

Chapter 12

Department of Social and Family Affairs

12.1 Overpayments

The Department of Social and Family Affairs (the Department) administers some 50 welfare schemes paid through Vote 38 and the Social Insurance Fund. Expenditure on all schemes was over €15 billion in 2007. The pattern of expenditure since 2003 analysed between insurance and assistance schemes is set out Table 35.

Tables 35, 36 and 37 outline overall expenditure on various schemes over the period 2003 to 2007, and for the same period, the amounts recorded as overpayments, the amounts of overpayments attributed to fraud or suspected fraud and the Department's cumulative record of recovery since 2003.

Table 35 Scheme Expenditure

	2003 €m	2004 €m	2005 €m	2006 €m	2007 €m	Rate of Increase 2006-2007
Social Insurance	4,649	5,081	5,460	6,106	7,008	15%
Social Assistance	5,460	5,821	6,296	7,019	8,004	14%
All Welfare Payments	10,109	10,902	11,756	13,125	15,012	14%

The Accounting Officer stated that the main reasons for the increased insurance and assistance costs in 2007 over 2006 were

- a trend increase in the number of recipients
- the additional cost in 2007 of Budget 2006 improvements
- the cost of Budget 2007 improvements.

The amounts recorded by the Department as having been overpaid totalled €50.3m in 2007, an increase of 28% since 2003.

Table 36 Number and Amount of Gross Overpayments Recorded for Recovery (Numbers shown in brackets)

	2003 €m	2004 €m	2005 €m	2006 €m	2007 €m
Social Insurance	10.60 (26,174)	12.12 (26,131)	11.02 (22,420)	11.20 (21,529)	17.71 (26,251)
Social Assistance	28.77 (17,459)	44.85 (20,000)	36.24 (17,126)	34.02 (18,216)	32.82 (20,152)
Total	39.37 (43,633)	56.97 (46,131)	47.26 (39,546)	45.22 (39,745)	50.53 (46,403)

In response to my inquiry in regard to the Department's systems for capturing and recording overpayments the Accounting Officer assured me that she was satisfied that, subject to finalising data clean-up and the implementation of some remaining functionality, the overpayment recording systems are comprehensive and accurate.

Overpayments classified as attributable to fraud or suspected fraud at €21.4m constituted 42% of all overpayments in 2007.

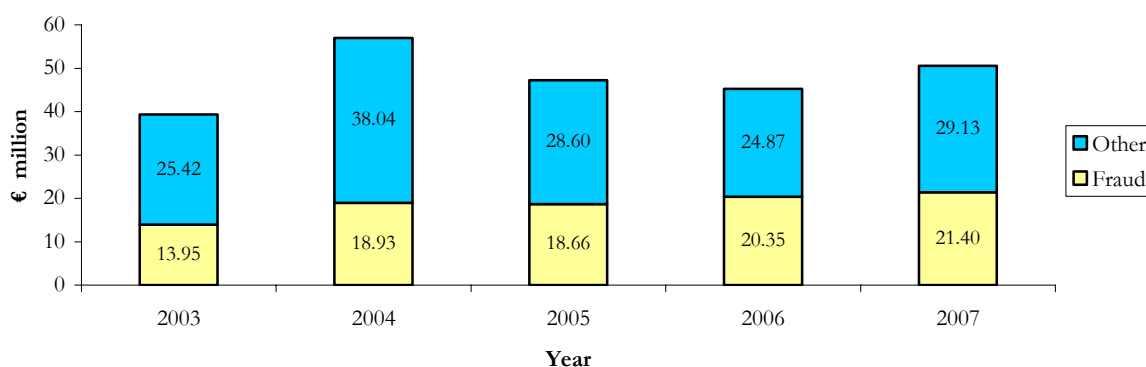
Table 37 Number and Amount of Overpayments Attributed to Fraud^(a) or Suspected Fraud (Numbers shown in brackets)

	2003	2004	2005	2006	2007
	€m	€m	€m	€m	€m
Social Insurance	5.07 (9,606)	6.24 (10,771)	5.53 (8,587)	5.16 (7,877)	6.26 (8,304)
Social Assistance	8.88 (7,148)	12.69 (8,483)	13.13 (7,758)	15.19 (8,950)	15.14 (9,808)
Total	13.95 (16,754)	18.93 (19,254)	18.66 (16,345)	20.35 (16,827)	21.40 (18,112)

^(a) Estate cases where undisclosed means come to light are not classified as fraud/suspected fraud. The amount of overpayments recorded in respect of 301 estate cases in 2007 was €6.72m.

The percentage of overpayments recorded each year which were attributed to fraud or suspected fraud has varied considerably over the period 2003 to 2007 as indicated in Figure 1.

Figure 1



The Department's record of recovery of overpayments during the period 2003 to 2007 is shown in Table 38.

Department of Social and Family Affairs

Table 38 Department's Record of Recovery of Overpayments 2003 to 2007

	2003	2004	2005	2006	2007
	€000	€000	€000	€000	€000
Overpayments not disposed of at 1 January	70,621	85,953	115,993	131,250	149,540
Migration of amounts previously written off ^(a)	–	–	–	–	44,411
Amounts previously omitted from the balance ^(b)	–	–	–	–	17,204
Overpayments recorded for recovery	39,367	56,967	47,261	45,219	50,527
<i>Less</i>					
Overpayments recorded in prior years cancelled	(381)	(693)	(1,826)	(129)	(1,400)
Net amounts written off as irrecoverable	<u>(6,736)</u>	<u>(6,396)</u>	<u>(10,217)</u>	<u>(4,259)</u>	<u>(4,328)</u>
Net amount recoverable	102,871	135,831	151,211	172,081	255,954
Cash recoveries and sums withheld	(16,918)	(19,838)	(19,961)	(22,541)	(23,884)
Overpayments not disposed of at 31 December	85,953	115,993	131,250	149,540	232,070

^(a) The €44m consists of amounts previously written off for accounting purposes, now identified as potentially recoverable.

^(b) The €17m consists of previously unrecorded overpayments in prior years now considered potentially recoverable.

Of the €232.07m overpayments outstanding at 31 December 2007 - €31.30m dates from 2007; €26.06m from 2006; €27.11m from 2005 and €147.60m from earlier years.

Table 39 Cash Recoveries and Sums Withheld

	2003	2004	2005	2006	2007
	€000	€000	€000	€000	€000
Sums recovered in cash	10,397	11,506	11,246	12,032	12,632
Sums withheld from current entitlements	6,521	8,332	8,715	10,509	11,252
Total	16,918	19,838	19,961	22,541	23,884

12.2 Prosecutions

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

During 2007, 357 criminal cases (2006 - 348 cases) were forwarded to the Chief State Solicitor's Office (CSSO) for prosecution, the details of which are shown in Table 40. 44 cases were not deemed suitable for prosecution (2006 - 45 cases) due to the elapse of time since the offence was committed.

Table 40 Criminal cases forwarded to the CSSO

	2007	2006
Jobseeker's Allowance ^(a)	184	169
Jobseeker's Benefit ^(b)	124	113
Illness Benefit ^(c)	9	20
Disability Allowance	5	0
One Parent Family Payment	8	16
Other Schemes ^(d)	7	7
Offences Committed by Employers	13	21
Obstruction of inspectors	7	2
Total	357	348

^(a) Unemployment Assistance was renamed Jobseeker's Allowance from October 2006.

^(b) Unemployment Benefit was renamed Jobseeker's Benefit from October 2006.

^(c) Disability Benefit was renamed Illness Benefit from October 2006.

^(d) Includes 4 cases involving persons using PPS numbers other than their own. (2006 - 6 cases) In addition there were a further 10 cases of misuse of PPS numbers (9 Jobseeker's Allowance and 1 Disability Allowance) where the person was concurrently claiming a welfare payment usually using his/her PPS number while working under a different PPS number. These cases are included in the relevant scheme figure numbers.

A total of 222 criminal prosecutions (2006 – 256 prosecutions) involving social welfare recipients were brought to court in 2007. In these cases the total amount of overpayments of persons who attempted to or obtained welfare payments fraudulently was €1,597,688 (2006 - €1,524,435). The results of these 222 court cases and the penalties imposed are given in Table 41.

At the end of 2007, the CSSO and local state solicitors had 882 criminal cases on hands at various stages of the prosecution process.

Table 41 Results of Criminal Court Cases involving Social Welfare Recipients

	Jobseekers Allowance	Jobseekers Benefit	Illness Benefit	One Parent Family Payments	Other ^(a)	Total
Fined ^(b)	53	39	6	5	4	107
Community Service	4	2	0	1	0	7
Imprisoned	7	3	0	1	1	12
Probation Act	19	25	6	1	0	51
Suspended Sentence	11	7	1	2	1	22
Struck-out	3	4	0	2	1	10
Bound to the Peace	3	1	0	0	0	4
Liberty to re-enter	1	6	0	0	0	7
Withdrawn	0	0	1	0	1	2
Total	101	87	14	12	8	222

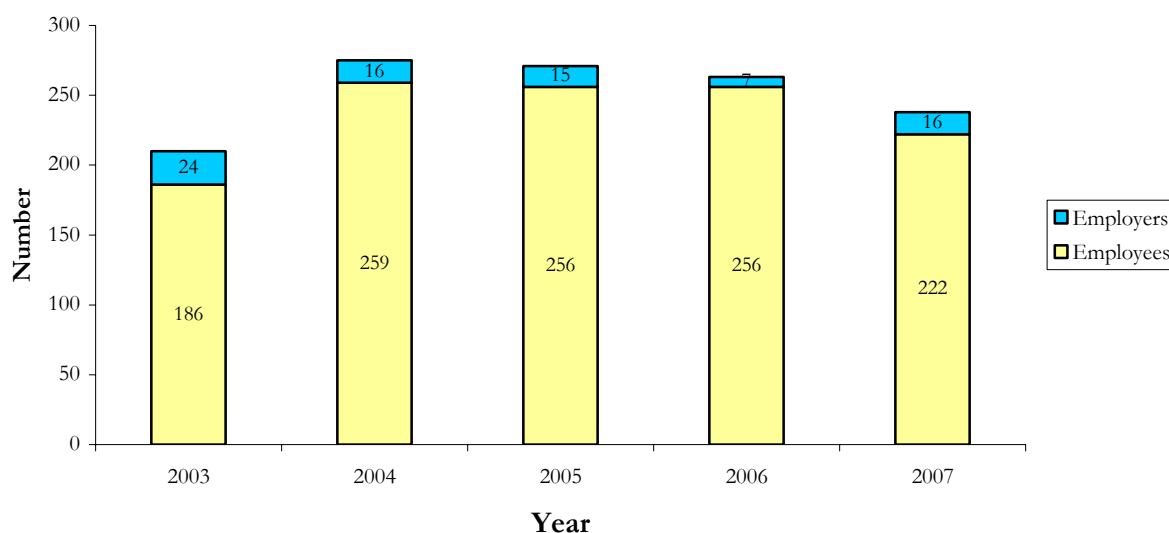
(a) Other 8: Carers Allowance 1, Widow's Contributory Pension 1 and misuse of PPS numbers 6.

(b) Fines to the value of €88,750 were imposed by the courts. Three who received suspended prison sentences were also fined. (€72,321 in 2006 in 99 cases).

Prosecutions of sixteen cases involving employers (2006 – seven employers) were also finalised with ten being fined,³⁹ four struck out and two given the benefit of the Probation Act.

The number of prosecutions dealt with by the courts since 2003 is summarised in Figure 2.

Figure 2



³⁹ Fines to the value of €8,160 were imposed by the courts (€3,500 in 2006 in six cases).

Between 2003 and 2007 the Department sent a total of 61 scheme and employer civil cases to the CSSO for the pursuit of civil proceedings. In this period, 66 cases (including pre-2003 cases) have been finalised. The breakdown per year is set out in Table 42.

Table 42 Civil cases sent to the CSSO

	2003	2004	2005	2006	2007	Total
Sent to CSSO in the year	21	17	13	8	2	61
Finalised in the year	14	12	21	13	6	66

Of the 66 cases finalised, settlement was reached in nine cases without going to court (this involved recovery of €112,002), six were finalised in court (four decrees awarded and two instalment orders granted), 18 cases were not pursued due to the circumstances of the debtor, nine cases were statute barred and 24 made arrangements to repay the debts in instalments. There are 81 cases that have yet to be finalised.

12.3 Subvention to the Pensions Board

Personal Retirement Savings Accounts (PRSAs) were introduced by the Pensions (Amendment) Act, 2002. A PRSA is an investment for long-term retirement provision and is a contract between an individual and an authorised provider. The Pensions Board (the Board) supervises the activities of providers and monitors compliance with legislation. The Board is, in the main, self-financing through fees levied on occupational pension schemes and PRSA providers. Annual fees charged to PRSA providers are based on the number of products registered with the Board and assets under management.

Since 2001, the estimate for the Department of Social and Family Affairs (the Department) has made provision for the payment to the Board of a recoverable subvention to finance the regulation of PRSAs. This was designed to cover the development and ongoing regulation costs. In all, a total of €8.1m has been paid by the Department to the Board since 2001, of which €1.1m was paid in 2007.

Take up of PRSAs

The volume of PRSAs has grown steadily since their introduction. However it has fallen short of the levels envisaged when the scheme was initiated. The take up over the period 2003 to 2007 is shown in Table 43.

Table 43 PRSAs 2003 to 2007

Year	Number of PRSAs at Year End
2003	19,022
2004	46,257
2005	68,257
2006	95,045
2007	130,709

The amounts levied by the Board in respect of PRSA supervision to the end of 2007 amounted to a total of €1.7m.

Pensions Board Annual Accounts Information

Over the period 2001 to 2007 the Board have accumulated considerable reserves. Details of its annual surplus, year end bank balance and revenue reserve for that period are shown in Table 44.

Table 44 Pensions Board Financial Information 2001-2007

Year	Surplus €	Year End Bank Balance €	Revenue Reserve €
2001	(236,311)	(254,586)	719,911
2002	418,289	534,893	1,078,662
2003	1,470,775	1,674,551	2,499,437
2004	1,405,684	3,297,861	3,905,121
2005	861,410	4,296,500	4,766,531
2006	965,004	5,204,969	5,731,535
2007	745,298	5,856,314	6,476,833

Write Off of Amounts Paid

In 2007, the Department sought sanction from the Department of Finance to write off the entire amount, €8.1m, of the recoverable subvention paid. The write off was sanctioned by the Department of Finance in January 2008 and is noted in the Appropriation Account.

Audit Concern

Taking account of the accumulated reserves I queried the decision to write off the recoverable subvention. I also sought assurance that the Department's monitoring of the Boards fee structures was adequate to ensure that excess levies were not imposed.

Response of Accounting Officer

In relation to the PRSA subvention, the Accounting Officer stated that, given the manner in which the Board is financed, the introduction of some type of temporary subvention was appropriate to cover the development and regulatory costs of PRSAs supervision until such time as an adequate fee base was created. However, the numbers investing in PRSAs had not grown at a rate that would generate sufficient fee income to cover the cost of this activity within any kind of reasonable timescale. It had been envisaged when the subvention was introduced that any refund would only be made from the excess, if any, of fees paid to the Board by PRSA providers. At present the accumulated PRSA fee income of €1.7m is still a long way short of covering ongoing PRSA costs which, in the period 2001 to 2007, amounted to approximately €9.9m. In such circumstances, it was not considered appropriate that the Board should be asked to refund the subvention paid.

In regard to the overall financing of the Board, the Department has reviewed the situation. Its priority is to ensure that the Board was restored to a self-financing basis as soon as possible and, accordingly, it decided with the agreement of the Department of Finance, to discontinue payment of the subvention.

In regard to how the Board had accumulated such a large cash balance and whether it was considered appropriate that the Board should retain it, she informed me that, in deciding on its fee structure, the Board aims to provide a degree of certainty to pension schemes as to their liabilities in the short to medium term. Accordingly, the Board set a fee that initially generated an accumulated surplus followed by a deficit until reserves reach a point where it is considered a fee increase is again required. Normally, the cycle would be expected to run for five years. Fees charged to occupational schemes were last reviewed in 2002 and, in the normal course of events, it would have been expected that the situation would need to be looked at again in 2007. However, the cash balance has remained favourable because the number of new schemes registering with the Board and overall scheme membership had been growing as a result of improved employment conditions throughout the economy and due to a proactive campaign to cleanup the Board's scheme register that had led to the collection of significant arrears.

She further stated that the Board, through its Finance and Audit Sub-Committee, reviews its financing on a regular basis. It was currently in the process of examining the fee structure and obviously, cash balances built up in recent years will be considered as part of that review. On an ongoing basis the Board closely monitors its requirements as part of its budgetary process. The current cash balance is an important consideration in any such examination and it is projected that it will, in the short-term, be progressively reduced. She informed me that the Department is represented on the Board itself and on its Finance and Audit Committee. She was satisfied that this representation ensures that the Department is aware of issues of concern that arise from time to time. The question of cash balances has been the subject of discussions and has informed the Department's attitude to arrangements in relation to fees and the financing of major policy projects. The Board had yet to submit its proposals to the Department in

respect of its future financing arrangements. Any such proposals would take account of a number of factors including

- the loss of the PRSA subvention
- the results of an application to the Department for increased staffing on foot of a review of its regulatory approach and activities undertaken
- the cash balances held by the Board.

Conclusion

Due to a lower than anticipated take-up of PRSAs the Department has had to subvent the supervisory facilities of the Pensions Board to the extent of €8.1m in the last five years. At the same time, the Board had considerable reserves. A more regular review of the fee structures of the Board is warranted with a view to establishing the contributions from each part of the pension industry at the optimum level taking account of supervision resource demands.