

## 16 Recovery of welfare overpayments

- 16.1** The Department of Social Protection (the Department) makes weekly or monthly social welfare payments to around two million claimants. Welfare scheme expenditure totalling €23.9 billion in 2022 was funded through the Vote for Social Protection and the Social Insurance Fund (SIF).
- 16.2** Welfare overpayments arise where a claimant receives a payment to which they are not entitled or the level of payment they receive exceeds their entitlement. Chapter 15 examines how overpayments can arise and the Department's processes to identify and quantify the level of overpayment debt.
- 16.3** At 31 December 2022, the Department had total outstanding debt of €495 million related to welfare scheme overpayments to claimants. The Department is obliged under legislation to make every effort to recover such overpayments in full and to determine the method and rate of repayment, which may take the form of a lump sum payment or periodic payments.<sup>1</sup> When determining the method and rate of repayment of an overpayment debt, the Department takes into account
- the amount of the overpayment and the circumstances in which it arose, and
  - any facts or circumstances relevant to the recovery which have come to the attention of the Department.
- 16.4** This report focuses on
- the Department's debt recovery process, including guidance to staff and claimants
  - trends in overpayments recovered, written off and outstanding
  - legal enforcement to recover overpayments
  - analysis of debts written-off in recent years
  - other issues relating to overpayments.
- 16.5** The examination only reviewed the management of debts arising from mainstream welfare scheme overpayments to claimants. It did not examine management of other debt that the Department may raise, such as for the redundancy and insolvency scheme, or debt associated with the temporary Covid-related schemes (Temporary Wage Subsidy Scheme or Employment Wage Subsidy Scheme) administered by Revenue.
- 16.6** The examination reviewed key documents and data produced by the Department and interviewed relevant members of the Department's staff. The examination also reviewed a sample of debts written-off in 2022 to assess compliance with the Department's policy.
- The Department's debt recovery process**
- 16.7** The Department's *Compliance and Anti-fraud Strategy* sets out the steps it takes to combat social welfare fraud and payment error, including to deter non-compliance through the recovery of overpayments and prosecution of cases of fraud.<sup>2</sup>

<sup>1</sup> Statutory Instrument Number 142 of 2007, Article 243.

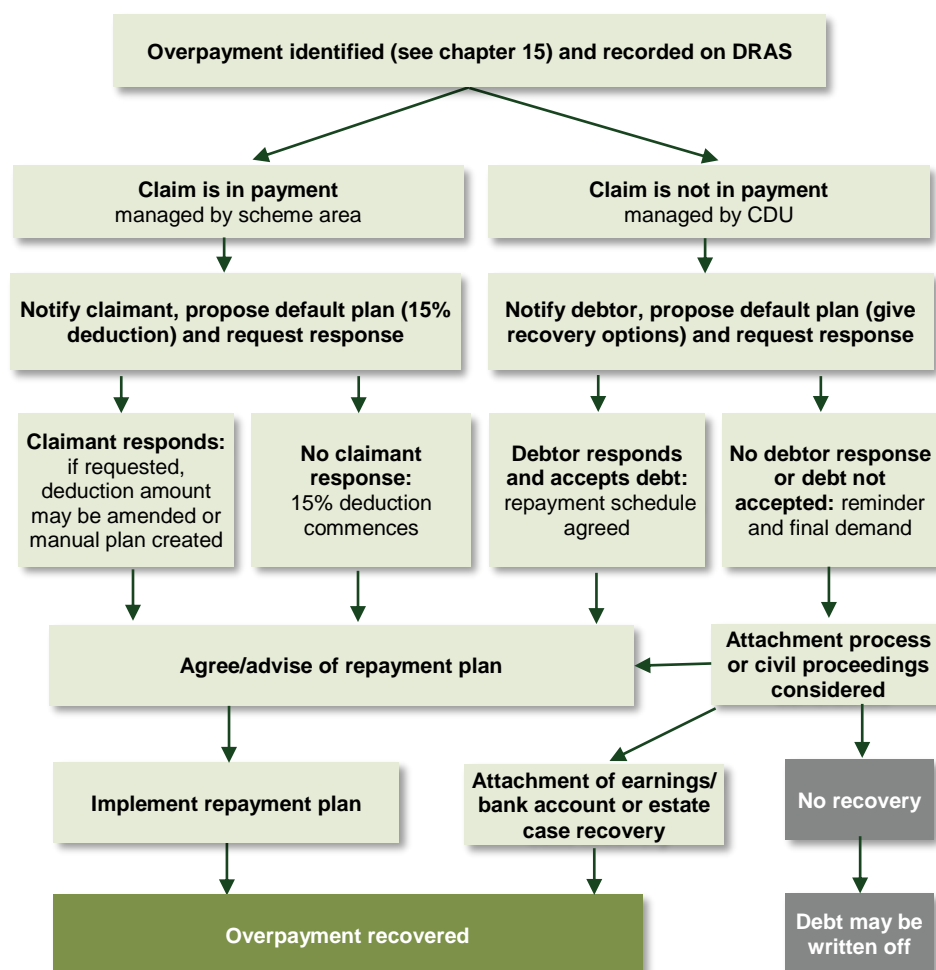
<sup>2</sup> The Compliance and Anti-fraud Strategy for 2019 to 2023 has four pillars

- to prevent fraud and error from entering the system, including through the provision of customer information
- to deter non-compliance, by the investigation of claims, overpayment recovery, and prosecution, supported by staff training and quality assurance processes
- to detect instances of suspected fraud and error as quickly as possible, incorporating frequent claim reviews
- to have appropriate governance and oversight arrangements in place.

- 16.8** Amounts of overpayment debts are recorded and recovery actions are managed on the Department's Debt and Receipts Accounting System (DRAS). The system automates many aspects of the processes to recover overpayments and to communicate with debtors.
- 16.9** The recovery of an overpayment is limited to the cash amount identified as having been overpaid. The Department cannot apply fines or interest charges, irrespective of the reason for the overpayment. A claimant may only incur additional costs where a civil or criminal prosecution is pursued.
- 16.10** There are several methods that the Department can use — individually or in combination — to recover debt, including
- deduction from ongoing and future social welfare payments<sup>1</sup>
  - deduction from arrears or payments under other schemes
  - receipt of a lump sum
  - regular or instalment payments
  - attachment of earnings
  - recovery from the estate of a deceased claimant.
- 16.11** The Department's approach to each individual debt recovery is primarily dictated by whether the claimant is currently in receipt of a social welfare payment (referred to as 'in payment'). Figure 16.1 summarises the overpayment recovery process.
- 16.12** The Central Debt Unit (CDU) is responsible for coordinating the implementation of the debt recovery strategy in the Department, monitoring its operation and reporting in respect of claimant debt matters. Under the debt recovery strategy, CDU is solely responsible for pursuing the recovery of overpayments from claimants no longer receiving a payment from the Department. Scheme areas manage the recovery of overpayments where claimants are in receipt of payments.

<sup>1</sup> Legislation allows the Department to recover overpayments by deducting up to 15% of the personal rate from ongoing and future claims in payment. The 15% deduction cannot be applied to additional payments, for example for qualifying adults or children, even if the overpayment arose due to those additional payments. Overpayments are not deducted from the child benefit payment, unless that scheme was the cause of the overpayment.

Figure 16.1 Overpayment recovery process



Source: Department of Social Protection

### Guidance for staff and claimants

- 16.13** The debt management process is relatively complex. Usefully, the Department has published guidance both for its own staff, and for welfare claimants, in relation to the recovery of overpayments.

#### Guidance for staff

- 16.14** The Department's latest guidance for staff on the management of claimant overpayments and the recovery of debt was updated in February 2023. The guidance addresses the process of raising an overpayment on DRAS; factors to consider when deciding whether an overpayment is due to claimant error, official error or suspected fraud; considerations for writing down or cancelling debt; the debt recovery process and managing estate cases.
- 16.15** The guidance is comprehensive, including references and links to supplemental information, forms, and training modules to support staff with the application of guidelines. Deciding officers are required to exercise judgement when applying these policies, so the documentation of the rationale for decisions is key.

- 16.16** In 2019, the Department's Control Division commenced conducting 'roadshow' events to educate control staff on the proper procedures for raising overpayments, documentation required and use of the DRAS system.<sup>1</sup>

### *Guidance to claimants*

- 16.17** Guidance on the Department's management of overpayment debt is available to all claimants through various social media channels, and information is sent to claimants as part of correspondence in relation to an overpayment.<sup>2</sup> In general, the guidance is comprehensive, but the guidance in relation to estate cases may be perceived as ambiguous.<sup>3</sup>

### *Collection of debt — good practice guidance*

- 16.18** The Department of Public Expenditure, National Development Plan Delivery and Reform (DPENDPDR) issued a good practice guide for public bodies in relation to the collection of debts in 2017.<sup>4</sup> The guide is based on a review that identified key success factors for debt management.

- 16.19** The Department's debt recovery procedures are mainly either adequate or good when assessed against each of the key success factors in the DPENDPDR guidance.<sup>5</sup> However, the comparison with the guidance drew attention to the following features of the Department's practice.

- While debt management policies are in place, there are issues around compliance, and in particular, around documentation of the rationale for some decisions.
- While the single customer view allows all debt of an individual debtor to be viewed together, the treatment of debt when considered for write off is by individual component of the debt.<sup>6</sup>
- The tailoring of debt collection plans is limited and generally not determined by the level of debt outstanding. Collection from debtors who are current recipients of welfare payments is limited to up to 15% of the personal payment rate. For a debtor not currently in receipt of welfare payments, the maximum periodic recovery sought is €50 per week.<sup>7</sup>
- Communication is still predominantly by post.
- Where a debtor who is not in payment does not engage with the Department, enforcement options are limited. Pursuit of attachment notices or civil proceedings are both resource-intensive options, which may be uneconomic in many circumstances.
- A range of payment options is currently available, including direct debit, standing orders, attachment of earnings, and debit card payments. The Department is currently developing a mechanism to enable payments on the MyWelfare application.
- Key debt performance indicators are reported to the Department's Management Board. However, the reported value of debt that is recoverable from estate cases may be overstated where a deceased debtor has a number of components of debt, because all components are not subject to the same treatment at the same time. For example, one component can be written off while another may not meet the criteria for write off until a later date.

<sup>1</sup> Roadshow events were paused during the pandemic but resumed online in September 2022. These events now include briefing on changes in the updated overpayment guidance published in February 2023.

<sup>2</sup> Examples of such channels are websites of gov.ie, citizens information, Free Legal Advice Centre, and X (formerly Twitter).

<sup>3</sup> See *Report on the Accounts of the Public Services 2022*, chapter 15, Raising social welfare overpayments.

<sup>4</sup> *Collection of Debt by Public Service Bodies — Best Practice Guide*, Department of Public Expenditure, National Development Plan Delivery and Reform (DPENDPDR), 2017.

<sup>5</sup> The DPENDPDR key success factor of using appropriate third-party collection methods was not considered to be applicable in relation to welfare debts.

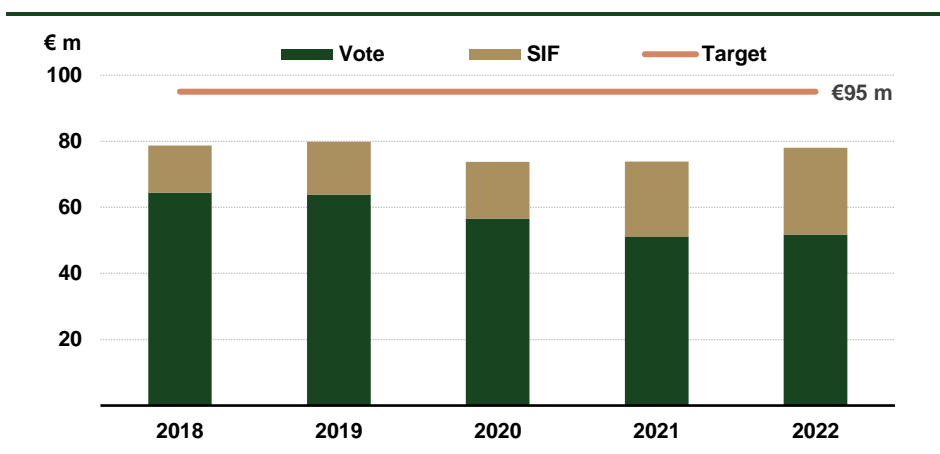
<sup>6</sup> A separate debt component is raised for each instance of debt on a scheme. Where an overpayment relates to a number of schemes, a separate debt component will be raised for each scheme.

<sup>7</sup> The recovery of overpayments of less than €100 is sought immediately in full. The recovery of overpayment debt of between €101 and €5,000 from debtors who are not in payment is sought at a rate of €20 per week. Each debtor has the option to agree a lower or higher repayment rate with the Department or to clear the debt in one lump sum payment.

### Trends in overpayment debt recovery

**16.20** In the period 2018 to 2022, on average, the Department recovered €76 million annually. The value of overpayments recovered was relatively consistent in the period 2018 to 2022, but was somewhat less than the Department’s target every year (see Figure 16.2).<sup>1</sup> The Department stated that a challenging target was set to ensure that all efforts are made to maximise recoveries.

**Figure 16.2 Overpayment debt recovery targets and actual<sup>a</sup>**



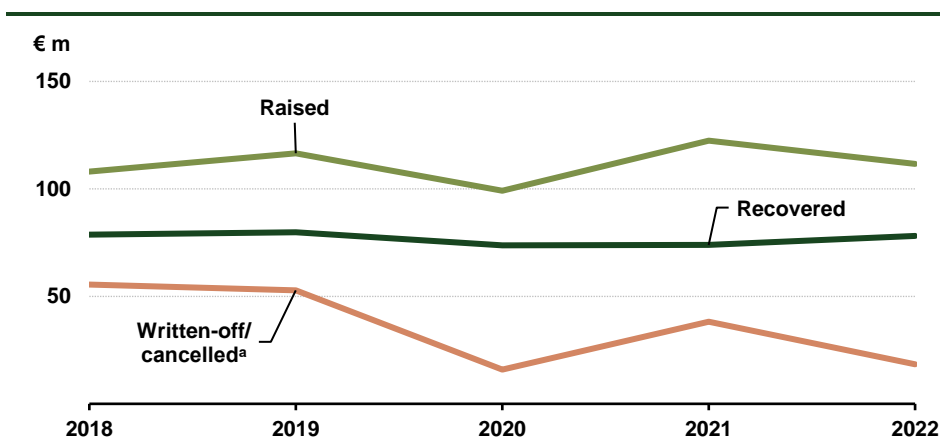
Source: Department of Social Protection

Note: a The targets are published in the Department’s Compliance and Anti-Fraud Strategy Annual Target Statement and Strategy, for 2018 to 2023.

**16.21** On average, the Department ‘raised’ or recognised welfare overpayments of €112 million annually in the period 2018 to 2022 (see Figure 16.3). This was around 0.45% of scheme expenditure in that period.

**16.22** In total during the period 2018 to 2022, the Department also wrote off or cancelled overpayments of €181 million (an average of €36 million a year).<sup>2</sup> Combined with recoveries of around €76 million a year, this offset the new overpayments raised. There was only a marginal movement in the value of overpayment debts outstanding at the year end, which declined from €499 million at end 2017 to €495 million at end 2022.

**Figure 16.3 Recorded debt trends 2018 to 2022**



Source: Department of Social Protection. Analysis by Office of the Comptroller and Auditor General.

Note: a An overpayment is cancelled where it is clear that the overpayment should not have been raised, or the manner in which it was raised and recorded is in error. Of the debt written-off or cancelled in 2018 to 2022, over 79% was written-off and 21% was cancelled.

1 The Covid-19 pandemic did not excessively impact the recovery of overpayments. Recoveries in 2020 and 2021 were only 8% less than in 2019.

2 Debt written off in 2018, 2019 and 2021 was higher than in most years due to the batch write-off of older debt that met specific criteria, as sanctioned by DPENDPDR (paragraph 16.51 provides further details). The value of overpayments outstanding in December 2022 would have been higher without those write-offs.

*Components of debt and the number of debtors*

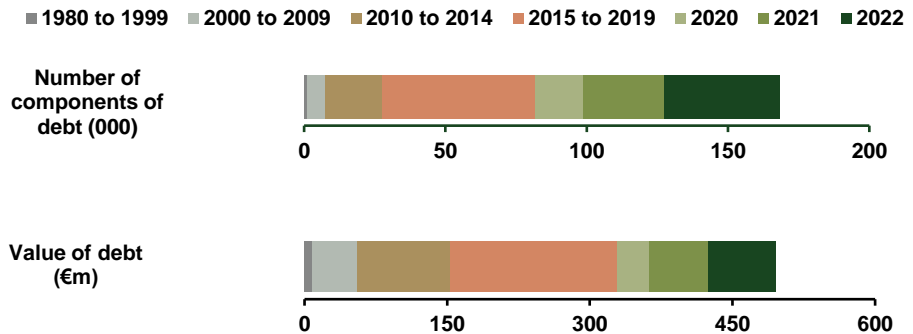
**16.23** At the end of 2022, there were 168,335 components of debt outstanding for 134,165 debtors. The vast majority (83%) of debtors had only one component of debt. Around one in eight (12%) of the debtors had two components of debt, 3% had three components, 1.7% (2,326 debtors) had four to ten components and 35 debtors had 11 or more components of debt.

**16.24** Where stated, analysis for this examination used the individual components of debt instead of merging components by debtor. This provides better insight and more consistent comparisons in relation to the age of debt (a debtor’s individual components may have been raised over many years) and the value of debt attributable to relevant schemes (a debtor’s components of debt may have arisen across a range of schemes). Where a debtor has a number of components of debt, the Department applies any repayments received to the oldest debt first, but considers all the debtor’s debts to be ‘in repayment’.

*Timeliness of recovery*

**16.25** Outstanding overpayment debt recorded by the Department includes some debt that was detected and recorded many years ago — by value, 11% of debt was raised in 2009 and prior years and almost 20% was raised in 2010 to 2014 (see Figure 16.4).

**Figure 16.4 Age of overpayment debt at end 2022, by number of components of debt and value**

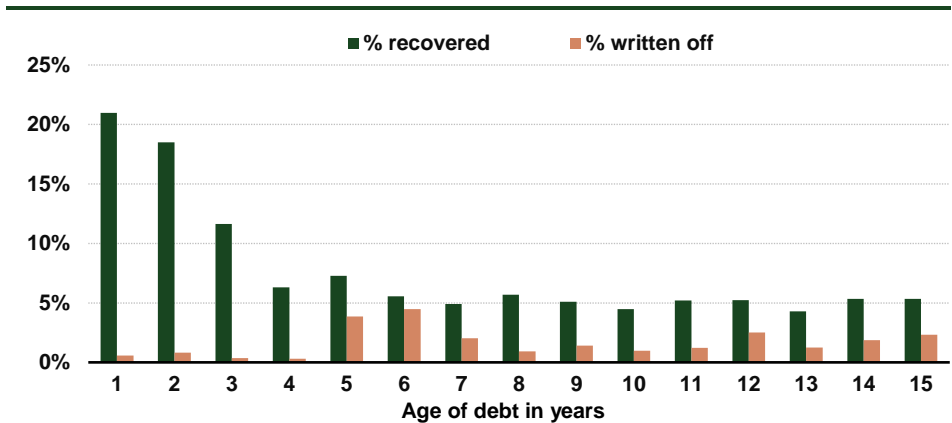


Source: Department of Social Protection. Analysis by Office of the Comptroller and Auditor General.

**16.26** As is usually the case for debt, the Department’s ability to recover overpayment debt decreases as the debt ages. Figure 16.5 shows the extent, in 2022, of debt recovery by the age of the debt. The recovery rate drops significantly after two years, with remaining debt generally being recovered at a rate of around 5% each year.

- 16.27** The recovery rate reflects the Department’s approach to overpayment recovery, with
- lump sum payments being received from the estates of debtors (generally received within a few years of the debt being raised) and withholding of arrears due to entitlement under another scheme
  - ongoing, long-term recovery by deduction of up to 15% of a debtor’s current social welfare payments and periodic repayments of up to €50 per week from debtors not in receipt of a welfare payment
  - some debtors not making repayments.

**Figure 16.5 Extent of debt recovered during 2022, by age of debt component in years<sup>a</sup>**



Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

Note: a For example, point '5' on the horizontal axis shows that for debt created in 2017 (5 years prior to 2022) and still outstanding at the start of 2022, 7% of the outstanding debt was repaid during 2022 and 4% of the outstanding debt was written-off during 2022.

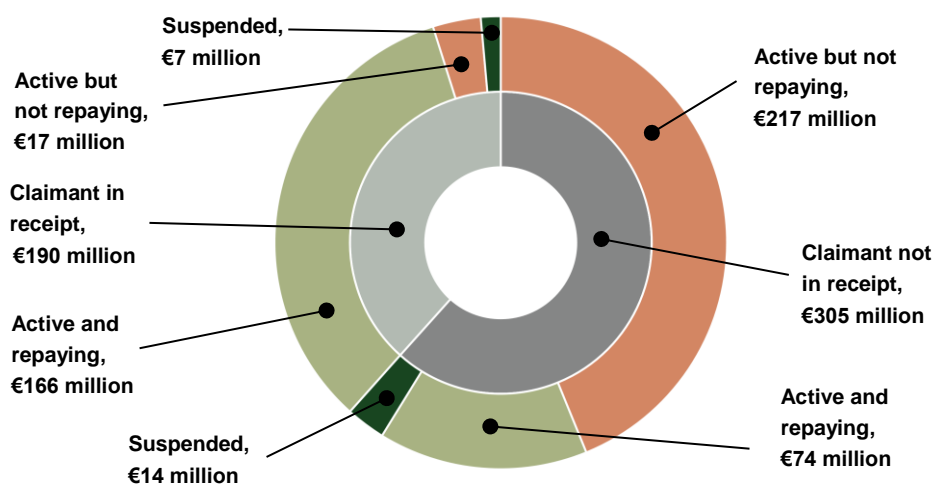
**Status of debt outstanding**

**16.28** The Department classifies each debt record by the current status of the debt. The indicators used are

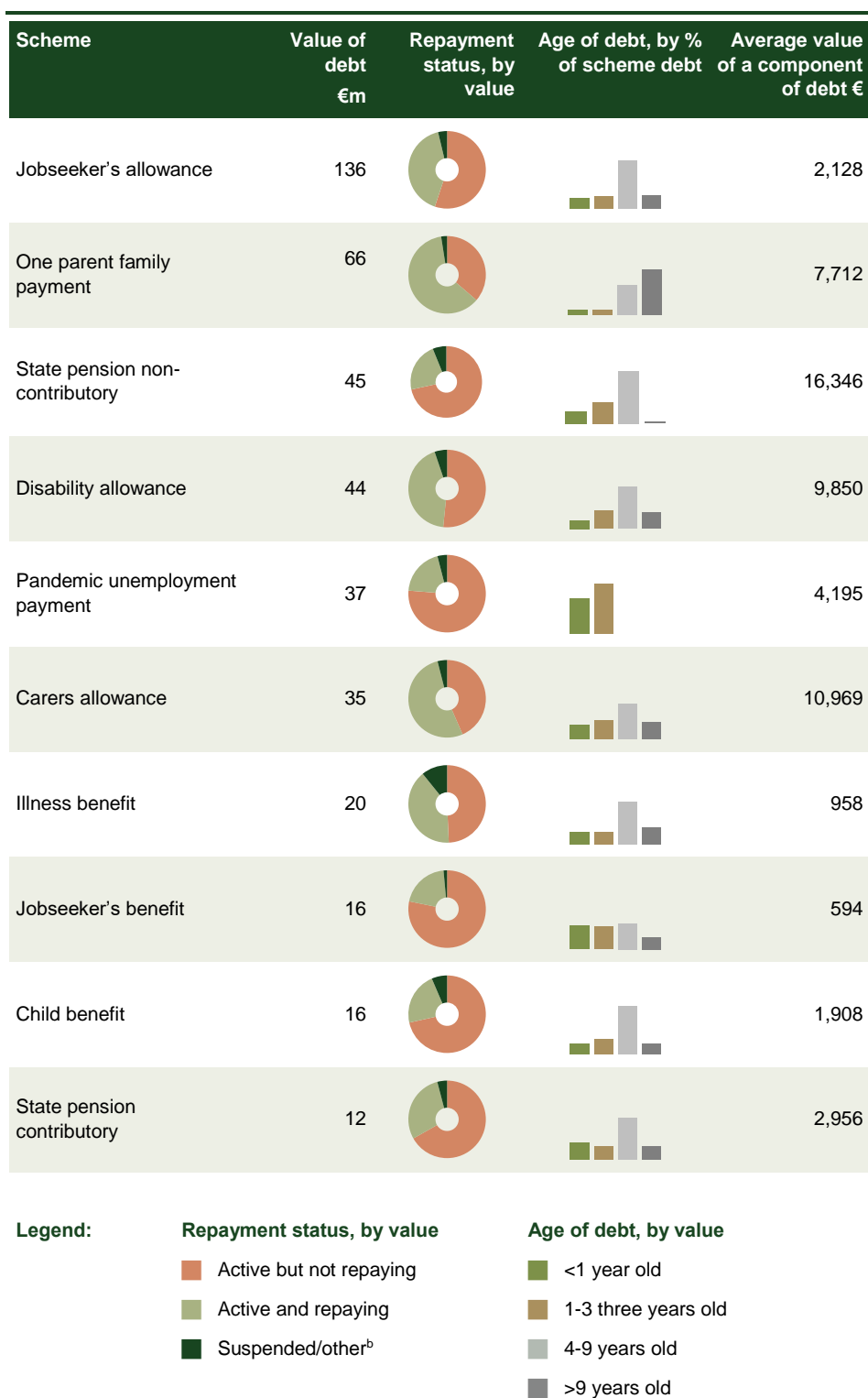
- active and repaying: a payment has been received from the debtor in the past five weeks
- active but not repaying: the debt is active but the debtor has not made a repayment in the previous five weeks or the debtor is repaying an older debt
- suspended: the debt is suspended so there are no recovery actions in place.

**16.29** The Department has been more successful in putting in place repayment arrangements with debtors who are currently in receipt of welfare payments (see Figure 16.6). Repayment arrangements are more likely to be in place for debts related to certain schemes (for example, one parent family scheme, carer's allowance) as compared to others, such as pandemic unemployment payment, jobseekers benefit (Figure 16.7).

**Figure 16.6 Status of overpayment debt at end 2022, by debtor**



Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

**Figure 16.7 Key indicators for the ten schemes with highest debt, at end 2022<sup>a</sup>**

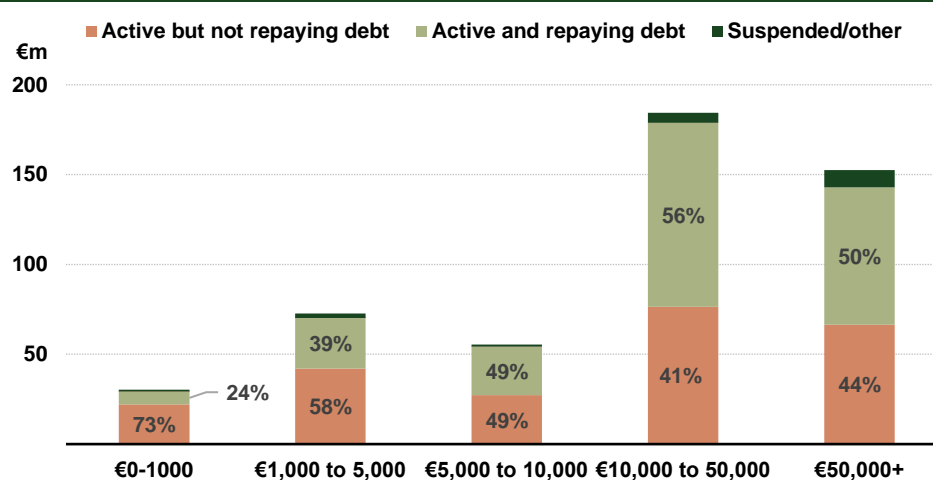
Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

Notes: a This analysis is based on each component of debt.

b 'Other' includes debts that were cancelled, repaid or written off where the transactions were not fully processed by December 2022 — the value of these classifications is less than 2% of the total value of suspended payments.

**16.30** The largest debtor balances outstanding at end 2022 were more likely to be in an active repayment situation than lower value debts (see Figure 16.8). For example, more than half of debts averaging €10,000 to €50,000 were classified as ‘active and repaying’. This compares to less than 40% for debts averaging €1,000 to €5,000 each. However, since overpayment recovery by deduction from current social welfare payments is limited to 15% of the personal rate, the maximum recoverable in any year from a typical welfare recipient would be less than €2,000, unless a debtor makes a lump sum repayment or other scheduled repayments. At that rate, a debt of €10,000 would take five years to clear, and a debt of €50,000 would take 25 years to clear.

**Figure 16.8 Total value of outstanding debt, by amount outstanding for each debtor, at December 2022<sup>a</sup>**

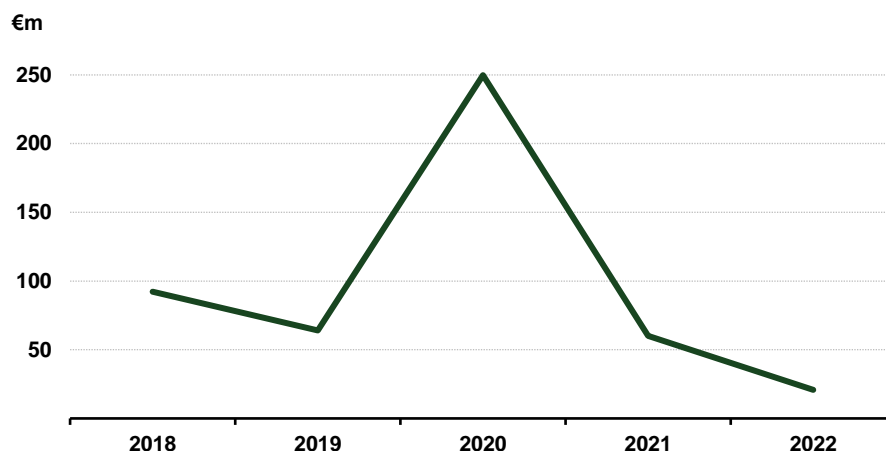


Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

Note: a Where a debtor is repaying any component of debt, all components have been classified as active.

### *Suspended debt*

- 16.31** The Department’s guidance to staff provides for the suspension of debt in ‘limited circumstances’, for example where a decision is being appealed or for extenuating circumstances.
- 16.32** New overpayment debt raised between March 2020 and June 2021 was immediately suspended as part of the Department’s response to the Covid-19 pandemic. This resulted in a spike in suspended debt at December 2020. After June 2021, debt raised in that period was gradually ‘unsuspended’ and the Department commenced formally notifying the debtors.
- 16.33** The value of suspended debt was significantly less by end-2022 than in the period immediately preceding the pandemic (see Figure 16.9). Part of this reduction was due to a 2021 write-off, sanctioned by DPENDPDR, of €27 million in debt that had been suspended prior to 2014, when the Department transferred to the DRAS system.
- 16.34** The Department provides each debtor with an annual statement of their current debt status, except where the recovery of the debt is suspended or communication with the debtor is suspended. An annual debt statement was not issued in relation to overpayment debt that was suspended during the pandemic, but was issued when that debt was unsuspended.

**Figure 16.9 Value of suspended debt, 2018 to 2022**

Source: Department of Social Protection. Analysis by Office of the Comptroller and Auditor General.

## Legal enforcement to recover overpayments and to deter fraud

### *Attachment notices and civil proceedings*

- 16.35** Where a debtor is not in payment and does not agree to a periodic repayment schedule, the Department may pursue recovery through an attachment of earnings or civil proceedings.
- 16.36** The Department can initiate an attachment notice for a debt regardless of the amount or the cause of the overpayment.<sup>1</sup> Up to May 2023, the Department focused on attachments of earnings as the required information is more readily available, and has not sought an attachment notice to funds held by a financial institution. An attachment of earnings provides for a deduction of up to 15% of earnings on an ongoing basis with the current employer — if the debtor changes employer, the Department must initiate a new attachment process.
- 16.37** From 2016 to 2022, there were 129 attachment notices executed, of which<sup>2</sup>
- 24 attachment notices resulted in debts of €746,000 being fully repaid
  - 76 attachment notices in relation to debt of €1,538,000 are active, with €207,000 being recovered to December 2022
  - 29 attachment notices in relation to debt of €933,000 are no longer active — debt recovered in these cases amounted to €61,000.<sup>3</sup>
- 16.38** The Department stated that the use of attachment notices was reduced during the pandemic, but a project which commenced in 2022 reviewed almost 4,000 potential cases resulting, by May 2023, in
- 158 notices of attachment issuing, of which 70 were issued in 2022 (included in count above) and a further 88 in 2023
  - around 1,300 of these debtors commencing repayment prior to an attachment notice being executed
  - around 2,500 cases being considered not currently suitable for an attachment notice due to insufficient debtor earnings.

<sup>1</sup> The attachment notice can be to the debtor's wages or salary or to funds held in financial institutions by the debtor.

<sup>2</sup> These figures include attachment orders executed by June 2017 in 31 cases with a total value of €952,000 (of which €369,000 has been recovered).

<sup>3</sup> Orders can become inactive for a variety of reasons, such as the debtor dying or changing employer.

- 16.39** The Department has stated that the statutory process to execute attachment notices is resource intensive and can take up to two months to complete. During 2022, there were nine staff members working full-time on attachment notices, but eight further staff were added by May 2023.
- 16.40** In civil prosecution cases, the person's ability to repay the debt is examined. The Department's policy is that it does not pursue a civil action if there is no real prospect of recovering the debt owed, for example, where the debtor is dependent upon social welfare payments and does not have other assets or income.<sup>1</sup> The Department has six years in which to initiate proceedings.<sup>2</sup>
- 16.41** In recent years, the policy of the Department has been to consider an attachment of earnings where a debtor has failed to satisfactorily engage with the Department. No civil prosecutions for the recovery of debt have been taken since 2016. However, in 2023, the Department commenced a review of cases where civil proceedings may be appropriate — 103 cases were reviewed, with 14% of debtors commencing repayment when informed that civil proceedings were being considered. This review was ongoing in April 2023.

### ***Criminal prosecution***

- 16.42** It is the Department's policy to consider cases for criminal prosecution where there is strong evidence of fraud. The Department's annual target in the period 2018 to 2022 was to consider 500 cases per annum (see Figure 16.10).<sup>3</sup>

**Figure 16.10 Number of cases considered and referred for prosecution, 2016 to 2022**

	2016	2017	2018	2019	2020	2021	2022
Number of cases considered for prosecution	N/A <sup>a</sup>	N/A <sup>a</sup>	435	505	315	274	425
<b>Sent for prosecution</b>							
Social Welfare Consolidation Act [2005] <sup>b</sup>	181	170	101	114	62	30	121
Criminal Justice Act [2001] <sup>c</sup>	160	130	74	86	82	49	38
<b>Total sent for prosecution</b>	<b>341</b>	<b>300</b>	<b>175</b>	<b>200</b>	<b>144</b>	<b>79</b>	<b>159</b>
<b>Cases sent for prosecution as % of cases considered</b>	<b>N/A</b>	<b>N/A</b>	<b>40%</b>	<b>40%</b>	<b>46%</b>	<b>29%</b>	<b>37%</b>

Source: Department of Social Protection

- Notes
- a Comparable data is not available. Prior to 2018, the Department measured the cases submitted for prosecution rather than the cases considered for prosecution.
  - b Potential cases under the Social Welfare Consolidation Act [2005] are forwarded to the Chief State Solicitor's Office for the issue of proceedings. Maximum penalties are a fine of up to €13,000 and/or three years in prison. These types of cases include where claimants fail to notify a change in circumstances; knowingly make false declarations or conceal material facts; obstruct a social welfare inspector; or fail to remit insurance contributions deemed to be due.
  - c Potential cases for prosecution under the Criminal Justice (Theft and Fraud Offences) Act 2001 are sent to An Garda Síochána for further investigation before being referred to the Director of Public Prosecutions for consideration to prosecute. The types of cases include impersonation; misuse of a public service number; living outside the State while claiming benefits or assistance only available to residents; fraud; making materially false statements; using false documentation to gain a welfare payment; misuse or unlawful destruction of documents; repeat offending; deliberate concealment, deception conspiracy or corruption.

1 Where a debtor is in receipt of a social welfare payment, an ongoing deduction from those payments would be made.

2 The proceedings must commence within six years from the 'cause of action' — this may be the date of a deciding officer or appeals officer decision, the most recent payment, or acknowledgement of the debt by the debtor. For estate cases, the six-year limit commences when a schedule of assets is received by the Department.

3 The target is set under the [Department's Compliance and Anti-Fraud Strategy for 2019 to 2023](#). The Department publishes an annual report showing the extent to which the various annual targets have been met (2021 report).

**16.43** Where a case is referred to the Chief State Solicitor's Office for prosecution, any penalties imposed by the court are in addition to the recovery of overpayments by the Department. Over the period 2016 to 2022, there were 853 cases<sup>1</sup> finalised in court, with

- a fine being imposed in 404 cases (47%)
- the Probation Act being applied in 198 cases (23%)
- a custodial sentence imposed in 81 (10%) cases (sentence was suspended in 64 of those cases)
- other penalties (such as community service or an instalment order being granted) in 64 cases (8%)
- the cases being struck out, dismissed or withdrawn in 106 cases (12%).

### **Write off of debt**

**16.44** The Department's policy is to write off debt for accounting purposes where it is deemed no longer possible or economic to recover the debt, or where it is in the public interest. This includes where

- available evidence supports a conclusion that the debtor's ability to repay is limited
- the overpayment arose as a result of a mistake by an official of the Department and the amount of overpayment was such that the claimant would not have known they were overpaid
- the Department failed to act on information it had received within a reasonable time, which resulted in a claimant being overpaid.

**16.45** Where the debt is written off, the record of the debt remains on the claimant's file and may still be recovered at a later time. Where the Department subsequently recovers the debt, the debt write-off is reversed (cancelled).

### **Sanction for write-offs**

**16.46** The write off of overpayment debt comprises both batch and manual processes. During 2022, the Department wrote off 9,917 components of debt with a value of €11.1 million, with

- 6,933 debts (70%) with a value of €7.5 million (average value €1,100) written-off through batch processes
- 2,984 debts (30%) with a value of €3.5 million (average value €1,200) written-off through manual case-by-case review of transactions by an authorised officer.

<sup>1</sup> Due to the time it may take to bring a prosecution to court, the cohort of cases prosecuted is not the same as the cohort referred for prosecution.

*Batch debt write off*

- 16.47** The Department has delegated sanction from DPENDPDR to write off debt in circumstances where the debt is considered unrecoverable, for example<sup>1</sup>
- debt is considered unrecoverable as it relates to debtors who are deceased for a number of years, where the debt is old, and there has been no recovery for many years
  - overpayment debt components are below a threshold value where recovery is not considered economic and the debtor is not currently in receipt of a payment from the Department (other than child benefit) or repaying debt.
- 16.48** For the batch debt write-off process, the Central Debt Unit (CDU) management select cases based on specific criteria. The case listing is approved by the Principal Officer in the CDU, but does not require authorisation from the Department's Control Project Board or Management Board. There is no limit on the value of individual debts written off under this process.
- 16.49** The Department informs DPENDPDR of debts written off under the batch debt write-off process. In August 2022, the Department informed DPENDPDR of debt written off in 2020 and 2021, and this was acknowledged by DPENDPDR in February 2023. The Department also conducts targeted write-off projects for which the Department must obtain prior specific sanction from DPENDPDR.<sup>2</sup>
- 16.50** In 2017, the Comptroller and Auditor General recommended that the Department review outstanding debts with regard to whether they were economical to pursue given their value and the recoverability of the debt, in particular older debt.<sup>3</sup>
- 16.51** The Department stated that it engaged with DPENDPDR for three specific write-offs of older debt (in 2018, 2019, and 2021), involving around 50,000 debt components valued at €99 million (see Figure 16.11). There were no write-offs of this type in 2022 and the Department stated that it does not currently foresee further specific write-offs of this type in the immediate future as the debt processes in place enable CDU to manage the debt in an appropriate manner, while maximising recoveries.

<sup>1</sup> The Department was unable to provide the examination team with a copy of a 1991 delegated sanction from the (then) Department of Finance which set out the criteria under which debt could be written off. In August 2023, DPENDPDR issued delegated sanction to the Department to continue to write off debt on the same criteria that had previously been used by the Department.

<sup>2</sup> These are write-offs not covered by the sanction criteria, so specific sanction must be obtained from DPENDPDR.

<sup>3</sup> See *Report on the Accounts of the Public Services 2016*, chapter 17, [Management of social welfare overpayments](#).

**Figure 16.11 Specific debt write-off in 2018 to 2022**

Year	Number of cases	Vote	SIF	Total
		€m	€m	€m
2018	33,290	28.9	12.6	41.5
2019	7,802	26.5	3.8	30.3
2020	—	—	—	—
2021	9,595	23.7	3.5	27.2
2022	—	—	—	—

Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

*Manual debt write off*

**16.52** A deciding officer of the Department may review an individual case and write off a component of debt for that case.<sup>1</sup> Once appointed as a deciding officer, the authority to write off debt while working for the Department is retained.

**16.53** The Department sets limits on the value of debt that can be written-off by each grade — these limits are implemented by IT controls. All write-offs are recorded on the DRAS system and the Department’s policy is that the reason for the write-off must be clearly recorded, outlining the circumstances for the write-off. However, deciding officers are not restricted, via the IT system, from writing off debt on a scheme for which they have no current responsibility.

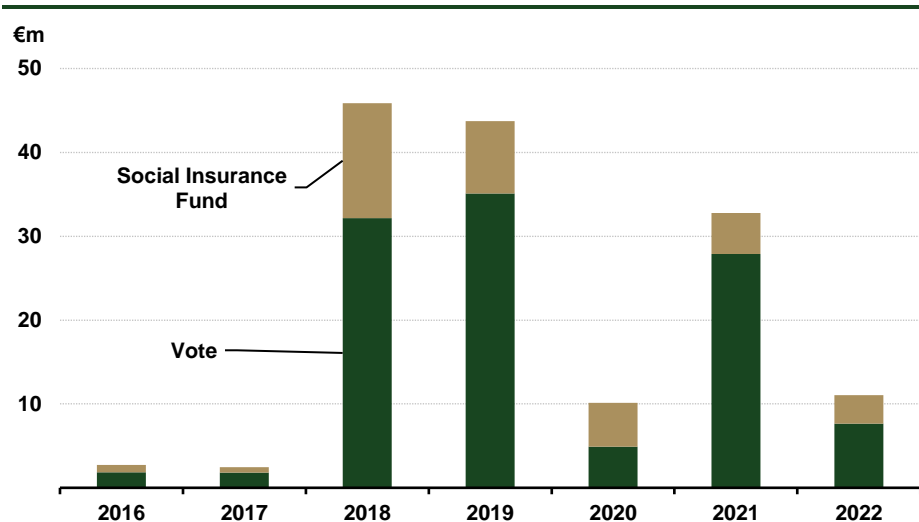
**16.54** Other controls that are in place are

- a Department policy that all manual write-offs should be authorised by completion of a standard write-off template
- since June 2020, review by the Central Debt Unit (CDU) of 5% of all manual write-offs, to assess their compliance with the Department’s policies.

***What has been the level of debt write-offs in recent years?***

**16.55** Between the period 2016 and 2022, a total of €149 million in overpayments have been written-off — €111 million from the Vote and €37 million for the SIF. The impact of the batch write-off projects requiring specific sanction in 2018, 2019 and 2021 is clearly evident in the annual write-off values (see Figure 16.12).

**Figure 16.12 Value of overpayments written-off to Vote and Social Insurance Fund, 2016 to 2022**

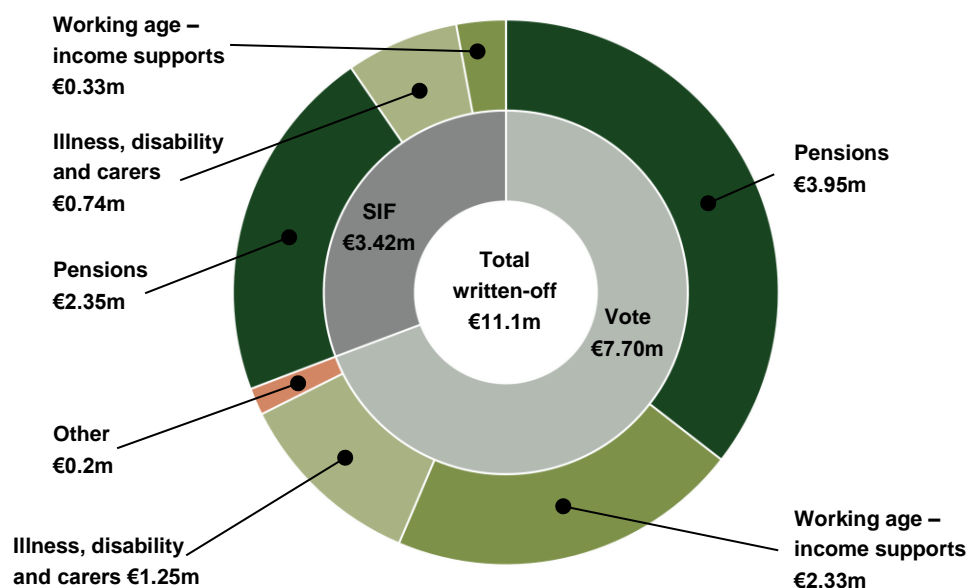


<sup>1</sup> Writing off the debt on a case-by-case basis is provided for by the Social Welfare Consolidation Act (2005), as amended.

Source: Appropriation Accounts of the Department of Social Protection and financial statements of the Social Insurance Fund. Analysis by Office of the Comptroller and Auditor General.

- 16.56** Figure 16.13 shows the scheme areas in relation to which debt written-off in 2022 arose. Most of the debt written-off in 2022 related to a small number of schemes. The Department has stated that 85% of write-offs on the State pension (contributory and non-contributory) and the disability allowance scheme are due to the death of the claimant, while 87% of write-offs on the jobseeker's allowance scheme are below a low value threshold.

**Figure 16.13 Debt written-off in 2022, Vote and Social Insurance Fund**



Source: Department of Social Protection. Analysis by the Office of the Comptroller and Auditor General.

#### *Analysis of individual cases of debt written-off*

- 16.57** The examination team reviewed a sample of 100 write-offs of overpayment debt recorded during 2022 for compliance with Departmental policy. Of the initial 25 randomly selected write-offs reviewed, nine (36%) were below the allowable threshold for low-value write off. A further 75 randomly selected write-offs, from which low-value write-offs were excluded, were examined. In total 63% of the sample had been written-off via the batch write off process.

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**Figure 16.14 Key findings of sample testing of overpayment debt write-offs**


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An overview of the total debt status of the debtor was not taken, resulting in some illogical outcomes. For example, a deceased debtor may have an old debt component written-off as irrecoverable due to difficulty in recovering from the estate, while other components of debt of the same debtor were not simultaneously written-off because they were more recent.

Consistent with previous reports<sup>a</sup>, there was a lack of documentation in seven cases to support the original debt. Where the debt had been queried (by the debtor or their representative), it was written off in two cases, and in two other cases, refunds had been given to the debtor or debtor's estate. However, these cases with inadequate documentation related to debts raised prior to the publication of the previous reports.

Of 36 manual write-offs, the required template form was not present on 50% of cases. However, in 17 of the 18 cases where the submission was not present, there was a case note (which in some instances was very brief) in relation to the write-off, for example to document the authority for writing off the debt.

In one case, the Department had sought to recover a small overpayment (€900) that occurred between the date of death and when the Department was notified of the death. However, the Department did not seek to recover a benefit-related debt already owed when the claimant died which was in excess of €10,000. This latter debt was subsequently written-off in 2022. The smaller overpayment was recovered from the solicitor of the deceased after a number of years.<sup>b</sup>

Legislation provides for the Department to recover payments to claimants in the weeks after death (until it was made aware of the death) from the financial institution (normally banks or An Post) the funds were paid to. However, the Department did not seek such repayments in all cases reviewed. Also, in two cases, the Department sought but was unable to recover these funds from the financial institution, because it could not produce a death certificate.

In eight of the cases examined, debts were written off after the solicitor or personal representatives of the deceased debtor did not engage with the Department. There was no evidence of the Department seeking further engagement prior to these debts being written-off in three cases, other than checking if probate had been filed.

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

- Notes:
- a Chapter 17, *Report on the Accounts of the Public Services 2016*, Comptroller and Auditor General (2017), and *Fair Recovery*, Office of the Ombudsman (2019).
  - b The smaller debt had been cancelled as it met the criteria for inclusion in the batch write off — the debt was restored when the payment was received.

*Lessons learned by the Department*

- 16.58** The Comptroller and Auditor General previously recommended that the Department review the reasons recorded for write off of debt and establish whether practices and procedures need to be revised to improve recovery and thus minimise the level of write-offs in future.<sup>1</sup>
- 16.59** The Department has not undertaken a formal review of the reasons why some debt could not be recovered and was written off. The Department pointed out that the main reasons why debt could not be recovered are detailed in the guidelines on overpayments. These include: financial/social hardship; customer vulnerability; lack of documentation to support the original overpayment; and inadequate decision making.

**Other issues**

- 16.60** In addition to overpayments that arise in the normal course of business, overpayments may arise as a result of specific events.

*Illness benefit*

- 16.61** Overpayments were made to claimants of the illness benefit scheme as a result of two specific administrative control failures.

*Overpayments due to IT system transition*

- 16.62** Overpayments of €11.4 million arose in relation to 11,800 claimants as a result of issues arising when the illness benefit scheme was transferred to a newer IT system, during the period August 2018 to mid-2019. This was raised as overpayment debts in 2019.<sup>2</sup>
- 16.63** As at December 2022, the Department stated that, of the €11.4 million in overpayments due to the IT system transition, €5.1 million (45%) remains outstanding.

- €3.6 million of the original debt has been fully repaid by 4,600 debtors.
- In respect of a further €2.2 million, €1 million (44%) has been repaid with repayments ongoing by 1,300 debtors.
- In respect of €3.1 million of debts due from 2,300 debtors, €750,000 (24%) has been partially repaid but the debtors are not currently repaying the outstanding balance.
- Of €1.7 million original debts of 1,300 debtors, €230,000 (13%) has been repaid but the balance is suspended — the Department stated that this includes cases where recovery was delayed due to the Covid-19 pandemic but are expected to be complete by the end of 2023.<sup>3</sup>
- €0.8 million for 2,200 debtors were written off.<sup>4</sup>

*Overpayments due to duplicate payment run*

- 16.64** Overpayments of €2.4 million were made to 11,000 claimants in December 2019, due to duplication in scheduling of a payment run. These cases were raised as overpayment debt in early 2020.

<sup>1</sup> See *Report on the Accounts of the Public Services 2016*, chapter 17, Management of social welfare overpayments.

<sup>2</sup> The Department stated that there were an additional 1,325 cases valued at €1.5 million which were initially raised as overpayment debts but found to be correct payments when reviewed, so the overpayment debt was cancelled.

<sup>3</sup> These cases had fallen to 1,000 cases, with a value of €1.3 million outstanding, by end-April 2023.

<sup>4</sup> This was predominantly in 2021 under sanction from DPENDPDR.

**16.65** The Department has been more successful in recovering the debt arising from the duplicate payment. Of the €2.4 million debt raised, €2 million (83%) has been recovered, with €0.35 million outstanding from 1,500 debtors who are not currently repaying. A further €50,000 is outstanding from debtors who are repaying (the original overpayment in these cases was €130,000). Debt written off in relation to duplicate payments amounted to €70,000 (3% of the total).

### ***Pandemic unemployment payment***

**16.66** The pandemic unemployment payment (PUP) commenced in March 2020 and the scheme closed (with remaining claimants transferred, where eligible, off the scheme) in April 2022. Expenditure on the PUP scheme in the period 2020 to 2022 was around €9.2 billion. The Comptroller and Auditor General previously reported on controls implemented for the PUP and the risk of overpayments to claimants.<sup>1</sup> In relation to employed PUP claimants in 2020, the report found that over 9% of a sample of claimants were not eligible for the payment received on the date tested. The examination could not conclude, at that time, in relation to self-employed claimants.

**16.67** Total PUP scheme overpayments raised to December 2022 amount to €50.5 million (0.5% of scheme expenditure), of which

- €8.6 million (9,400 cases) relates to voluntary disclosures to the Department and 99% of these overpayments have been recovered
- €41.9 million (10,500 cases) relates to a revised decision by the Department, with 13% of these overpayments recovered.<sup>2</sup> The Department suspect fraud in around 10% of these cases.

**16.68** In 2022, the Department stated its intention to review cases in co-operation with Revenue, with that process to commence by the start of Quarter 4 2022.

**16.69** In April 2023, the Department stated that the focus is now on ‘working and claiming’ overlaps between PUP and employment. In relation to claimants who were an employee, extensive analysis against Revenue records had been conducted to identify such overlaps. This analysis to date has identified 14,000 cases with a potential recovery of €47 million. Further analysis is ongoing for PUP claimants who had more than one employer.

**16.70** In total, the Department expected around 20,000 cases to be identified, with a potential recovery of €70 million. The Department intends to commence writing to a sample of these claimants in September 2023. In addition, 58,000 cases have been identified (but no potential recovery amount estimated) where there is no social insurance record — this includes cases where the individual claimed the PUP payment but was not eligible and cases with a tax compliance issue where the individual or their employer failed to make the appropriate returns to Revenue.

**16.71** In relation to self-employed claimants, the Department has focussed on the detection of individuals with no prior record of social insurance (a requirement for PUP eligibility). While a number of such cases have been identified, work is ongoing to account for subsequent returns to Revenue.

<sup>1</sup> See *Report on the Accounts of the Public Services 2020*, chapter 11, [Controls over the Covid-19 pandemic unemployment payment](#).

<sup>2</sup> Overpayment debt of €14,300 has been written off.

## Conclusions and recommendations

- 16.72** The Department is obliged to seek to recover overpayments made to claimants and has a number of tools available to enable that recovery. The Department's *Compliance and Anti-fraud Strategy 2019 to 2023* sets the approach, key performance indicators and targets, with central themes of preventing overpayments, deterring and detecting non-compliance and accounting for performance.
- 16.73** The Department's procedures are mainly either adequate or good when assessed against the key success factors set out in best practice guidance issued by DPENDPDR in respect of debt recovery by public bodies. There are some opportunities for further improvement in that regard. For example, the debt of deceased claimants is managed on the basis of components of debt, whereas all such debt should be considered either recoverable from the estate or irrecoverable — as a result, the reliability of the valuation of some outstanding debt is reduced. A review of a sample of claims also identified staff are not always compliant with the Department's guidance to document the rationale for a write off using a prescribed template form.

### *Trends in overpayment debt*

- 16.74** At 31 December 2022, the Department had total outstanding debt of €495 million related to scheme overpayments to claimants. The total outstanding debt amount has changed little over the last five years. In those five years, for every Euro of new overpayment raised, an amount equivalent to approximately two-thirds was recovered and one-third written-off.
- 16.75** The total value of overpayment debt recovered each year was not significantly impacted by the Covid-19 pandemic, despite the recovery of new debt raised during the pandemic being suspended during the pandemic — this was a result of the ongoing deductions from claims in payment for which the recovery period is long-term.
- 16.76** A large proportion of debtors are not repaying their debt to the Department. Key factors that determine the success of the Department in recovering overpayments are the age of the debt, whether the claimant is currently receiving a payment from the Department and the value of the debt. As a result, the timeliness of the Department's actions to detect and initiate the recovery of overpayments is key. Some schemes, and in particular the jobseeker's allowance scheme and one-parent family payment, have a high value of debt, a lot of which is not being repaid and a significant proportion of which is more than four years old.

### *Analysis of debt written-off*

- 16.77** In August 2023, DPENDPDR provided delegated sanction to the Department to write off debt that met certain criteria — this replaced a 1991 sanction that governed arrangements in prior years. Around 70% of debts written off were batch write-offs where those criteria were met.
- 16.78** The analysis of a sample of debts written-off in 2022 found a lack of documentation in case files and also that the actions of the Department are limited where the claimant does not engage with the Department and is not currently in receipt of a payment from the Department. This was especially evident from the volume of estate case debts written off. When dealing with estate cases, the Department has a legislative basis for recovering overpayment debt arising from assistance payments but does not have the same powers for benefit payments.

- 16.79** The Department has taken actions to address previous recommendations in relation to guidance to staff and advising claimants of the value of debt with an annual statement. However, the Department has not addressed the previous recommendation to analyse the reasons why debt could not be recovered and subsequently had to be written off. Doing this may inform amendments to policies and procedures and reduce the requirement for write-offs in future years.

#### **Recommendation 16.1**

The Department should formally review the reasons recorded for write off of debt and establish whether practices and procedures need to be revised to improve recovery and thus minimise the level of write-offs in future.

#### **Accounting Officer's response**

Agreed.

The Department has agreed procedures in place in relation to the write off of debt and will keep these under review to ensure their appropriateness and effectiveness. The formal review requested by the recommendation will be carried out in Quarter 1 of 2024 and reported to the Department's Control Programme Board and Management Board on completion.

#### **Timeline for implementation**

Quarter 1 2024.

#### ***Recovery of overpayment debt arising from specific events***

- 16.80** In relation to overpayments arising on the illness benefit scheme in recent years, the Department
- has recovered around €5.5 million (49%) of the confirmed overpayment debt due to issues on the transition to a newer IT system, and has written off a further 7% of this debt
  - has recovered virtually all the overpayment debt arising from a duplicate scheme payment in December 2019.
- 16.81** The Department is continuing to analyse payments to both employed and self-employed PUP claimants, to identify potential overpayments. Where claimants made a voluntary disclosure of overpayment by December 2022, the Department has recovered virtually all of the overpayment of €8.6 million.
- 16.82** The Department identified PUP overpayments in 10,500 cases with a value of €41.9 million by December 2022, but had recovered only 13% of this to April 2023. In addition, the Department is analysing cases to identify where an overlap of PUP and employment occurred, and it estimates up to 20,000 cases may be identified with a potential recovery of €70 million. The Department intends to write to a sample of these cases from September 2023. The Department is also analysing cases where a PUP recipient did not have a prior social insurance record but declared themselves to be an employee or self-employed.

#### **Recommendation 16.2**

The Department should expedite the identification and raising of PUP overpayment debt, given the increased difficulty recovering older debt and from debtors who are not currently receiving social welfare payments.

**Accounting Officer's response**

Agreed.

The volume of PUP payments with over 29 million payments, representing the unprecedented disruption to the economy and society, means that this has been a complex project. Work is progressing.

**Timeline for implementation**

The expected date for completion of this work is by end 2024.

