable by resident	Payable by resident	●	●	●

Source: Analysis by the Office of the Comptroller and Auditor General

Note: a The HSE provide a supply of incontinence wear free of charge to eligible people both in the community and residential settings (private and public). A clinical decision as to a person's necessity for products, and a determination of the number of pads required per day is made, on a case-by-case basis, by a HSE continence advisor or public health nurse. It is HSE policy not to levy charges in cases when a resident of a public nursing home requires additional incontinence wear. In private nursing homes, the cost of required additional incontinence wear may be passed onto the resident.

Key: ● Service provided at no additional charges ● Service provided at an additional unquantified cost ● Contract does not specify if additional service is provided

Conclusions and recommendations

- 2.70** Since 2009, the total cost of nursing home care supported by the Scheme has risen steadily. In 2018, the estimated total cost amounted to €1.3 billion. The State contributed €918 million towards Scheme costs to support around 23,300 residents, and advanced a further €51 million in the form of loans to assist residents to meet their contribution to the cost of care.

Definition of scope of care

- 2.71** Services provided under the Scheme are accommodation, bedding, food, nursing and personal care, laundry and standard aids and appliances to assist with day-to-day living.
- 2.72** In 2009, the Department of Health and the HSE detailed the list of goods and services that would constitute care services referred to as the cost components. No review of these components has taken place since commencement of the Scheme.

Recommendation 2.1

The Department of Health, in conjunction with the HSE, should consider reviewing the cost components of long term residential care to ensure that all relevant costs are identified and included. Periodic reviews should be completed (say every three to five years) to ensure charges are relevant.

Response of the Accounting Officer, Department of Health

Agreed.

Officials within the Department of Health will engage with their counterparts in the HSE to explore the development of an appropriate process for reviewing the cost components. The Department will begin engagement with the HSE regarding this work in due course.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE will support the Department of Health in the review of the components of the cost of care as set down by legislation, and any revision of same.

Calculation of weekly charge rates

- 2.73** Determination of the weekly charge rate depends on the sector the nursing home is in. For public homes, the **cost of care method** must be used, while for private or voluntary homes the **agreed maximum price method** must be used. Standard weekly rates determined for each nursing home do not vary to reflect the specific care needs of individual residents.
- 2.74** Between 2010 and 2018, the average weekly rate for public nursing homes increased by 26% to €1,564. Over the same period, the agreed maximum price for private or voluntary homes increased by 11% to €968. However, because the methods used to determine the weekly rates are different for each sector, drawing of meaningful comparisons is difficult. The Department of Health is currently carrying out a value for money review comparing costs across the nursing home sector.

- 2.75** The weekly charge rate for public nursing homes is derived from prior period Scheme costs adjusted for the number of Scheme beds available and on the assumption that 95% of those beds will be occupied. As the HSE does not have a single integrated financial system, the process of identifying and isolating the historic costs relevant to the Scheme from all other prior period costs is not straightforward and creates risks around the completeness and accuracy of the cost of care based charge rates.
- 2.76** Funding shortfalls may arise for public nursing homes where the number of Scheme beds occupied is less than expected or the current operating costs of the nursing home are higher than the historic costs. For 2018, additional funding of €23 million was allocated from other Exchequer resources to meet such deficits.
- 2.77** The HSE committed to publishing the weekly cost of care based charge rate in 2015. Rates were published for 2016, but not for 2017. Furthermore, the charge rates published in February 2018 were not revised to reflect the application of pay adjustments, even though these had been applied to charge rates used internally by the HSE. As a result, the internal weekly rates used for funding and accounting purposes were on average €41 (3%) higher than the published rates. However, this had no implications on most Scheme beneficiaries since their contributions were related to their means, and not to the weekly cost of care rate.

Recommendation 2.2

The HSE should ensure that information relating to the cost of care based charge rate for public nursing homes is published routinely, and that the information is accurate.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE will publish the cost of care rates of public nursing homes annually. The 2020 cost of care rates are published.

- 2.78** The NTPF is responsible for agreeing prices with the private and voluntary nursing homes. Prices are agreed through a process of negotiation between the nursing home and the NTPF. The NTPF has not provided a model explaining how the various criteria are weighed and assessed in determining the prices chargeable by private sector nursing homes. Consequently, it is unclear how these criteria influence the negotiation of the price that is agreed with the nursing home.
- 2.79** A Department of Health review of the Scheme in 2015 recommended that the NTPF review the present price negotiation system with a view to
- ensuring that there is adequate capacity for those who require complex care
 - ensuring value and economy, with the lowest possible administrative cost
 - increasing the transparency of the pricing mechanism so that existing and potential investors in nursing homes can make informed decisions.

This review has been completed but has not yet been published.

- 2.80** While it is acknowledged that price negotiation by its nature involves the exercise of judgement, it is important that sufficient documentary evidence is retained by the NTPF to enable evaluation of the key decisions made during the negotiation process. The NTPF do not have internal written procedures or a guidance manual for its staff involved in the negotiation process.

Recommendation 2.3

The NTPF should develop internal guidelines and procedures for its staff for the conduct of negotiations with the private or voluntary nursing homes.

Response of the Chief Executive Officer, National Treatment Purchase Fund

Agreed.

Additional internal guidelines are currently being developed to assist the contract managers in their engagement process with nursing homes.

- 2.81** Where a negotiation fails to reach an agreement, the nursing home can seek a review by the CEO of the NTPF. Pending the outcome of a negotiation or a review, the NTPF may offer a nursing home an extension to their deed of agreement, at the current price, for a period of up to three months, or longer where the negotiation becomes protracted. The NTPF does not generate management information on the factors giving rise to protracted negotiations, or the number and frequency of contract extensions.

Recommendation 2.4

Given that protracted negotiations by their nature can give rise to additional costs for both parties, the NTPF should consider capturing management information on those cases that fail to reach agreement at the end of the negotiation process. In particular, this should include capturing the specific factors that gave rise to the delays in reaching an agreement. Such information could be used by the NTPF to better inform future negotiations and minimise the number of negotiations failing to reach agreement in a timely way.

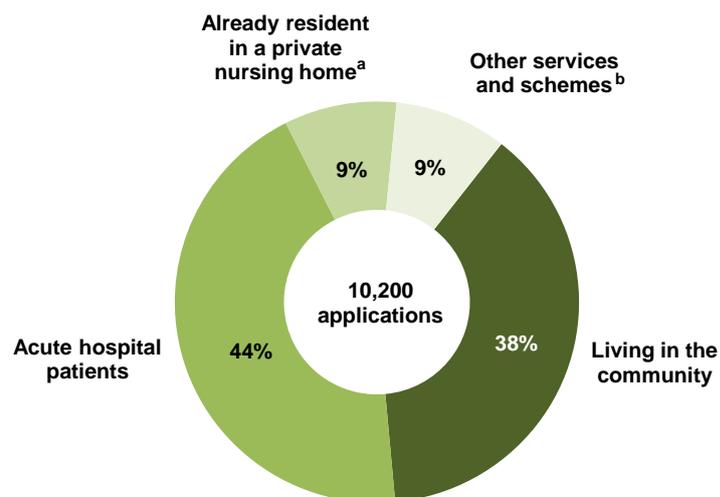
Response of the Chief Executive Officer, National Treatment Purchase Fund

Agreed.

3 Demand for nursing home care

- 3.1 The Nursing Home Support Scheme is cash-limited. This means that access to the Scheme benefits must be restricted if there is an expectation that the available funding for a specified period will be exhausted. The risks in such circumstances are that persons who medically require long term residential care do not receive it in a timely way and/or that costs are borne by other parts of the health service.
- 3.2 While the number of persons in receipt of support under the Scheme fluctuates over time, the annual number of applications for support under the Scheme is relatively constant at around 10,000 a year.
- 3.3 In 2018, just over 38% of applicants were living in the community when they applied to the Scheme. Around 44% of applicants were being cared for in acute hospitals, with the remainder already resident in nursing homes, or in other service settings.

Figure 3.1 Applications for Nursing Home Support Scheme, 2018

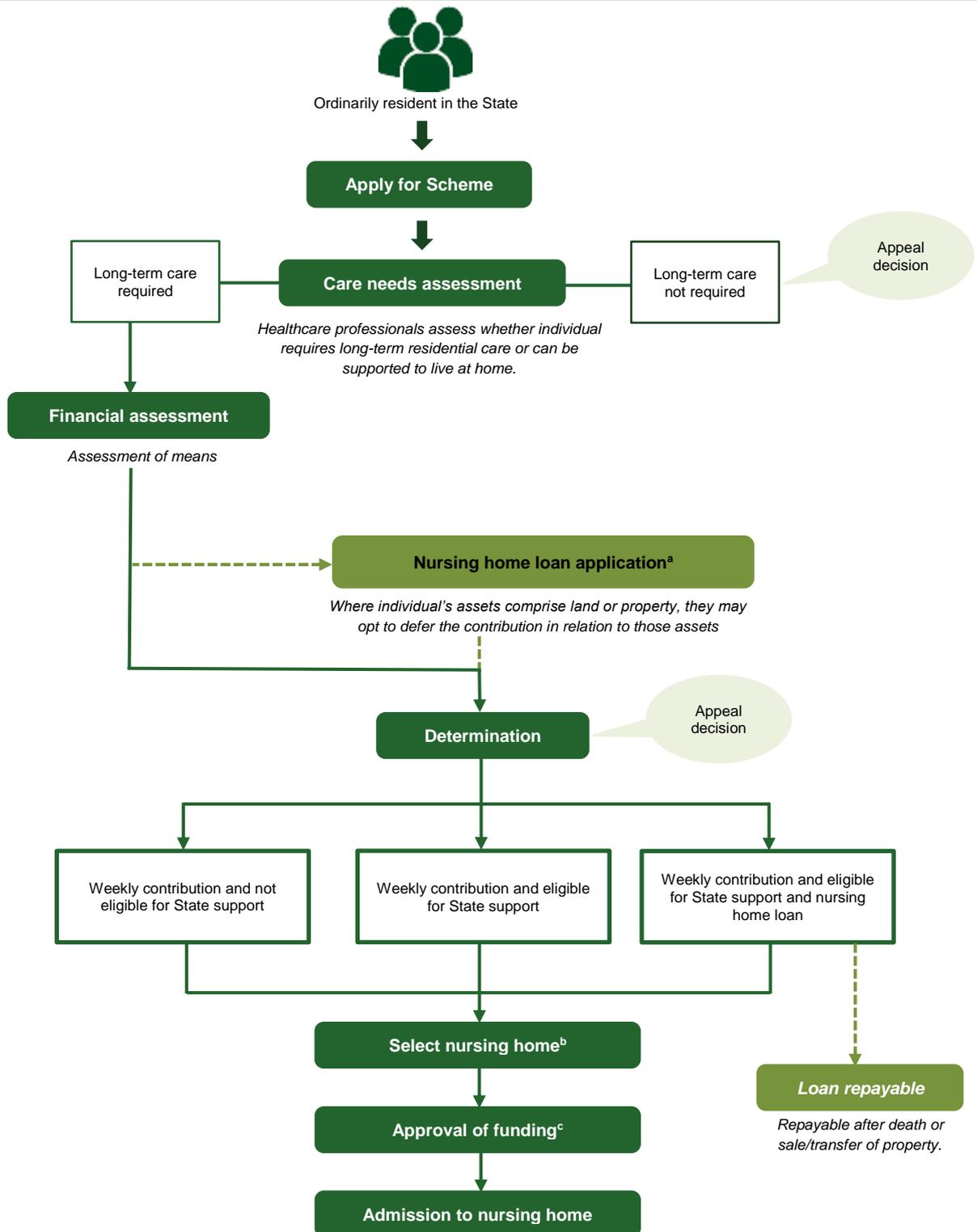


Source: Health Service Executive

Notes: a Includes residents of private homes previously self-funding their long-term residential care cost.
b Includes residents moving from mental health services, the subvention scheme, short term respite, rehab and step down beds in public facilities.

- 3.4 An overview of the Scheme application process is set out at Figure 3.2. For an applicant not already in a nursing home, the expected time between the application for State support and the uptake of a nursing home placement currently is in the region of three months, with the following stages expected to take about a month each
- from submission of application to assessment of care needs and financial assessment
 - from determination of need to funding decision (approval or rejection)
 - from approval of funding to uptake of nursing home placement.

Figure 3.2 Nursing Homes Support Scheme application and approval process



Source: Office of the Comptroller and Auditor General

Notes: a Application for the loan may be made at the outset, or during stay in nursing home.

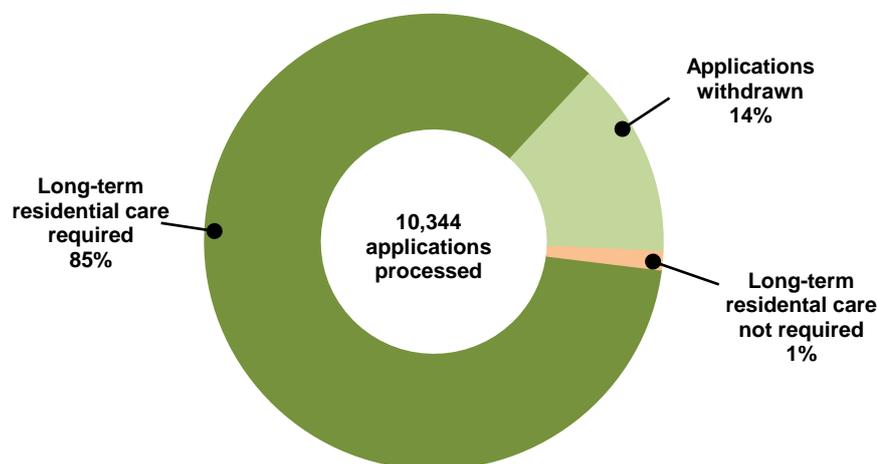
b Individual selects a nursing home with an available bed and ability to cater for their specific needs. It can be either public, private or voluntary.

c Individual is placed on waiting list until funding becomes available. Funding approvals are issued in chronological order.

Determining the need for care

- 3.5** When an individual applies for the Scheme, the HSE arranges for a care needs assessment to be carried out to determine whether the individual can be supported to continue living at home or if long-term residential care would be more appropriate. This assessment is conducted by a team of health professionals, typically comprising some combination of a medical practitioner, a nurse, an occupational therapist and/or a physiotherapist. An assessment may be completed in a hospital or a community setting and includes consideration of
- the applicant's ability to carry out the activities of daily living, including bathing, shopping, dressing and moving around
 - medical, health and personal social services already being provided or available to the applicant
 - family and community support available to the applicant
 - the applicant's wishes and preferences.
- 3.6** For the majority (85%) of applicants in 2018, the outcome was a determination that long-term residential care is required (see Figure 3.3).
- 3.7** The HSE has stated that the national average time taken for an application to be processed and a determination to be made was 5.25 weeks in 2018. However, average processing times varied considerably between local offices, ranging from 2.5 weeks to 11 weeks.

Figure 3.3 Outcome of care needs assessments processed in 2018



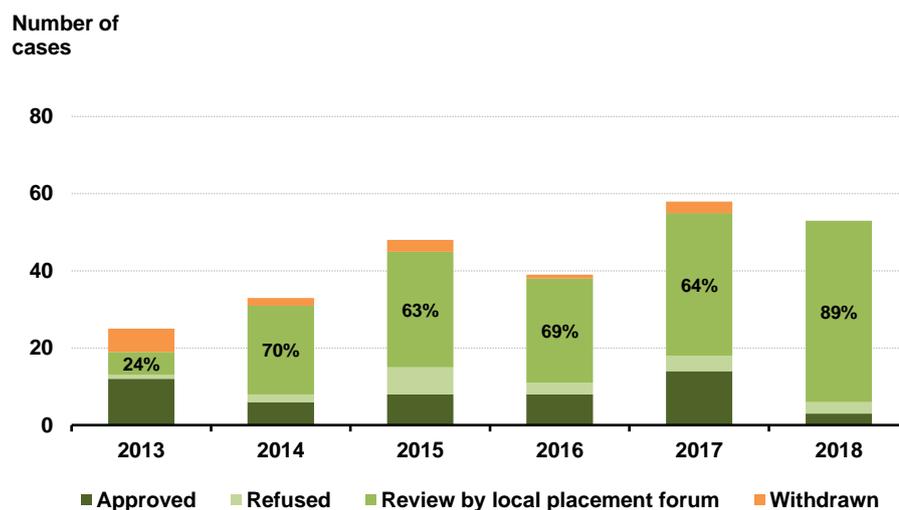
Source: Health Service Executive

Review and appeal of care needs assessment

- 3.8** Where an application to the Scheme is refused because the HSE determines the individual does not require long-term residential care, the applicant may
- request a review of their care needs where there has been a material change to the applicant's health or circumstances, or
 - appeal the decision to the HSE's national appeal service.

- 3.9** Since 2014, the majority of appeals lodged have been referred back to a local forum of health professionals who are responsible for reviewing nursing home placements (see Figure 3.4). This review process takes place with the agreement of the applicant and it prevents the need for an appeal to proceed. In 2018, 11% of the total appeals lodged proceeded and in 6% of the cases the appeal was successful (i.e. the original decision was overturned).

Figure 3.4 Outcome of care needs assessment appeals 2013 to 2018



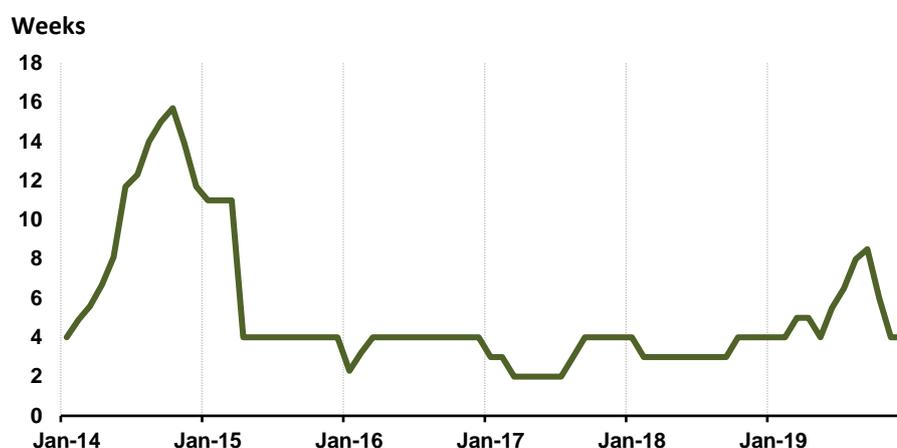
Source: Health Service Executive

Managing demand for the Scheme

- 3.10** Because the Scheme is cash limited, the number of people supported by the Scheme at any one time is restricted by the level of funding available. The HSE manage demand within budgetary constraints through a national placement list.
- 3.11** Once the need for residential care has been determined by the HSE, the individual is placed on the national placement list until such time as funding becomes available. During 2014, the maximum waiting time for funding approval increased rapidly, peaking in October 2014 at just under 16 weeks when there were 2,135 people on the national placement list (see Figure 3.5).
- 3.12** In 2015, the emergency department task force report recommended that the national placement list be maintained at a maximum wait time of four weeks.¹ In April 2015, on foot of this recommendation, the Government approved additional funding for the Scheme. The additional funding resulted in a reduction in the numbers on the national placement list from 1,308 in March 2015 to 575 by the end of April 2015 and, in turn, reduced the maximum time spent on the waiting list to four weeks.
- 3.13** From mid-2015 until early 2019, the HSE achieved its target that the average time spent on the national placement list throughout the year should not exceed four weeks. However, by September of 2019, the maximum time spent waiting for a funding allocation had increased to eight and a half weeks, and there were 1,230 people on the national placement list. By the end of 2019, the waiting time had returned to the target maximum of four weeks.

¹ In late 2014, the then Minister for Health convened a task force to examine solutions for overcrowding in emergency departments. The Department of Health published the *Emergency department task force report* in March 2015.

Figure 3.5 Maximum length of time spent on national placement list, January 2014 to December 2019



Source: Health Service Executive

- 3.14** Each month, the HSE reviews the number of people that can be supported under the Scheme and forecasts Scheme expenditure to the end of the year. This review takes account of
- the average cost of care in public nursing homes
 - the average agreed maximum price in private nursing homes
 - the average client contribution
 - the number of Scheme entrants and Scheme leavers
 - the overall budget allocation, as increased by income recouped from underpayment of client contributions
 - the four-week target maximum waiting time on the national placement list.
- 3.15** The HSE stated that this review guides the weekly funding approval process. If expenditure to the end of the year is forecasted to exceed the budget, the HSE may decide to delay funding approvals and extend the waiting time on the national placement list.

Approved not yet in payment

- 3.16** Once funding is approved, the individual is informed and advised that they can take up a placement in an approved nursing home. In 2018, the majority (85%) of individuals took up their placement within four weeks of funding approval being issued.
- 3.17** Research carried out by DPER in 2017¹ noted that successful applicants may delay taking up a placement
- by choice, for example
 - to remain in the home or community setting for as long as possible, or
 - to await the availability of a place in a particular nursing home, or
 - by necessity, if the applicant is having difficulty sourcing a nursing home that is willing to cater for their particular needs.

¹ *Nursing Homes Support Scheme, Trends and figures staff paper 2017* prepared by the Irish Government Economic and Evaluation Service and published by the Department of Public Expenditure and Reform in October 2017.

3.18 The HSE monitors the number of people approved for funding but not yet in a nursing home on a monthly basis. At the end of 2018, there were 848 people who had been approved funding but had yet to take up their place. In 166 cases (20%), funding approval had been in place for more than six months.

Transitional care budget

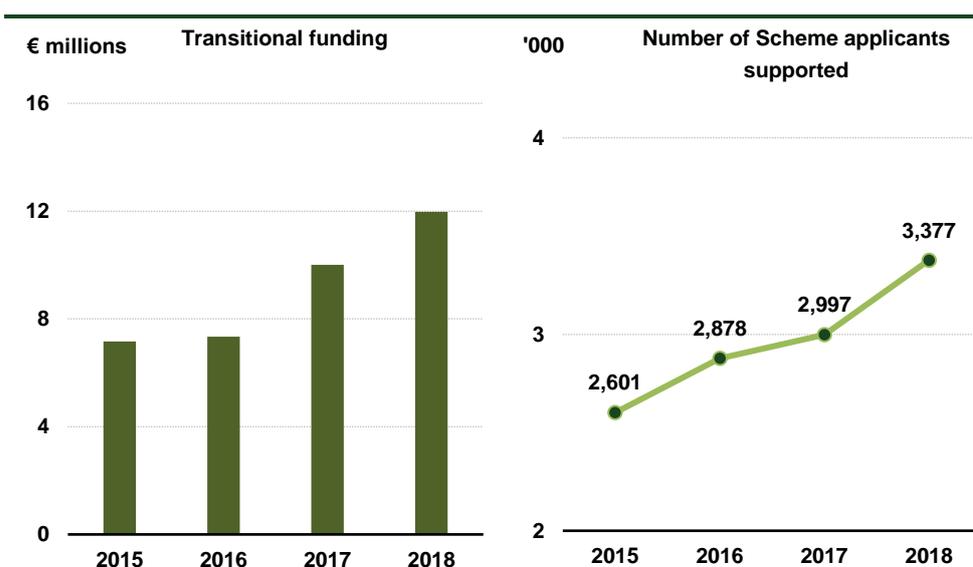
3.19 In certain cases, individuals who are in an acute hospital while their application for the Scheme is being processed may be transferred from the hospital to a private nursing home. This is paid for through funding from other Exchequer resources. The HSE refers to this as 'transitional care' funding.

3.20 The HSE has stated that each public acute hospital is responsible for identifying and selecting patients suitable for transitional care support. In order to qualify, the applicant must

- be classified as a 'delayed discharge patient' in a public acute hospital
- have applied for the Scheme
- have been determined as requiring long-term residential care, following a care needs assessment
- require a standard Scheme bed in a private nursing home.

3.21 In 2018, just under €12 million was paid from transitional care funding to support almost 3,400 Scheme applicants in private nursing homes, pending finalisation of their application and approval of Scheme funding (see Figure 3.6). The average amount of transitional care funding used to support an applicant has risen from €2,755 in 2015 to €3,545 in 2018.

Figure 3.6 Scheme applicants supported by transitional care funding in private nursing homes, 2015 to 2018



Source: Health Service Executive

- 3.22** The HSE pays the private nursing home the full relevant weekly charge, as negotiated with the NTPF, for residents supported under the transitional care funding. While a resident's care costs are being met from transitional funding, the resident is not required to make a financial contribution.
- 3.23** The Scheme application is progressed as normal, and the individual continues to be counted on the national placement list while they are provided with transitional care funding. The average length of time a resident is supported by this funding broadly coincides with the maximum waiting times on the national placement list.
- 3.24** As the operating costs of public nursing homes are funded centrally by the HSE, transitional care funding does not apply to applicants who choose or who can access a public nursing home. The HSE noted that where a public nursing home admits an individual prior to their Scheme funding approval, the cost of care during this period is not met from the Scheme budget allocation but is instead absorbed by the public nursing home from other allocations.
- 3.25** The HSE does not collate data on the number of Scheme applicants admitted to public nursing homes prior to their Scheme funding being approved. However, analysis completed by the examination team indicates that over 25% of residents in public nursing homes at the end of 2018 had been admitted to the nursing home at least two weeks prior to their funding being approved.

Conclusions and recommendations

- 3.26** In 2018, the HSE received just over 10,200 applications to the Scheme. The majority of applicants were deemed to require long term residential care. As the Scheme budget is cash limited, once assessed as requiring care, individuals are then placed on a national placement list until such time as Scheme funding becomes available.
- 3.27** The cash limited nature of the Scheme budget impacts on the time applicants spend on the national placement list. Although the HSE has set a target that the average time on the placement list should not exceed four weeks, by September 2019, the maximum waiting time had increased to eight and a half weeks with just over 1,200 people on the national placement list.
- 3.28** Transitional care funding enables the discharge of older persons from an acute hospital to a long term residential care setting pending approval of Scheme funding. Costs associated with transitional care are not met from the Scheme budget but are met from other Exchequer resources. In addition, personal contributions are not collected while transitional care is being provided.
- 3.29** Since 2015, payments to private or voluntary nursing homes in respect of transitional care have increased by 67% from €7.2 million to just under €12 million. Based on the average 30% contribution Scheme-supported residents make, this may have resulted in additional Exchequer costs of €3.6 million in 2018, relative to the State contribution to the cost of care that would have been incurred if residents had gone directly onto the Scheme.
- 3.30** The HSE does not have information available on the cost of transitional care for Scheme applicants in public nursing homes.

- 3.31** The cost to the Exchequer of financial support for the provision of nursing home care, as outlined in the notes to the HSE's financial statements, does not include the cost of transitional care.

Recommendation 3.1

It is recommended that the HSE completes a review of the cost effectiveness of the continued use of transitional care funding to support Scheme applicants.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE accepts that it will complete a review of transitional care for the Scheme applicants but it will be broader than just cost effectiveness alone and will also take account of impact on acute services and the broader service implications. This has been very positive in transitioning older people to residential settings with a positive impact on reducing delayed transfers of care.

Recommendation 3.2

It is recommended that the HSE identify and review the costs associated with providing transitional care to Scheme applicants in public nursing homes. This would assist with effective budget management of the costs associated with the delivery of long term residential care.

Response of the Chief Executive Officer, Health Service Executive

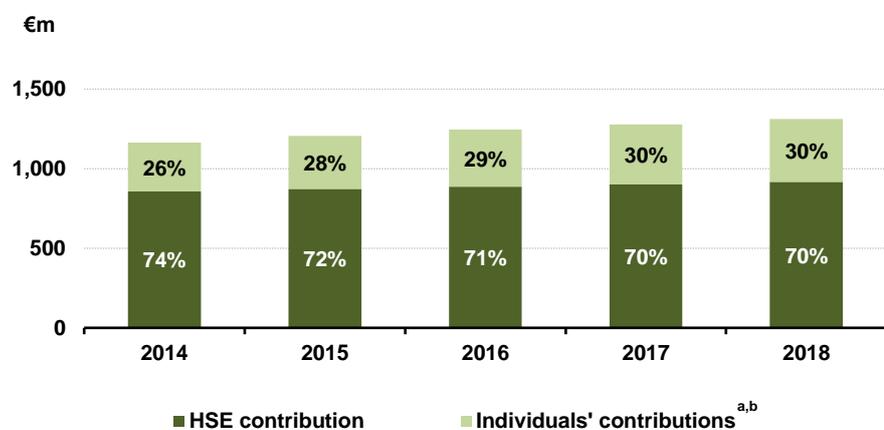
Agreed.

The HSE will review all the number and value of transitional cases supported in public long stay beds while they are in the process of applying and waiting for funding from the Scheme to further inform ongoing budget management.

4 State support for nursing home costs

- 4.1** The amount of State support paid towards each individual's long-term residential care costs is calculated, in accordance with the legislation, as the difference between the weekly charge for the resident's nursing home, and the resident's own contribution to the cost of their care.
- 4.2** Since 2014, residents of nursing homes supported under the Scheme have, on average, contributed about 30% of the charge for their care, with the HSE paying the balance in the form of State support (see Figure 4.1).

Figure 4.1 Cost of long-term residential care by source of payment, 2014 to 2018



Source: Health Service Executive

- Notes:
- a As loan amounts will ultimately be repaid by the resident (or their estate), these are presented as part of the individuals' contributions.
 - b Includes estimated contribution to care from individuals residing in private nursing homes which is collected and retained by the nursing home. Estimated based on financial assessments at the application stage.

Residents' contributions

- 4.3** A resident's contribution¹ to their cost of care is based on
- a maximum of 80% of their weekly income
 - 7.5% of the value of their home, subject to a three-year cap, and
 - 7.5% of the value of their other assets per year.
- 4.4** Figure 4.2 provides further details on the income and assets considered in the financial assessment.
- 4.5** An individual's principal residence is only included in the financial assessment for the first three years (referred to as the 'three-year-cap') regardless of the length of time spent in nursing home care. Individuals receiving and paying for nursing home care privately for three years prior to applying to the Scheme do not pay the 7.5% contribution on the value of their principal residence.

¹ Where an applicant is married, or has been co-habiting for more than three years, the resident's contribution is calculated based on 40% of the couple's combined income and 3.75% of their combined assets.

- 4.6** A three-year cap can also apply to the value of a farm and other relevant business assets in circumstances where
- the individual has suffered a sudden illness or disability which caused them to require nursing home care, and
 - a substantial part of the individual's or their partner's working day was regularly and consistently applied to farming or the carrying on of the relevant business until the onset of the sudden illness or disability, and
 - a family successor certifies in writing that they will on a consistent and regular basis apply a substantial part of their working day to farming or carrying on of the relevant business.¹

Figure 4.2 Income and assets assessable under the Scheme

Source of means	Description
80% of income	<ul style="list-style-type: none"> ▪ Income from employment, trade, profession or vocation. ▪ Rental income whether arising in the State or otherwise. ▪ Income from fees, commissions, dividends, interest, or income of a similar character. ▪ Income from holding of an office or directorship. ▪ Income from a pension whether under the social welfare code or otherwise. ▪ Income whether in the nature of a benefit or allowance arising from social welfare, social insurance or other sources of a similar character. ▪ Payments under settlement, covenant, estate or a payment in respect of maintenance. ▪ Income from royalties and annuities. ▪ Transferred income of any of the above types of income.^a ▪ Any form of income which is prescribed by regulation.
Assets (over €36,000 for an individual or €72,000 for a couple)	<p>Cash</p> <ul style="list-style-type: none"> ▪ Money whether held in currency or in an account with a financial institution. ▪ Money lent to another person which is repayable. ▪ Shares, stocks, bonds, securities and other financial instruments. ▪ A transferred asset which is a cash asset.^b <p>Non cash</p> <ul style="list-style-type: none"> ▪ Property — includes options and incorporeal property — in which the person has a beneficial interest, including transferred assets which would have been relevant assets if not transferred.^b

¹ The 2009 Act defines **farm assets** as agricultural land, pasture and woodland, crops, trees and underwood growing thereon, farm buildings appropriate to the property and farm machinery, livestock and bloodstock thereon but excluding all residential property. **Relevant business** is defined as the business or an interest in a business carried on by a sole trader or by a partnership, including any land, building, machinery or plant used wholly or mainly for the purpose of the business, or the unquoted shares in or securities of a company.

Source: Nursing Homes Support Scheme Act 2009

- Notes:
- a Transferred income means any income which the person whose means is being assessed would have been entitled to receive in the assessable period, but which by reason of a particular action having been taken by or on behalf of that person, another person is receiving or will receive an amount of money or monies worth (whether by way of a single payment or a series of payments) and which action by the person whose means are being assessed occurred within five years of the date of first application for State support.
 - b Transferred asset means an interest of the person in an asset which has been transferred at any time in the period of five years prior to the date on which an application for State support is first made by or on behalf of that person if the transfer is made (a) for no consideration (b) for nominal consideration or (c) for consideration which is less than 75 per cent of the estimated market value of the interest of the person in the asset at the time of the transfer.

- 4.7** An individual may also apply to have certain items of expenditure or allowable deductions taken into account in their financial assessment. These items have the effect of reducing their means prior to calculating the contribution to their cost of care. They include
- income tax, social insurance contributions and statutory levies (e.g. property tax)
 - health expenses — doctor’s fees, pharmacy costs and prescription charges
 - repayments of borrowings and interest on loans related to the principal residence
 - rental payments in respect of the residence, where an applicant is a tenant and their spouse/partner, or a child under 21 of the couple, lives in the residence
 - maintenance payments to another person
 - deductions for dependent children.
- 4.8** When an individual makes an application to the Scheme, they are required to provide details of their income and assets to the HSE together with supporting documentary evidence. The examination found that the HSE does not specify the nature of the documentary evidence required for many types of income and assets, or how recent that evidence should be (see Figure 4.3).
- 4.9** The HSE operates a similar financial assessment system for applicants for medical cards. A comparison of the evidence requirements for the two schemes found that the HSE is much more specific about the nature of the documentary evidence required for medical cards.

Figure 4.3 Documentary evidence specified for income and assets

Income and assets	Number of categories	Documentary evidence	
		Specified	Not specified
Income	9	2	7
Allowable deductions	6	—	6
Cash assets	4	4	—
Non cash assets	3	2	1
Total	22	8	14

Source: Analysis by the Office of the Comptroller and Auditor General

Note: Appendix B to the report provides detailed analysis of the type of documentary evidence required for the Scheme and the medical card scheme.

Assessment of sample cases

- 4.10** The examination reviewed a sample of 61 entrants to the Scheme in 2017. As part of the review, the financial assessments carried out by the HSE, including the evidence to support the calculation of the individual's contribution to their cost of care, were examined.

Income

- 4.11** The various types of income declared by applicants in the sample is shown in Figure 4.4.

Figure 4.4 Income declared in sample cases

Type	Number of cases ^a
DEASP income support	60
Occupational pension	16
UK pension	10
Income subject to PAYE	2
Interest dividend	2
Rental	1
Farming	1

Source: Analysis by Office of the Comptroller and Auditor General

Note: a Some cases declared more than one type of income.

- 4.12** Standard account statements from a financial institution were accepted by the HSE as documentary evidence for around one third of the various types of income declared. Reliance on this form of evidence may not provide complete and accurate information of an individual's income.
- 4.13** The majority of the sample cases reviewed were in receipt of DEASP income support. For 41 of these cases, DEASP's system (Infosys) containing information on welfare payments made to individuals, marital status and previous employment status, was available in the local HSE office. The examination found evidence that DEASP's system had been checked by HSE staff in just under half of these cases.
- 4.14** A rate change in the State pension will impact the amount an individual pays towards their cost of care. The examination found that following a rate change, each individual's contribution must be manually re-calculated by the HSE. Between 2015 and 2018, there have been three such pension rate changes. The examination team analysed information from the HSE's IT system, as at February 2018, to determine whether pension rates had been adjusted accordingly and in a timely way. It was found that there were over 2,200 instances where rates of pension had not been adjusted and the contribution to care had therefore not been re-calculated. This represented about 10% of the cases in payment at the time.
- 4.15** Once an individual reaches their 80th birthday, they become entitled to a higher rate State pension — an additional €10 per week. The HSE's IT system is not capable of flagging this event and signalling that a review of a person's contribution may be warranted.

- 4.16** The HSE acknowledges that there is no facility within the current system to enable a systematic review of variances in pension rates. According to the HSE, work of this nature can only be carried out on a manual basis which is challenging from a manpower and time perspective. The HSE instead relies on routine reviews to identify any increase in income, and any corresponding increases in client contributions identified are not applied retrospectively. However, the HSE has stated that it intends to replace the current IT system and has commenced a process to do so.

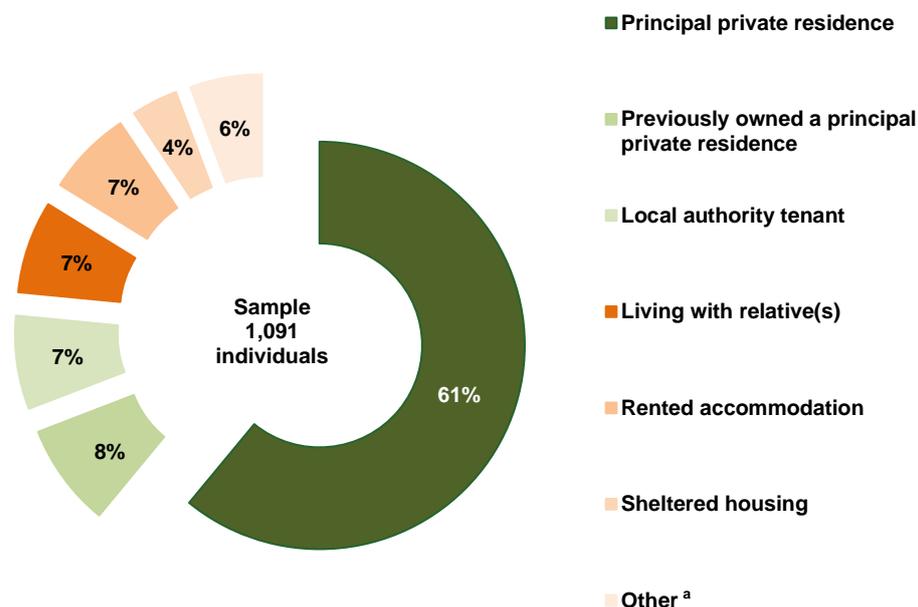
Cash assets

- 4.17** 93% (or 57) of applicants in the sample cases examined had declared cash assets. These comprised balances totalling €2.74 million in bank current and deposit accounts, credit union accounts, state savings and post office accounts.
- 4.18** The examination found in all cases that the documentary evidence provided to support declarations of cash assets was a statement from the relevant financial institution, with 93% of those being less than three months old at the date of submission. For around €1.3 million or 47% of these cash assets, the applicants had only provided statements covering a one-month period. This provides insufficient evidence to establish whether the individual had transferred financial assets in the five years prior to the application.
- 4.19** Transfers of an applicant's cash assets in the five years prior to an application for support are taken into account in determining the required personal contribution. According to the HSE, local offices should request bank statements covering a period of at least six months prior to the application being made. However, the HSE noted that it had difficulty in obtaining bank statements for the five-year period prior to the application.
- 4.20** The experience of the HSE is that when family members are trying to sort out a relative's affairs when making an application, in many cases they may not know what accounts their relatives have in financial institutions. The HSE further noted that family members also find it very challenging to get relevant information of account details from financial institutions, due to data protection issues, unless they have enduring power of attorney arrangements in place.¹

Non-cash assets

- 4.21** During 2016, the HSE undertook home ownership analysis of the applications made by a random sample of 1,091 individuals supported under the Scheme. It found that 61% of applicants owned a principal residence or had one included in the financial assessment (see Figure 4.5). The remaining 39% had a wide variety of residential situations.
- 4.22** Over 60% of the sample cases reviewed by the examination team reported ownership of a principal residence. Two cases also reported ownership of a second property. In all cases, the value included in the assessment was based on a valuation from an auctioneer. In the majority of cases (85%), the valuations provided were less than six months old.
- 4.23** For two of the cases examined, the applicants declared they currently lived in a 'granny flat'. In those cases, there was no evidence the HSE had established if the applicant owned or transferred any property in the previous five years.

¹ Enduring power of attorney is a legal document which allows an individual (the donor) to appoint someone (the attorney) to look after their personal and financial affairs in the event that the donor loses their mental capacity at some point in the future.

Figure 4.5 Home ownership analysis, 2016

Source: Health Service Executive

Note: a Includes members of a religious order, no fixed abode, lived with friend/partnership with no ownership rights, caretaker agreement, boarding arrangement or resided in direct provision facility.

Principal residence — three-year reviews

- 4.24** The value of a principal residence is only reckonable for the first three years that an individual is in residential care. Once three years have elapsed, a review is carried out by the HSE in order to remove the property from the financial assessment which in turn reduces the individual's weekly contribution to care, with State support increased accordingly.
- 4.25** The examination found that, for a sample of 39 cases due to be reviewed in 2017, all had been carried out in a timely fashion. In each case, the principal residence had been removed from the assessment and the State support had been adjusted as expected.
- 4.26** However, the examination found variances in how three-year reviews were conducted in the three local offices visited. One area conducted a full review of all income and assets after three years. The second area sent a letter to the individual asking them to confirm the property had not been sold or rented. The third area carried out a desk-based exercise to remove the principal residence from the financial assessment. The HSE Scheme guidelines do not specify standard procedures for carrying out three-year reviews.

Third party sources

- 4.27** The HSE has in place arrangements to access third party sources of information in order to verify the completeness and accuracy of an individual's income and assets (see Figure 4.6). In addition, the HSE is currently putting in place written agreements with Revenue in respect of the transfer of income data and the completion of once-off checks of existing Scheme users. Discussions are also currently ongoing with the DEASP in relation to local offices obtaining real-time access to information held by the DEASP on applicants to the Scheme.

Figure 4.6 Third party information sources

Department/State agency	Third party information	Extent of access
Department of Employment and Social Protection	Access to the Infosys system which contains information on DEASP income support, marital status, number of dependants, previous employment status and method of payment of benefits.	12 local offices
Private Residential Tenancy Board	Access to a database showing whether an individual is a landlord, and therefore indicating possible rental income or that the individual owns additional property.	All 17 local offices
Property Services Regulatory Body	Access to website containing information on the sales prices of properties sold. This provides information on valuation of properties and will also show whether a property has been sold.	All 17 local offices and the central office
Property Registration Authority	Access to the Authority's land direct database which provides information on properties registered in the State and transfers of any property in the last five years.	Four local offices and central office

Source: Office of the Comptroller and Auditor General

- 4.28** Other than the use of Infosys to verify DEASP income support in some of the cases reviewed, the examination found no evidence on file for the sample that third party sources had been used to verify the completeness and accuracy of income and assets included on the application form or to identify income and assets that may have been transferred by the individual in the prior five years.
- 4.29** The HSE stated that local offices are aware of third party sources of information and should be using them. Training is being provided to local offices by the central unit, and staff in the local offices are being made aware of the sources and of the expectation that they will be used.

Financial assessment process

- 4.30** From the 61 sample cases reviewed, this examination identified issues within the financial assessment process that could give rise to an under or overpayment by an individual towards the cost of their care.
- In one instance, cash savings of €200,000 had been declared by the applicant but had not been included in the financial assessment. The examination team estimated that this applicant's contribution to the cost of their care was €288 per week less as a result.
 - In six cases, additional income and savings amounts were evident from a review of the supporting documentation provided by the applicant but they had not been included in the financial assessment.
 - In four cases, allowable deductions had been claimed by the applicant but were not included in the financial assessment. This resulted in the applicants' weekly contributions being between €2 and €13 per week higher than appropriate.

State support

- 4.31** Once the financial assessment is complete, the individual's contribution to their cost of care is calculated. The difference between the weekly rate charged by the selected nursing home, and the individual's contribution, is paid by the HSE, and is known as State support. Appendix C demonstrates how an individual's contribution to their cost of care is determined in various scenarios, and the impact this has on the calculation of State support.
- 4.32** At the end of December 2018, according to the HSE's database, there were 22,889 residents participating in the Scheme. The majority (97%) were in receipt of State financial support towards the cost of their care. Analysis of the contribution data indicated that residents were contributing at around the same average rate towards the cost of their care, whether in public or private nursing homes. In contrast, the average rate of State support for residents of public nursing homes was around twice that paid to support residents in private nursing homes, reflecting the higher cost of care in the former (see Figure 4.7).
- 4.33** The assessment of an applicant's means includes a partial disallowance of income. This is intended to ensure that residents retain a minimum personal allowance from their income. For an individual, the greater of 20% of their income or 20% of the maximum State pension (non-contributory) rate is disregarded.¹
- 4.34** The examination noted that of the 22,889 residents supported by the Scheme in December 2018, around 57% (13,098) made contributions based in part on assessable relevant assets. In three out of four of these cases, contributions were based on property assets. Only one third of these residents availed of the loan facility to cover the element of the contribution related to their property assets, with the other applicants meeting the contribution element from their own resources.

¹ The income disregard rules vary, depending on status (spouse/partner) and reliance on shared income.

Figure 4.7 State support, December 2018

	Private or voluntary	Public
State support only		
Number of residents	15,428	3,839
Average weekly rate		
State contribution	€676	€1,282
Resident's residual contribution	€310	€302
Charge for care	€986	€1,584
State support and Scheme loan		
Number of residents	2,528	465
Average weekly rate		
State contribution	€502	€1,096
Scheme loan	€308	€291
Resident's residual contribution	€267	€265
Charge for care	€1,077	€1,652
Scheme loan only		
Number of residents	209	9
Average weekly rate		
Scheme loan	€587	€752
Resident's residual contribution	€520	€708
Charge for care	€1,107	€1,460
No State support and no Scheme loan		
Number of residents	390	21
Average weekly rate		
Resident's contribution	€1,008	€1,385
Charge for care	€1,008 ^a	€1,385

Source: Analysis by the Office of the Comptroller and Auditor General of HSE database

Note: a Average weekly rate shown here is based on the agreed maximum price negotiated with the NTPF. The actual price charged by a private nursing home operator to a resident meeting the full cost of his/her care may be higher.

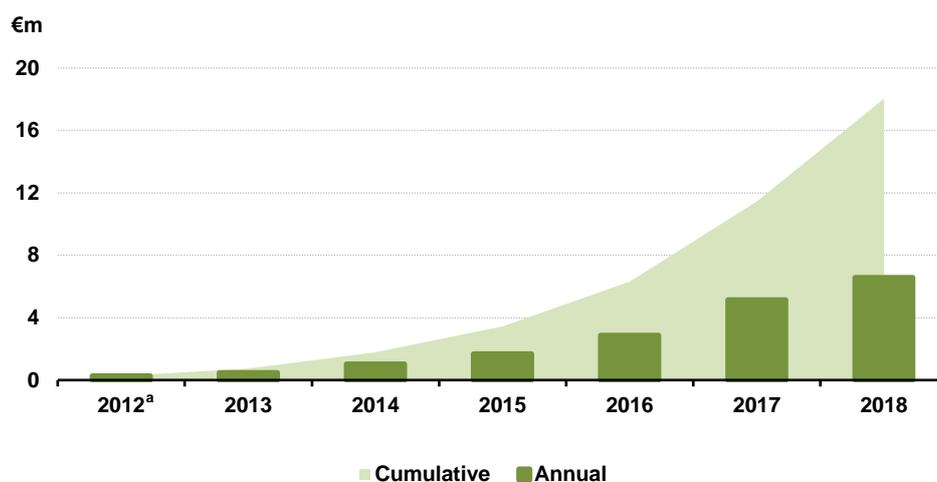
Tax relief on nursing home contributions

- 4.35** Resident's contributions to the cost of nursing home care qualify for tax relief. The resident (or person paying the contribution on behalf of the resident) can claim the tax relief at the highest rate of tax paid by the individual.
- 4.36** Revenue statistics show that 7,100 people claimed tax relief on nursing home fees in 2017, at an estimated value of €31 million.¹ However, this includes both those claiming relief on their contribution to nursing home care under the Scheme, and those funding the cost of nursing home fees without the support of the Scheme.

Financial reviews

- 4.37** In addition to the three-year financial reviews in respect of principal private residence, the HSE may carry out a financial review in respect of an individual currently being supported under the Scheme, or following the death of a resident.
- 4.38** Recoveries collected following financial reviews have risen steadily since 2012, totalling around €18 million by end 2018 (see Figure 4.8).

Figure 4.8 Income from financial reviews 2012 to 2018



Source: Health Service Executive

Note: a Includes an amount of €44,000 that relates to 2010 – 2011.

Financial assessment reviews

- 4.39** A financial assessment review can either be initiated by the HSE or at the request of the resident (or their representative). The HSE initiate reviews where information comes to their attention suggesting there has been a material change in financial circumstances, for example the sale of a property. A resident (or their representative) can only initiate a financial assessment review where 12 months has elapsed since the initial financial assessment or the most recent review of that assessment, or if there has been a material change in their financial circumstances, for example, depleted savings.

¹ *Cost of tax expenditures 2017*, Revenue website, December 2019.

- 4.40** Financial assessment reviews are performed by the HSE local offices. The examination found that the HSE does not capture management information on financial assessment reviews including whether the review was initiated by the individual or by the HSE, the numbers of reviews completed annually, or the outcomes.

Review of assets upon death

- 4.41** In accordance with the 2009 Act, when a Scheme member dies, their personal representative is required to provide the HSE with a schedule of assets in respect of the estate.¹ This must be provided at least three months prior to the distribution of the assets. The HSE re-perform the financial assessment on the basis that the person's assets at the time of death belonged to that person for the entire period in residential care, unless evidence to the contrary is provided.
- 4.42** Where assets of a resident are identified that had not been previously declared, the HSE calculates the amount of any underpayment and seeks to recover this from the estate. Since 2016, reviews of assets upon death are carried out centrally within the HSE.² The HSE has stated that due to resource issues, they have been unable to follow up in all cases where a schedule of assets is not supplied by the executor or where contact details for the executor are not available. As of June 2019, schedules of assets remained outstanding in around one third of the cases scheduled for review for the years 2016 to 2018 (see Figure 4.9). Where schedules of assets were provided, additional liabilities were identified and quantified in 786 cases, to a combined value of €12.7 million.³ Of these, 19%, or €2.4 million was awaiting recovery at end June 2019.
- 4.43** When the personal representative of a deceased person is applying for probate, they must complete an Inland Revenue affidavit, setting out all of the assets and liabilities of the deceased's estate.⁴ Part of this form requires the personal representative to declare if the deceased was in receipt of support under the Scheme, and also if the deceased was in receipt of any social welfare payments. This affidavit, accompanied by a schedule of assets is submitted to the Probate Office.
- 4.44** The examination found that while the Probate Office share information on gross and net estate values with DEASP on a quarterly basis, information on estate values is not shared between the Probate Office and the HSE.

1 Section 27 of the 2009 Act refers to the schedule of assets as required under section 48(2) of the Capital Acquisitions Tax Consolidation Act 2003.

2 Before 2016, such reviews were carried out by the local offices. Some legacy cases, where death occurred prior to 2016, were transferred to the central unit for review.

3 Correction: due to a typographical error, a combined value of €12.8 million was incorrectly included in the originally published report.

4 Probate is a formal legal process which authorises a person to deal with the estate of a deceased person.

Figure 4.9 Status of review upon death cases by HSE central unit at June 2019

	Number of cases			
	2016	2017	2018	Total
Cases for which schedule of assets due	6,309	6,392	6,442	19,143
Declaration of no assets received	687	907	879	2,473
Schedule of assets received	4,006	3,583	2,616	10,205
Schedule of assets outstanding^a	1,616	1,902	2,947	6,465
% Outstanding	(26%)	(30%)	(46%)	(34%)
Status of cases for which schedule of assets received				
No additional liabilities identified	3,594	3,137	2,234	8,965
Assessment in progress	12	44	161	217
Additional liabilities identified	400	402	221	1,023
	4,006	3,583	2,616	10,205
Status of cases for which additional liabilities identified				
Quantification of liability in progress	42	94	101	237
Final liability quantified	358	308	120	786
	400	402	221	1,023
Cases where liability quantified^b				
	€000	€000	€000	€000
Additional liabilities	5,985	4,844	1,853	12,682
Liabilities paid	4,969	3,987	1,303	10,259
Liabilities outstanding^c	1,016	857	550	2,423
% Outstanding	(17%)	(18%)	(30%)	(19%)

Source: Health Service Executive

- Notes:
- a Includes 1,666 cases for which the HSE has no contact details for the deceased person's estate.
 - b Liabilities are presented in the period that the schedule of assets review was due but they may have been raised in subsequent periods.
 - c There is currently a further €6,642 in outstanding liabilities in respect of two pre-2016 'legacy' cases.

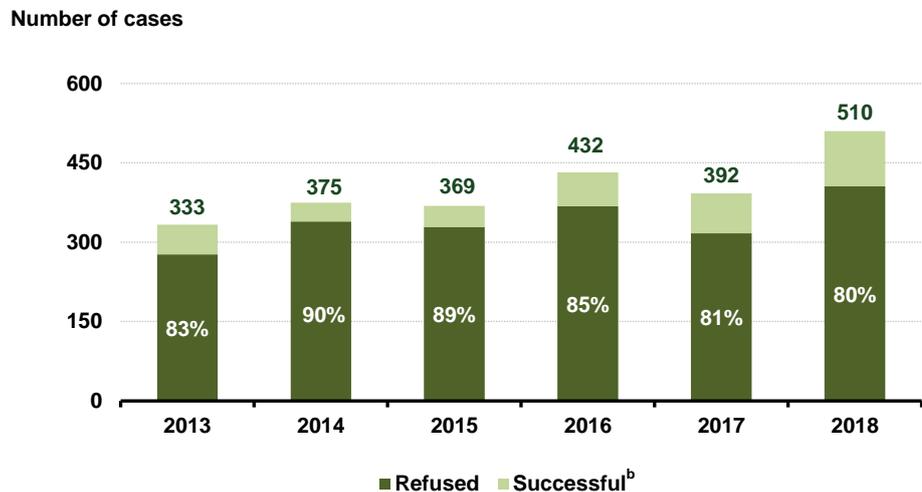
Financial assessment appeals

- 4.45 The Act also allows for the outcome of the financial assessment to be appealed. Financial appeals are carried out by Appeals Officers in the HSE's National Appeals Office. When an appeal is received, the local office provides the file with a covering report to the Appeals Office. The Appeals Officer considers the appeal in line with the provisions of the Act. They may require further information and/or a review or new assessment. Legal advice is sought as required. If the appellant or the HSE is dissatisfied with the outcome of the appeal, a further appeal may be taken to the High Court on a point of law.¹

- 4.46 The HSE does not record the reason for an appeal other than whether it is on financial or medical grounds. It stated that the details of individual financial appeals vary considerably and may encompass a number of issues. However, the common themes which emerge in financial appeals include issues relating to ownership of assets, the value of assets, whether certain loans are assessable and complexities related to assessment of income from businesses and rented properties. Figure 4.10 provides a summary of financial appeals decided from 2013 to 2018.²

- 4.47 The HSE stated that issues identified during the appeals process which may impact on existing practices are notified to senior management within the HSE and the Department of Health, and the General Manager of the Scheme. These are in turn raised at regular meetings with managers and staff from the local offices.

Figure 4.10 Outcome of financial assessment appeals determined, 2013 to 2018^a



1 To end 2019, there has been only one case heard by the High Court (in 2013).

2 Prior to 2013, a database of appeals was not maintained.

Source: Health Service Executive

Notes: a The number of appeals are presented by year of receipt.
 b Includes cases which were successful in full or in part.

Conclusions and recommendations

- 4.48** There does not appear to be a standardised approach across the HSE to carrying out financial assessments, validating information using third party information, or completing checks on assets transferred within the five years preceding the application. These inconsistencies may lead to errors in the financial assessment resulting in the applicant's contribution to the cost of their care being higher or lower than appropriate.

Recommendation 4.1

It is recommended that the HSE standardise the process by which three-year reviews, use of third party information, and five-year look-back validations are performed.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE has updated instruction and training to staff when undertaking such reviews. A monthly national data quality monitoring review is now in place to identify potential variances.

The HSE is in ongoing discussion with other public bodies to establish links to relevant data where possible to assist in confirming client application details. The matter is being discussed with the Department of Health to review the possible requirements for legislation to facilitate such a systematic and ongoing data transfer.

Applicants are obliged to declare the transfer of relevant assets under the Scheme. The review of schedules of assets returns identifies cases where such information was not provided on application forms.

- 4.49** As the HSE has not explicitly specified the documentary evidence required to support around two thirds of declarations of income and assets on the Scheme application form, an inconsistent approach to verification of applicant's means has developed across the HSE's local offices.

Recommendation 4.2

It is recommended that the HSE develop a list of specified documentary evidence similar to that used in the assessments of medical cards applications, required to support a Scheme application.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

Such clarification has been updated on the HSE website to assist clients in completing applications. Relevant staff have also been briefed on the list of documents suitable to support an application. This information will be included in the next update to the Scheme application form.

- 4.50** Over the period 2015 to 2018, there have been three rate increases to the State pension. The HSE's IT system for the Scheme is not capable of automatically applying rate changes to residents in receipt of State pension income, and assessing the impact (if any) on the residents' contributions. The HSE places reliance on routine reviews to identify such changes in income. As a result, an inconsistent approach has developed whereby some residents in receipt of State pensions have had their contribution to the cost of care increased in line with rate increases and others have not.

- 4.51** Around one third of the schedules of assets of deceased persons supported by the Scheme expected for the years 2016 to 2018 remain outstanding as of June 2019, potentially resulting in a failure to identify a significant sum to be recouped by the HSE. While the Probate Office provides DEASP with information on estate values on a quarterly basis, no such information is shared between the Probate Office and the HSE.

Recommendation 4.3

The HSE should consider exploring an arrangement with the Probate Office for the sharing of information on estate values.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE is in discussion with the Probate Office and other possible information sources.

Recommendation 4.4

It is recommended that the HSE follow up and review outstanding schedules of assets.

Response of the Chief Executive Officer, Health Service Executive

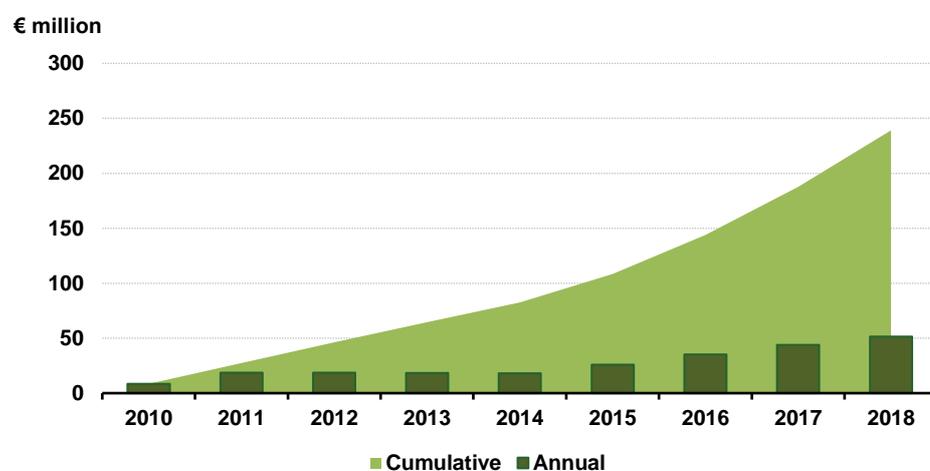
Agreed.

The ongoing review of schedules of assets continues to generate recoupment of funds. The workload of this office will continue to be monitored to ensure that appropriate staffing is available to continue to undertake the work in a timely manner.

5 State lending for nursing home residents

- 5.1** The optional State loan element to the Scheme is in place to ensure that an individual does not have to sell their home or certain other property assets in order to pay for long-term residential care. Repayment of the loan can be made at any time, but normally falls due for repayment upon the individual's death, or on sale/transfer of the property. Between 2010 and 2018, the HSE issued a total of €239 million in Scheme loans in just over 10,600 cases (see Figure 5.1).

Figure 5.1 Scheme loans 2010 to 2018



Source: Health Service Executive

- 5.2** In order to avail of the loan facility, an individual must provide written consent to having a charge registered against the asset. This is a type of mortgage which secures the money loaned by the HSE.
- 5.3** An individual can apply for the loan when they make their initial application, or at any stage while they are resident and supported by the Scheme. On average, around a fifth of individuals annually applying for State support also apply for the loan facility.
- 5.4** Since 2012, around 57% of all loan applications proceed to having a charging order raised on the property. A breakdown of the reasons that applications did not proceed was not readily available. However, the HSE noted that common reasons include
- issues with the title to the property
 - application withdrawn
 - individual decides not to take up the loan.

Scheme loan

- 5.5** The loan is equivalent to the part of the resident's contribution related to relevant property assets. The loan accumulates each week and the total value of the loan that ultimately becomes repayable depends on the length of time that the individual receives care under the Scheme.¹ Examples are set out at Appendix C demonstrating how the loan is calculated and accumulates.
- 5.6** When the HSE receives a loan application, title for the property is checked with the Property Registration Authority. Once title is verified, the HSE raises a charging order on the property with the Property Registration Authority. The examination checked a sample of 42 active loans and found that a charging order had been registered by the HSE in all cases.
- 5.7** Once title on the property is verified, the HSE reduces the individual's weekly contribution to care by the amount relating to the property, and the State pays that amount to the nursing home instead, on behalf of the resident. For the 42 cases examined, the residents' contributions to care costs had been reduced as expected.

Review of weekly loan payment

- 5.8** Although the 2009 Act allows for an individual to request a review of the weekly amount of loan payments made, the HSE informed the examination that this type of review is unusual in practice. Information on the number of reviews completed annually, or of the outcome of these reviews, is not recorded by the HSE.

Repayment of the loan

- 5.9** Revenue has statutory responsibility for collection of Scheme loans. Loans can be repaid voluntarily at any time by the individual, but become repayable when the resident dies or another relevant event occurs such as
- sale or transfer of the property
 - resident or their spouse/partner is deemed to be bankrupt
 - the HSE determines that it has been given false or misleading information relating to the application for the loan.
- 5.10** When a relevant event occurs, the HSE writes to the accountable person in order to notify them of the amount owed and the recoupment process.² The Scheme guidelines propose that this notification occurs within 20 working days.³ According to the HSE, in practice it is a minimum of 30 days after the relevant event occurs before they are in a position to notify the accountable person because the Scheme payments are processed one month in arrears. Revenue is notified by the HSE of the liability at the same time.
- 5.11** Of the 41 cases reviewed by the examination team, only one case had resulted in a notification issuing in less than 30 days (see Figure 5.2). In 56% of cases, notifications took longer than 60 days after identification of the relevant event.

¹ A loan based on a principal private residence (or other qualifying farm or business asset) ceases to accumulate when the three-year-cap has been reached. A loan based on other land or property continues to accumulate until a relevant event occurs.

² The accountable person is the person responsible for repaying the loan to Revenue. They are designated as part of the ancillary State support application process.

³ *National Guidelines for the Standardised Implementation of the Nursing Home Support Scheme*, HSE, January 2014.

Figure 5.2 Time taken to notify Revenue and the next of kin in a sample of cases

Days from relevant event to notification	Number of cases
0 — 30 days	1
31 — 60 days	17
61 — 90 days	14
91 — 120 days	4
Greater than 120 days	5
Total	41

Source: Analysis by the Office of the Comptroller and Auditor General

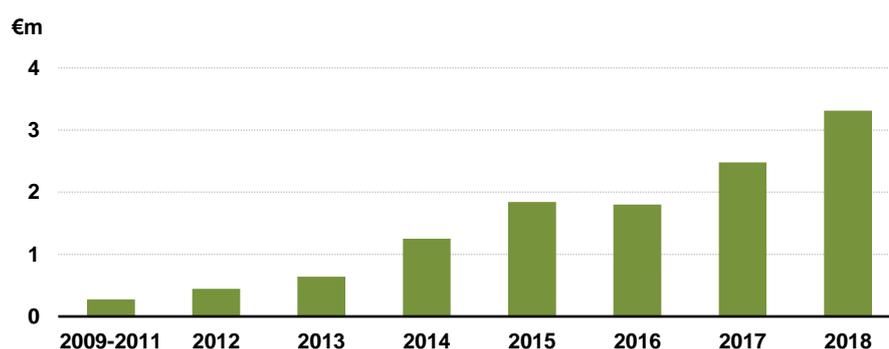
5.12 Under the Scheme, the accountable person must repay the loan

- immediately if the application is found to be based on false information, or if the individual or their spouse/partner is declared bankrupt
- within six months of the date of sale or transfer of property if the care recipient is still in long-term residential care
- within one year from the date of death of the care recipient.

Deferral of loan repayment

5.13 Following the death of a loan recipient, their spouse or other qualifying relative living in the principal residence may apply to the HSE to have repayment of the loan deferred for their lifetime. Between 2009 and 2018, 705 deferrals of loan repayments were granted, with a value of €12 million (see Figure 5.3).

Figure 5.3 Deferrals of the loan granted 2009 to 2018



Source: Health Service Executive

5.14 A sample of 23 deferrals granted in 2017 was examined to identify whether they had been granted in line with Scheme conditions. In all cases, the applicant demonstrated that they satisfied the conditions for the deferral. The majority (80%) of those granted a deferral were surviving spouses of the original residents.

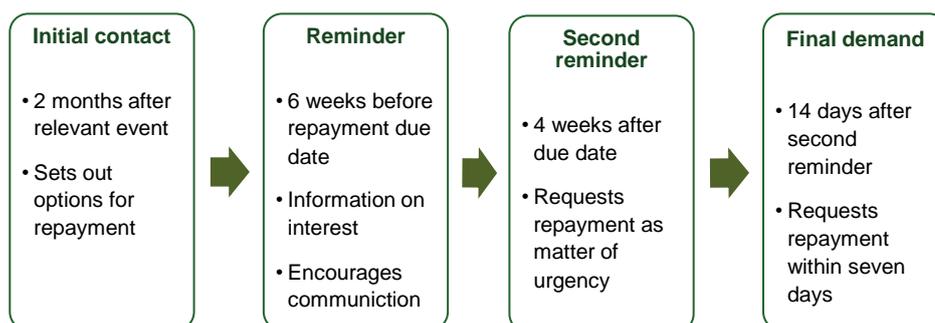
5.15 Where a deferral has been granted, the loan will fall due for repayment on the occurrence of a deferred relevant event such as: the death of the spouse, partner or connected person; the transfer of the asset; or a change in circumstance which would cause the qualifying conditions to cease to apply.

- 5.16** The HSE review those in receipt of deferrals regularly to ensure there has been no change in their circumstances. Reviews are carried out every 12 months, or six months in cases where deferral has been granted to a person in receipt of job seekers' allowance. The review cycle is marked on the database at the time of approval of the deferral.
- 5.17** On a monthly basis, individuals due a review are identified and checked using third party data sources e.g. the Property Registration Authority and published death notices. Individuals are also asked to confirm there has been no change in circumstances. Where the review finds that there has been no material change in the circumstances for the applicant, the deferral remains in place. The HSE notify Revenue when loan deferrals are approved, and when the deferral is ceased.

Collection of loan repayments

- 5.18** Revenue initiates a number of steps in order to ensure loans are collected in a timely fashion (see Figure 5.4).

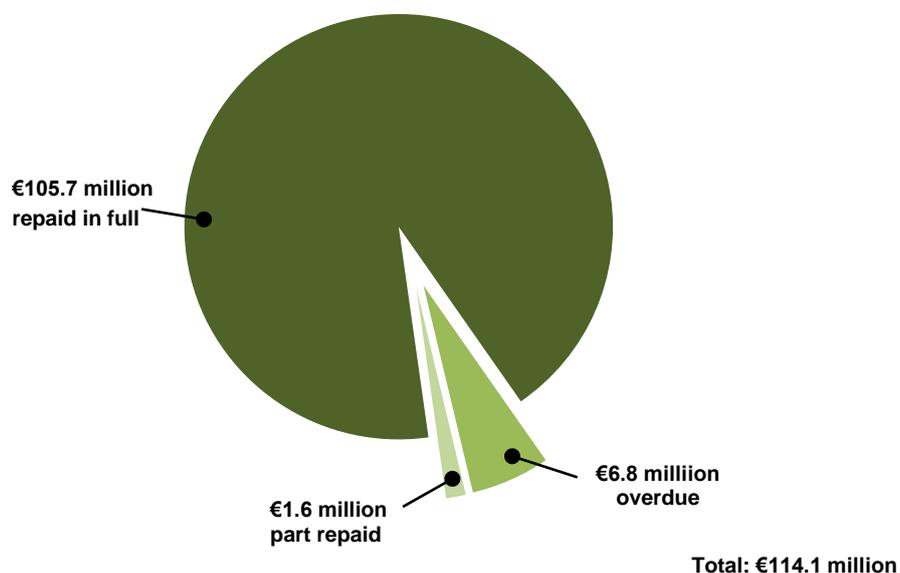
Figure 5.4 Revenue correspondence for recovering loans



Source: Office of the Revenue Commissioners

- 5.19** By end December 2018, the total value of loans due for repayment and notified by the HSE to Revenue for collection was €123.4 million (6,169 loans). For 519 of these loans totalling €9.3 million the HSE granted a deferral of the loan repayment. These loans are not available for collection by Revenue until such time as the conditions of the deferral cease to apply.
- 5.20** The balance due for collection at end December 2018 was €114.1 million. A breakdown of the status of these loans is shown in Figure 5.5.

Figure 5.5 Status of loans due for collection by December 2018, as at February 2020



Source: Office of the Revenue Commissioners

- 5.21** At end February 2020, almost 93% of the loans due for collection by the end of December 2018, with a combined value totalling €105.7 million, had been repaid in full. Three out of five of those repayments had been made before the due date.
- 5.22** Of the cases notified to Revenue up to the end of 2018, 292 cases were classified as overdue for payment at the end of February 2020 (see Figure 5.6). These loans had a notified value for repayment totalling €8.4 million. Just under 20% of the loan amounts had been partly repaid — a total of €1.6 million was received, leaving a balance overdue of around €6.8 million. While Revenue accepts part payments towards the loans, they do not utilise formal instalment arrangements designed to repay the loan in a structured and agreed timeframe.
- 5.23** Ten of the oldest loans totalling €140,255 were due for repayment between September 2011 and April 2013 (see Figure 5.7). Revenue's last intervention in these cases ranged between November 2017 and October 2018.¹ Repayments of just under €38,800 had been made in eight of the cases, leaving a total of €101,500 outstanding.

¹ The Scheme legislation prohibits taking any action to enforce the loan or recover interest once 12 years has elapsed since the date of a relevant event.

Figure 5.6 Analysis of aged debt at 30 December 2018

Time since due date	No of cases	No cases partly repaid	Loan amount	Repaid	Balance due
			€'000	€'000	€'000
Less than 1 year	112	26	3,799	518	3,281
1–2 years	62	19	1,752	372	1,380
2–3 years	41	12	1,111	228	883
3–4 years	38	10	767	144	623
4–5 years	13	6	332	87	245
5–6 years	12	4	409	187	222
6–7 years	7	5	112	54	58
7–8 years	6	4	84	39	45
8–9 years	1	1	11	3	8
Total	292	87	8,377	1,632	6,745

Source: Office of the Revenue Commissioners

Figure 5.7 Analysis of ten oldest loans at December 2018

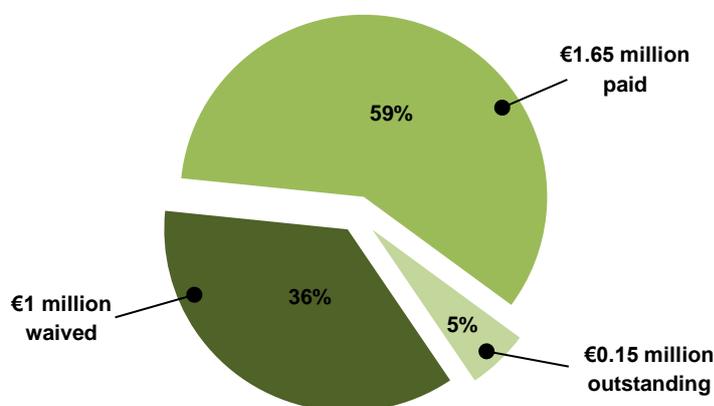
Date due	Month of last payment	Comment	Date of last Revenue correspondence	Loan amount €	Repaid €	Balance outstanding €
Sep 11	July 18	Informal instalments	May 18	10,925	2,300	8,625
Mar 12	Nov 18	Informal instalments	Jun 18	17,585	16,500	1,085
Apr 12	Nov 18	Informal instalments	Jun 18	17,634	5,100	12,534
May 12	Dec 18	Family living in house	Oct 18	2,217	60	2,157
Jun 12	Jan 16	Dispute over accountable person	Jun 18	31,033	8,388	22,645
Sep 12	—	Loan disputed (referred to HSE)	May 18	5,182	—	5,182
Dec 12	Dec 18	Informal instalments	Jun 18	25,425	2,211	23,214
Jan 13	Sept 18	Informal instalments	May 18	8,973	2,280	6,693
Jan 13	Dec 18	Informal instalments	July 18	2,271	1,900	371
Apr 13	—	Daughter living in house	Nov 17	19,010	—	19,010
Total				140,255	38,739	101,516

Source: Office of the Revenue Commissioners

Application of interest

- 5.24** Where a loan is not repaid in full by the due date, interest accrues from the date of the relevant event at the rate of 0.0219% per day, with adjustments for part payments received.¹ Interest due is calculated and applied when the loan is repaid in full.
- 5.25** From 2009 to end December 2018, Revenue raised interest totalling €2.8 million in 972 cases. In cases where the accountable person is not in a position to repay the loan in full by the due date, an application may be made to have the interest charge reviewed. Revenue noted that the mitigation or waiver of interest is an extra statutory concession provided in limited circumstances.² Of the 972 cases where interest was applied, over a third had their interest, totalling just over €1 million, subsequently waived (see Figure 5.8).

Figure 5.8 Status of interest raised at end December 2018



Total: €2.8 million (972 cases)

Source: Office of the Revenue Commissioners

¹ The interest rate of 0.0219% is set out in Statutory Instrument 436 of 2009 — Nursing Homes Support Scheme (Collection and Recovery of Repayable Amounts) Regulations 2009. This amounts to an annual equivalent rate of 7.99%.

² Section 26 (10) of the 2009 Act provides that the collection and recovery of a repayable amount shall be under the care and management of Revenue and Revenue may do all such acts as may be deemed necessary and expedient for collecting, receiving and accounting for a repayable amount in the like and in as full and ample a manner as they are authorised to do in relation to income tax under their care and management.

- 5.26** In order to qualify for a waiver or reduction in interest, Revenue must be satisfied that the delay was outside the accountable person's control. Each case is assessed on its merits. A record of which applications were successful or otherwise is not maintained centrally by Revenue.
- 5.27** Revenue noted that interest waivers are generally successful in cases where there was a delay in progressing a part of the process by a State body. Circumstances that may give rise to waivers include
- delays in the Probate Office
 - beneficiaries outside of the State with no PPSN
 - serious illness or death of an executor
 - property repairs required but the accountable person does not have the means.

5.28 In a further 442 cases settled after their due dates, Revenue had not applied interest. The estimated potential interest forgone in these cases was in the region of €724,000. Prior to 2019, Revenue did not record the reasons for the non-application of interest.

5.29 Revenue has stated that interest was not applied in these cases as Revenue considered it would be unreasonable to impose an additional 52 weeks' interest for a relatively short delay in payment. Since mid-2019, the amount and reason for the non-application of interest are recorded on Revenue's database.

5.30 Revenue debt management procedures are also available to recover the loan. These include the Revenue Sheriff, attachment orders and forced sale. However, Revenue informed the examination team that in practice these options are not exercised due to the nature of the Scheme and the security that the charge on the property provides.

Removal of charge from property

5.31 Revenue notify the HSE when the loan has been repaid in full and all interest has been paid or waived. The HSE then removes the charging order on the property with the Property Registration Authority. In six of the 41 cases examined, the loan had been repaid at the time of the review and in all six cases the charging order had been removed from the property.

Conclusions and recommendations

5.32 Just over 10,600 individuals had availed of the loan element of the Scheme up to December 2018. The total amount of loan funding advanced at that date was €239 million. The charge raised by the HSE on the property in question is a key control.

5.33 By the end of December 2018, 5,650 loans worth €114.1 million were due for collection by Revenue. By the end of February 2020, recoveries had amounted to €105.7 million in full settlements, and €1.6 million in part payments. Around 60% of loans were repaid in full and on time. An additional €1.65 million had been collected in interest charged on late payments.

5.34 The Scheme legislation allows 12 months from the date of death or six months in the case of the sale or transfer of the property to repay the loan. After the due date, interest becomes payable on any outstanding loans (or balance). The examination noted some delays in the time taken for the HSE in notifying Revenue and the accountable person of the amount to be recouped following the relevant event. This reduces the time available for recovery before interest is leviable.

Recommendation 5.1

The HSE should notify Revenue and the accountable person of the amount of the loan to be recouped in a timely fashion following the relevant event.

Response of the Chief Executive Officer, Health Service Executive

Agreed.

The HSE notifies Revenue and the accountable person of the amount of the loan to be recouped in a timely fashion. However, the HSE is only in a position to verify the redemption figure in the month following the relevant event, due to payment timing issues. The HSE will discuss the wording of the current guidelines on this issue with the Department of Health with a view to taking account of this timing issue.

- 5.35** Revenue does not enter into formal instalment arrangements with individuals who wish to repay the loan in part payments. Ad hoc part payments had been made in relation to almost 20% of loans notified to Revenue up to the end of 2018 that had become overdue.

Recommendation 5.2

Revenue should formalise instalment arrangements for repaying loans in order to monitor the repayments and ensure the loan is repaid before the 12-year deadline for recoupment.

Response of the Accounting Officer, Office of the Revenue Commissioners

Part agreed.

Revenue's experience is that only a limited set of cases is appropriate for a formal instalment arrangement. Revenue monitors cases paying by instalments.

Revenue will put in place a process to identify those cases which are coming close to the 12-year deadline to maximise the collection and recovery of amounts due before expiration of the deadline.

A manual system is currently in place and the most recent review was conducted in January 2020. An update to the current database to provide for systemised analysis is under consideration.

Appendices

Appendix A

Extracts from Nursing Home Support Scheme Act 2009 — sections relevant to charges for care

Charges in respect of care services

33. — (1) Notwithstanding any other statutory provision, charges may be made by the Executive in respect of the provision of care services within the meaning of *paragraph (a)(i)* of the definition of “long-term residential care services”.

(2) Following consultation with the Executive, the Minister shall lay before the Houses of the Oireachtas details of the goods and services which constitute care services within the meaning of *paragraph (a)(i)* of the definition of “long-term residential care services”.

(3) Charges in respect of care services within the meaning of *paragraph (a)(i)* of the definition of “long-term residential care services” which are provided by the Executive shall not exceed the cost of providing such services, which cost shall be determined by the Executive in accordance with *subsection (2)*.

(4) In determining the cost of care services in accordance with *subsections (2)* and *(3)*, the Executive —

(a) subject to *paragraph (b)*, shall include only the costs incurred by the Executive in relation to the provision of such care services, and

(b) shall not include costs which are not directly attributable to the provision of such care services except such costs which are prescribed, under regulations made under section 36, for the purposes of this paragraph.

(5) Charges in respect of care services within the meaning of *paragraph (a)(i)* of the definition of “long-term residential care services” in *section 3* which are provided on behalf of the Executive shall not exceed the cost incurred by the Executive in relation to the provision of such care services.

(6) Different charges may be made by reference to the class of care services provided and the cost of that class of care services as determined in accordance with *subsections (3)* to *(5)*.

(7) Charges under this section shall not be payable in respect of care services provided by the Executive or on behalf of the Executive to —

(a) a person under 18 years of age,

(b) a woman in respect of motherhood,

(c) a person detained involuntarily under the Mental Health Acts 1945 to 2001,

(d) a person who pursuant to section 2 of the Health (Amendment) Act 1996, in the opinion of the Executive, has contracted Hepatitis C directly or indirectly from the use of Human Immunoglobulin Anti-D or the receipt within the State of another blood product or a blood transfusion, or

(e) a person in respect of the treatment of diseases prescribed under Part IV of the Health Act 1947.

Designation by Minister of suitable person to negotiate agreements

40.— The Minister shall, as soon as is practicable, by notice in writing designate a person to negotiate with persons carrying on the business of a nursing home for the purposes of reaching an agreement referred to in *paragraph (a)(ii)* or *(b)(ii)* of the definition of “approved nursing home”.

Amendment of National Treatment Purchase Fund Board (Establishment) Order 2004

41.— (1) The National Treatment Purchase Fund Board (Establishment) Order 2004 (S.I. No. 179 of 2004) is amended —

(a) in Article 2, by inserting the following definitions:

“ ‘approved nursing home’ has the same meaning as in *the Nursing Homes Support Scheme Act 2009*;

‘long-term residential care services’ means long-term residential care services within the meaning of *paragraph (a)(ii)* of the definition of ‘long-term residential care services’ in *section 3(1)* of the *Nursing Homes Support Scheme Act 2009*;

‘nursing home’ has the meaning assigned to it by section 2 of the Health (Nursing Homes) Act 1990 and includes an institution referred to in section 2(1)(h) of that Act;”,

and

(b) in Article 4 — (i) by the inserting after paragraph (1)(b) the following subparagraph:

“(ba) to make arrangements with a person it considers to be appropriate, being a proprietor of a nursing home, relating to the price at which long-term residential care services will be provided by such person to persons requiring such services and who are in receipt of financial support under the Nursing Homes Support Scheme Act 2009;”,

(ii) by the inserting after paragraph (1) the following paragraphs:

“(1A) Arrangements referred to in paragraph (1)(ba) shall be subject to a condition that the nursing home is an approved nursing home or that the arrangements will not apply unless the nursing home becomes an approved nursing home.

(1B) Arrangements referred to in paragraph (1)(ba) shall be notified to the Health Service Executive who may publish such information relating to those arrangements as it considers appropriate.”, and

(iii) by inserting after paragraph (2) the following paragraph: “(3) In performing its functions under paragraph (1)(ba) the Board may examine the records and accounts of an approved nursing home or of a nursing home the proprietor of which proposes to enter into arrangements under paragraph (1)(ba).

Appendix B

Financial Assessment Documentary Evidence

Figure B.1 Comparison between Nursing Homes Support Scheme and Medical Card Scheme

Means type	Nursing Homes Support Scheme Evidence required ^a	Medical Card Scheme Evidence required ^a
Income		
DEASP pension/allowance benefit	○	● Recent An Post receipt or bank statement
Any other non-Irish Pension	○	● Relevant documentation from EEA State or Switzerland UK social welfare — letter from Department for Work and Pension UK detailing amount and frequency.
Employment, trade, profession/vocation	● Copy of payslip, P60 or P21.	● Most recent payslip Latest Revenue notice of assessment or notice of self assessment and a copy of last tax return acknowledged by Revenue
Rentals (in the State or otherwise)	○	● Tenancy agreement or bank statements
Holding an office or directorship	○	
Fees, commissions, dividends, interest etc.	○	● Statement from financial institution showing current balance on account
Payments under settlement, covenant, estate or in respect of maintenance	○	n/a
Income transferred from individual to another person within last five years	○	n/a
Farming/business income	● Revenue tax assessment and accounts for previous tax year	● Latest Revenue notice of assessment notice of self-assessment and a copy of last tax return acknowledged by Revenue
Allowable deductions		
Health expenses — doctors' fees, pharmacy costs, prescription charges etc.	○	● Medical bills or invoices and/or receipts
Interest on loans related to principal residence	○	n/a
Rent payments	○	● Up-to-date copy of tenancy agreement or rent book
Maintenance payments to another person	○	● Copy of current maintenance agreement or letter from person to whom payment is made confirming amount and frequency
Levies required by law e.g. property tax and water charges.	○	n/a
Borrowings in respect of principal residence	○	● Recent mortgage account statement or 3 months' recent bank statements showing mortgage payments
Cash assets		
Savings, deposit and current accounts	● Recent bank statements	● Statement from financial institution showing current balance on account
Stocks, shares, bonds, securities etc.	● Recent bank statements	● Statement from financial institution showing current balance on account
Money loaned to another person which is repayable	● Recent bank statements	n/a
Transferred assets in the last five years	● Recent bank statements	n/a
Other non-cash assets		
Principal residence (own or partly own)	● Current market valuation — certificate of market value from an auctioneer or a valuer	n/a
Loan (e.g. mortgage, life loan, credit union) repayments and outstanding balance on same	● Latest available loan statement	n/a
Non-cash assets (property/land) sold or transferred in last five years	○	n/a

Source: Analysis by Office of the Comptroller and Auditor General

Note: a ○ Not specified ● Specified

Appendix C

Client contribution and State support scenarios

Figure C.1 Single applicant with weekly income, cash assets and principal private residence

Scenario A: Tom is a single applicant, who owns his principal private residence, which has been valued at €120,000. He has an occupational pension of €285 per week, and savings of €48,000. His property tax liability amounts to €12 per week. Tom has decided not to avail of the loan facility. Tom's contribution to the cost of his care is calculated below.

Scenario B: Should Tom decide to avail of the loan facility, his contribution to the cost of his care would be calculated as set out below.

	Proportion	Scenario A — no loan		Scenario B — with loan	
		Year 1 to 3	Year 4 onwards	Year 1 to 3	Year 4 onwards
		€	€	€	€
Income after allowable expenses €285–€12 = €273	80%	218	218	218	218
Cash assets after deducting asset disregard (€48,000–€36,000)/52 = €231	7.5%	17	17	17	17
Principal residence €120,000/52 = €2,308	7.5%	173	—	—	—
Resident contribution		408	235	235	235
Public nursing Home					
Cost of care		1,593	1,593	1,593	1,593
Resident contribution		408	235	235	235
HSE contribution		1,185	1,358	1,185	1,358
Scheme loan*		—	—	173	—
Private nursing home					
Agreed price		941	941	941	941
Resident contribution		408	235	235	235
HSE contribution		533	706	533	706
Scheme loan*		—	—	173	—

*The loan amount accrues at a weekly rate equivalent to the weekly charge on property assets. The loan on the principal private residence ceases to accumulate after three years, therefore the maximum loan to be repaid — €26,988.

Figure C.2 Joint applicant with weekly income, cash assets and principal private residence

Scenario C: Nuala and John are a married couple. John is applying for the Nursing Home Support Scheme but Nuala will be remaining in the family home. The couple have a combined weekly income of €570 and savings of €48,000. They own their principal private residence which is worth €120,000, and their property tax liability amounts to €12 per week. John has decided not to avail of the loan facility. John's contribution to the cost of his care is set out below.

Scenario D: Should John decide to avail of the loan facility, his contribution to his care costs would be calculated as set out below.

	Proportion	Scenario C — no loan		Scenario D — with loan	
		Year 1 to 3 €	Year 4 onwards €	Year 1 to 3 €	Year 4 onwards €
Income after allowable expenses €570–€12 = €558	40%	223	223	223	223
Cash assets after deducting asset disregard €48,000–€72,000 = nil	3.75%	—	—	—	—
Principal residence after deducting remaining asset disregard (€120,000–€24,000)/52 = €1,846	3.75%	69	—	—	—
Resident contribution		292	223	223	223
Public nursing home					
Cost of care		1,593	1,593	1,593	1,593
Resident contribution		292	223	223	223
HSE contribution		1,301	1,370	1,301	1,370
Scheme loan*		—	—	69	—
Private nursing home					
Cost of care		941	941	941	941
Resident contribution		292	223	223	223
HSE contribution		649	718	649	718
Scheme loan*		—	—	69	—

*The loan amount accrues at a weekly rate equivalent to the weekly charge on property assets. The loan on the principal private residence ceases to accumulate after three years, therefore the maximum loan to be repaid — €10,764.

Figure C.3 Single applicant with weekly income, cash assets, principal private residence and other relevant property assets

Scenario E: Mary is a single applicant, who owns her principal private residence, which has been valued at €120,000. She has an occupational pension of €285 per week, and savings of €48,000. Mary also has a property worth €250,000 which is rented to private tenants at a rate of €250 per week. She has an outstanding mortgage balance on this property of €30,000. Her property tax liability on both properties amounts to €35 per week. Mary has decided not to avail of the loan facility. Mary's contribution to the cost of her care is calculated below.

Scenario F: Should Mary decide to avail of the loan facility, on her residence and property asset, her contribution to the cost of her care would be calculated as set out below.

	Proportion	Scenario E—no loan		Scenario F—with loan	
		Year 1 to 3	Year 4 onwards	Year 1 to 3	Year 4 onwards
		€	€	€	€
Income after allowable expenses €285+€250–€35 = €500	80%	400	400	400	400
Cash assets after deducting asset disregard (€48,000–€36,000)/52 = €231	7.5%	17	17	17	17
Principal private residence 120,000/52 = €2,308	7.5%	173	—	—	—
Other relevant property assets, after deducting borrowings (250,000–30,000)/52 = €4,231	7.5%	317	317	—	—
Resident contribution		907	734	417	417
Public nursing home					
Cost of care		1,593	1,593	1,593	1,593
Resident contribution		907	734	417	417
HSE contribution		686	859	686	859
Scheme loan*		—	—	490	317
Private nursing home					
Agreed price		941	941	941	941
Resident contribution		907	734	417	417
HSE contribution		34	207	34	207
Scheme loan*		—	—	490	317

*The loan amount accrues at a weekly rate equivalent to the weekly charge on property assets. The loan on the principal private residence ceases to accumulate after three years, therefore the maximum loan to be repaid on this asset will amount to €26,988. However the loan on other relevant property assets will continue to accrue at a rate of €317 per week until the resident leaves the nursing home.

Figure C.4 Joint applicant with weekly income, cash assets, principal private residence and other relevant assets

Scenario G: Pat and Joan are a co-habiting couple. Pat is applying for the Scheme, while Joan will be remaining at home. They own their principal private residence, which has been valued at €120,000. They have a combined pension income of €570 per week, and savings of €48,000. They also have a property worth €250,000 which is rented to private tenants at a rate of €250 per week. They have an outstanding mortgage balance on this property of €30,000. Their property tax liability on both properties amounts to €35 per week. Pat has decided not to avail of the loan facility. Pat's contribution to the cost of her care is calculated below.

Scenario H: Should Pat decide to avail of the loan facility, on their residence and their property asset, the contribution to the cost of her care would be calculated as set out below.

	Proportion	Scenario G — no loan		Scenario H — with loan	
		Year 1 to 3	Year 4 onwards	Year 1 to 3	Year 4 onwards
		€	€	€	€
Income after allowable expenses (€570+€250–€35) = €785	40%	314	314	314	314
Cash assets after deducting asset disregard (€48,000 – €72,000)= nil	3.75%	—	—	—	—
Principal private residence (€120,000)/52 = €2,308	3.75%	87	—	—	—
Other relevant property assets, after deducting borrowings, and asset disregard balance (€250,000–€30,000–€24,000)/52 =€3,769	3.75%	141	141	—	—
Resident contribution		542	455	314	314
Public nursing home					
Cost of care		1,593	1,593	1,593	1,593
Resident contribution		542	455	314	314
HSE contribution		1,051	1,138	1,051	1,138
Scheme loan*		—	—	228	141
Private nursing home					
Agreed price		941	941	941	941
Resident contribution		542	455	314	314
HSE contribution		399	486	399	486
Scheme loan*		—	—	228	141

*The loan amount accrues at a weekly rate equivalent to the weekly charge on property assets. The loan on the principal private residence ceases to accumulate after three years, therefore the maximum loan to be repaid on this asset will amount to €13,572. However, the loan on other relevant property assets will continue to accrue at a rate of €141 per week until the resident leaves the nursing home.

