

## **Chapter 35**

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### **Regularity of Social Welfare Payments**



## Regularity of Social Welfare Payments

35.1 The Department of Social Protection (the Department) is required to ensure that

- expenditure it incurs has been applied for the purposes for which the money was made available by Dáil Éireann, and
- its financial transactions conform with the authorities<sup>290</sup>, under which they purport to have been carried out.

Financial transactions are considered to be 'regular' when both of these conditions are satisfied.

35.2 While the Department detected a significant number of welfare claims where it found that payments were in excess of entitlement, it does not record the financial impact of the consequential payment reductions or claim terminations. Overpayments are not recorded in all such cases and, therefore, do not represent a reliable measure of the irregular payments in a year.

35.3 I reported last year that the evidence from the fraud and error surveys that have been carried out by the Department indicated that there was a significant problem of excess, and therefore irregular, payment in relation to many of the welfare payment schemes it operates. While the scale of the problem is evidently greater for Vote-funded schemes, the estimated level of irregular payments under the social insurance funded State Pension (Contributory) and State Pension (Transition) schemes are also material. Figure 155 presents an estimate of the scale of irregular welfare payments in 2010 based on the survey results.

**Figure 155 Estimated Irregular Welfare Payments, 2010**

|   | Survey year <sup>a</sup> | Level of irregularity % | Scheme cost 2010 €m | Potential monetary impact €m |
|---|--------------------------|-------------------------|---------------------|------------------------------|
| <b>Vote-funded schemes</b>              |                          |                         |                     |                              |
| Child Benefit                           | 2004                     | 1.8                     | 2,213               | 40                           |
| Family Income Supplement                | 2005                     | 3.3                     | 186                 | 6                            |
| Disability Allowance                    | 2005                     | 7.0                     | 1,110               | 78                           |
| State Pension (non-contributory)        | 2007                     | 2.1                     | 977                 | 20                           |
| One-Parent Family Payment               | 2007                     | 7.3                     | 1,110               | 81                           |
| Jobseekers Allowance                    | 2009                     | 4.1                     | 2,809               | 115                          |
|   |                          | <b>4.0</b>              | <b>8,405</b>        | <b>340</b>                   |
| <b>Social Insurance Fund schemes</b>    |                          |                         |                     |                              |
| Illness Benefit                         | 2006                     | 0.4                     | 943                 | 4                            |
| State Pension (Contributory/Transition) | 2009                     | 1.1                     | 3,560               | 39                           |
|   |                          | <b>1.0</b>              | <b>4,503</b>        | <b>43</b>                    |
| <b>Total for all schemes surveyed</b>   |                          | <b>3.0</b>              | <b>12,908</b>       | <b>383</b>                   |

Source: Department of Social Protection methodology, updated by Office of the Comptroller and Auditor General

Note: a Base year for fraud and error survey.

<sup>290</sup> These eligibility criteria derive from legislation.

35.4 There is wide variation in the level of irregular payments between Vote-funded schemes, but the materiality of the level of the problem across the surveyed schemes suggests that the situation is likely to be similar in un-surveyed Vote-funded schemes, many of which are means-tested.

35.5 The results of the fraud and error surveys completed in relation to Vote funded schemes identified a fraud and error rate of 4%. In 2009, the Department advised that it would expect the remaining schemes, with the exception of Supplementary Welfare Allowance, to be relatively low risk.

35.6 Based on a conservative estimate of the level of fraud and error in unsurveyed schemes<sup>291</sup> the average rate across all Vote funded schemes is estimated at 3.4% of 2010 scheme expenditure. The Department has stated that the margin of error for its survey results may be of the order of  $\pm 1\%$ . Applying this margin of error to the estimates produced, the overall rate of irregular payments would therefore be in the range 2.4% to 4.4% of overall scheme expenditure.

### **Conclusion – Level of Irregularity**

I am required, under Section 3 (5) of the Comptroller and Auditor General (Amendment) Act 1993, to refer in my audit certificate on an appropriation account to any material case in which

- a Department has failed to apply expenditure recorded in the account for the purpose or purposes for which the appropriations made by the Oireachtas were intended, or
- transactions recorded in the account do not conform to the authority under which they purport to have been carried out.

I have referred in my certificate on the Department's Appropriation Account for 2010 to the level of irregularity, which I consider material in the context of the overall expenditure recorded in the Vote.

### **Views of the Accounting Officer**

35.7 The Accounting Officer drew attention to the fact that fraud and error surveys had not been conducted recently in relation to many of the schemes. She stated that to extrapolate a survey result dating back over four years (when the Department was operating in a different environment) against current day expenditure does not give a reliable estimate of the current level of irregular payments.

35.8 The Accounting Officer stated that in order to address this, the Department plans to conduct more up to date fraud and error surveys. She indicated that

- The first results in relation to a survey of Disability Allowance will be available in September 2011. This, for the first time, includes as part of the survey a review of the medical eligibility by a medical referee.
- A survey of One Parent Family Payment is currently being undertaken and initial results will be available in October 2011.
- A survey of Jobseekers Benefit will commence in the final quarter of 2011.
- The Department is developing a medium term programme of surveys, and will publish this as part of the Control Plan in the Autumn 2011.

<sup>291</sup> The level of fraud and error in respect of Supplementary Welfare Allowance was estimated at 2% — half of the rate for surveyed schemes. A 1% fraud and error rate was assumed in respect of all other Vote funded schemes — a quarter of the rate for surveyed schemes.

35.9 The Accounting Officer also noted that fraud and error surveys are resource intensive, particularly at inspector level and more frequent surveys could only be achieved if variable approaches to the methodology can be developed. This will be considered for some schemes.

35.10 The Accounting Officer stated that the Department will

- calculate a percentage overpayment rate based on the initial survey results
- recalculate the percentage overpayment after six months taking account of changes in cases, which may be due to a variety of factors (e.g. appeal in respect of another payment).

35.11 The Accounting Officer outlined the Department's objectives in conducting fraud and error survey in the following terms

- a fraud and error survey highlights the risk of non-compliance with the rules of the schemes being surveyed
- the survey results allow the Department to target that scheme, and its particular risk areas, for stronger control measures, where necessary.

35.12 She distinguished between the level of irregular payments at the point of the survey and the financial loss to the Department. She noted that the survey results (or the calculation of irregular expenditure in this chapter) do not take account of the financial effect of customers returning to the scheme following an appeal or transferring to another benefit.

35.13 She instanced a re-examination in January 2011 by the Department's Central Control Section of 149 cases where claims had been stopped or where rates had changed as a result of the 2009 Jobseekers Allowance fraud and error survey. In relation to 26 cases that had been terminated, 11 (42%) had re-entered payment on the same scheme or other schemes. Based on these results, the Accounting Officer concluded that the actual financial loss to the Department would be less than the level of irregularity initially noted and that reported overpayments, which represents the value of detected unwarranted recourse to welfare payments is the most accurate and reliable method of reporting the net misspend across all Departmental schemes.

## Conclusion

Reviews of representative samples of cases selected randomly provide a well-trying means of assessing the effectiveness of a scheme control system. Case reviews of this kind are used to inform control planning and implementation in Revenue and in EU-funded schemes in the agriculture area, as well as in welfare systems in other jurisdictions.

The Department has in the past undertaken fraud and error surveys of randomly selected claims on some welfare schemes. Some major expenditure schemes have not been subject to this kind of survey, and the latest survey results in relation to some schemes go back to 2004 and 2005.

It is important that the Department carry out fraud and error surveys on an ongoing basis in order to inform itself on the current level of fraud and error in its payments. The identification of the level of irregular payment needs to be followed by on-the-ground measures to reduce the incidence of fraud. From an accountability perspective, the burden of proof is on the Department to demonstrate that any subsequent measures have reduced the rate of irregular payment. More frequent surveys are necessary to inform departmental administration and control activity, and to allow it to demonstrate the discharge of its accountability for the regularity of its payments.

While reliance on older survey results is not ideal and is unlikely to accurately reflect the current position, it would not be appropriate to ignore them in the absence of more recent results. Furthermore, other available evidence tends to confirm the persistence of excess and irregular payments.

- Previous reports have drawn attention to the fact that at administrative level, considerable information was available to the Department that would have detected long running overpayments.
- Chapter 36 suggests that illegal payments could be addressed by ensuring that claimant entitlement is fully evidenced at take-on or as soon as possible thereafter and that certain management checks need to be carried out consistently.
- Chapter 37 reports a review of the extent to which centrally-generated control information issued to prompt checks is subsequently actioned. Again, there is considerable scope for better utilising this information to reduce the level of unwarranted recourse to the welfare system.

The results of the Department's fraud and error surveys, taken together with a conservative estimate of the levels of fraud and error in unsurveyed schemes, would suggest an overall level of irregular payments of between 2.4% and 4.4% of total payments from Vote funded schemes. This exceeds the 1% materiality level my Office employs in its audit planning.

It is, of course, accepted that the level of irregular payment at a point in time is not equivalent to the cash-savings potential. The Department's planned approach to future surveys as outlined by the Accounting Officer should position it to estimate the loss of public funds with greater precision.

At the level of design, fraud and error survey results can lead to improved overall control and management, the impact of which can only be tracked by regular surveys conducted to a consistent standard. It is also important that the level of irregular payment be tracked and the financial effect estimated so that any necessary control improvements can be targeted at the areas of greatest financial exposure. The Department should also consider structuring its response to survey findings so as to address the three key drivers of irregular payments i.e. fraud, client error and departmental error. The optimal response to each of these is likely to be different.

I intend to audit the Department's future surveys and results against the criteria set out in Annex A, and to report my findings as they are completed.

## **Annex A Criteria for the Successful Implementation of a Survey of Underlying Fraud and Error**

The criteria necessary for successful implementation of a survey of underlying fraud and error on a claim scheme are

- All cases for inclusion in the survey must be selected randomly from the population of cases in payment at a specific time.
- The sample size must be sufficiently large to yield reasonably reliable estimates.
- The reviews should be carried out quickly or samples may be affected by clients signing off.
- Cases should be tested fully for all possible breaches of regulations. This usually requires the reapplication of all the normal checks and tests – including interviews, home visits, re-certification of means or medical reviews, as appropriate – with a fresh determination by a Deciding Officer.
- The monetary values of any changes as a result of each review together with the monetary value of the sample should be captured so that the results can be extrapolated to draw conclusions about the estimated value of the loss.
- The results of the survey should be capable of being audited.

