

Chapter 32 Department of Social and Family Affairs

Recording and Recovery of Welfare Overpayments

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32.1 The monitoring, review and control activities of the Department are designed to identify payments in excess of entitlement as outlined in Chapter 30. However, the Department does not necessarily raise overpayments in respect of all detected instances of unjustified payments.

32.2 The Department's recording of raised overpayments, their recovery and the prosecution of fraud and abuse cases is described below.

Overpayments

32.3 The Department administers some 50 welfare schemes paid through Vote 38 and the Social Insurance Fund. Expenditure on all schemes was over €17.3 billion in 2008. The pattern of expenditure since 2006 analysed between insurance and assistance schemes is set out in Figure 106.

Figure 106 Scheme Expenditure 2006-2008

	2006	2007	2008	Rate of Increase 2007-2008
	€m	€m	€m	%
Social Insurance	6,103	7,008	8,142	16.2
Social Assistance	7,017	8,004	9,156	14.4
All Welfare Payments	13,120	15,012	17,298	15.2

32.4 The amount recorded by the Department as having been overpaid totalled €55.6 million in 2008, an increase of 23% since 2006. Figure 107 sets out the details.

Figure 107 Number and Amount of Gross Overpayments Recorded for Recovery

	2006		2007		2008	
	No. of Cases	Amount €m	No. of Cases	Amount €m	No. of Cases	Amount €m
Social Insurance	21,529	11.20	26,251	17.71	29,492	18.5
Social Assistance	18,216	34.02	20,152	32.82	19,609	37.1
Total	39,745	45.22	46,403	50.53	49,101	55.6

32.5 Overpayments classified as attributable to fraud or suspected fraud at €21.1 million constituted 38% of all overpayments in 2008. Figure 108 sets out the details.

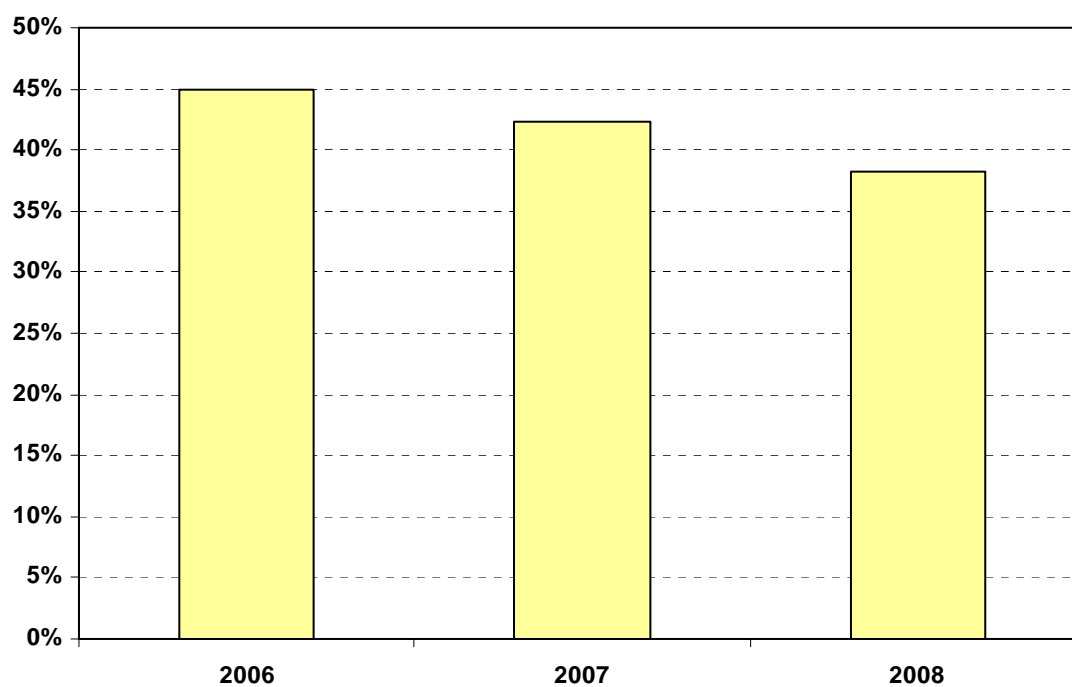
Figure 108 Number and Amount of Overpayments Attributed to Fraud^a or Suspected Fraud

	2006		2007		2008	
	No. of Cases	Amount €m	No. of Cases	Amount €m	No. of Cases	Amount €m
Social Insurance	7,877	5.16	8,304	6.26	9,991	7.05
Social Assistance	8,950	15.19	9,808	15.14	8,347	14.08
Total	16,827	20.35	18,112	21.40	18,338	21.13

Note:

- a Estate cases where undisclosed means come to light are not classified as fraud/suspected fraud. The amount of overpayments recorded in respect of 294 estate cases in 2008 was €7.2 million.

32.6 The percentage of overpayments recorded each year which were attributed to fraud or suspected fraud has varied considerably over the period 2006 to 2008 as indicated in Figure 109.

Figure 109 Overpayments Attributed to Fraud or Suspected Fraud

Recovery

32.7 The Department's record of recovery of overpayments during the period 2006 to 2008 is shown in Figure 110.

Figure 110 Department's Record of Recovery of Overpayments 2006 to 2008

	2006	2007	2008
	€000	€000	€000
Overpayments not Disposed of at 1 January	131,250	149,540	232,070
Migration of Amounts Previously Written Off ^a	—	44,411	-
Amounts Previously Omitted from the Balance ^b	—	17,204	-
Prior Year Adjustments ^c			1,820
Overpayments Recorded for Recovery	45,219	50,527	55,580
Less			
Overpayments Recorded in Prior Years Cancelled	(129)	(1,400)	(1,106)
Net Amount Written Off as Irrecoverable	<u>(4,259)</u>	<u>(4,328)</u>	<u>(4,864)</u>
Net Amount Recoverable	172,081	255,954	283,500
Cash Recoveries and Sums Withheld	(22,541)	(23,884)	(26,946)
Overpayments not Disposed of at 31 December	149,540	232,070	256,554

Notes:

- a The €44 million consists of amounts previously written off for accounting purposes, now identified as potentially recoverable.
- b The €17 million consists of previously unrecorded overpayments in prior years now considered potentially recoverable.
- c The amount of €1.82 million arises due to the correction of some technical anomalies in the overpayments and debt management system during 2008.

32.8 Of the €256.6 million overpayments outstanding at 31 December 2008, €37.5 million dates from 2008, €4.9 million from 2007, €23.9 million from 2006 and €170.3 million from earlier years.

Figure 111 Cash Recoveries and Sums Withheld

	2006	2007	2008
	€000	€000	€000
Sums recovered in cash	12,032	12,632	15,649
Sums withheld from current entitlements	10,509	11,252	11,297
Total	22,541	23,884	26,946

Prosecutions

32.9 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.

32.10 During 2008, 354 criminal cases (2007 - 357 cases) were forwarded to the Chief State Solicitor's Office (CSSO) for prosecution, the details of which are shown in Figure 112. 20 cases were not deemed suitable for prosecution (2007 - 44 cases) due to the elapse of time since the offence was committed.

Figure 112 Criminal Cases Forwarded to the CSSO

	2007	2008
Jobseeker's Allowance	184	183
Jobseeker's Benefit	124	140
Illness Benefit	9	9
Disability Allowance	5	6
One Parent Family Payment	8	4
Other ^a	7	7
Offences Committed by Employers	13	5
Obstruction of Inspectors	7	0
Total	357	354

Note:

- a Includes three cases involving persons using PPS numbers other than their own (2007 - four cases). In addition there were a further six cases of misuse of PPS numbers (five Jobseeker's Allowance and one 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.

32.11 A total of 309 criminal prosecutions (2007 – 222 prosecutions) involving social welfare recipients were finalised in court in 2008. In these cases the total amount of overpayments of persons who attempted to or obtained welfare payments fraudulently was €1,948,914 (2007 - €1,597,688). The results of these 309 court cases and the penalties imposed are given in Figure 113.

32.12 At the end of 2008, the CSSO and local state solicitors had 889 criminal cases on hands at various stages of the prosecution process.

Figure 113 Results of Criminal Court Cases involving Social Welfare Recipients

	Jobseekers Allowance	Jobseekers Benefit	Illness Benefit	One Parent Family Payment	Other ^a	Total
Fined ^b	102	75	12	6	4	199
Community Service	4	3	1	1	0	9
Prison Sentences	2	0	0	0	0	2
Probation Act	18	18	4	3	1	44
Suspended Sentence	8	9	1	1	0	19
Struck-out	11	3	1	0	2	17
Bound to the Peace	1	0	0	0	0	1
Liberty to Re-enter	6	8	2	0	1	17
Withdrawn	1	0	0	0	0	1
Total	153	116	21	11	8	309

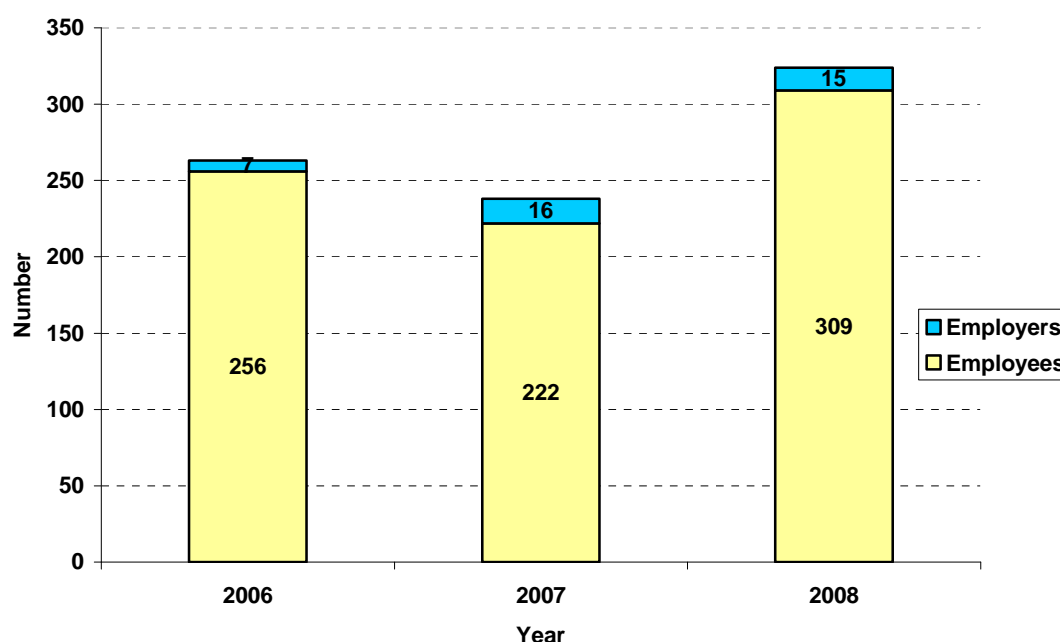
Notes:

- a Other: Widow's/Widower's Contributory Pension 1; Widow's/Widower's Non-Contributory Pension 1; obstruction 2; and misuse of PPS numbers 4.
- b Fines to the value of €111,110 were imposed by the courts. One who received a suspended prison sentence was also fined (€88,750 in 2007 in 110 cases).

32.13 Prosecutions of fifteen cases involving employers (2007 – 16 employers) were also finalised with nine being fined⁹⁵, three struck out, one withdrawn and two given the benefit of the Probation Act.

32.14 The number of prosecutions dealt with by the courts since 2004 is summarised in Figure 114.

Figure 114 Number of Prosecutions dealt with by the Courts since 2004



32.15 Between 2004 and 2008, the Department's Central Prosecution Service considered a total of 93 scheme and employer civil cases for civil proceedings. This figure does not include cases examined in scheme sections but not referred to the Central Prosecution Service. 42 employer and scheme civil cases were sent to the CSSO for the pursuit of civil proceedings. In this period, 100 cases (including pre-2004 cases) have been finalised. The breakdown per year is set out in Figure 115.

Figure 115 Civil Cases sent to the CSSO

	2006	2007	2008	Total
Considered for civil proceedings	9	8	23	93
Sent to CSSO in the year	8	2	2	42
Finalised in the year	13	6	48	100

32.16 Of the 100 cases finalised, settlement was reached in eight cases without going to court (this involved recovery of €18,024), five were finalised in court (three decrees awarded and two instalment orders granted), 31 cases were not pursued due to the circumstances of the debtor, 15 cases were statute barred and 41 made arrangements to repay the debts in instalments. There are 58 cases that have yet to be finalised.

⁹⁵ Fines to the value of €6,450 were imposed by the courts (€3,160 in 2007 in ten cases).

