

Chapter 30 Department of Social and Family Affairs

Welfare Payments in Excess of Entitlement

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30.1 A special report of an evaluation of the Department's control activity⁹⁰ finalised in 2003 found that the Department had, at that stage, no reliable estimate of the level of fraud and error occurring in its scheme payments. However, at that point, the Department committed to conduct surveys to estimate the baseline levels of fraud and error. This type of survey was to become part of its overall control strategy and be integrated into its business planning process and it was planned that over time it would extend to all schemes.

Audit Focus

The audit sought to assess

- the number and results of fraud and error surveys completed
- the estimated level of payments in excess of entitlement in each base year surveyed compared with the amounts recorded for recovery action
- the results of the Department's control activity in 2008.

Survey Results

30.2 Eleven fraud and error surveys have been carried out since 2003 covering the Department's major expenditure schemes. One of these was on the allocation of PPS numbers, the results of which cannot be used to extrapolate a financial impact on any particular scheme. An estimate of the cost of fraud and error in terms of the total scheme outlay was calculated for six of the surveys.

30.3 Figure 101 shows the number of cases in the sample, the percentage which required a change to the amounts payable and the baseline percentage of fraud and error involved.

⁹⁰ VFM Report Number 45 – Evaluation of Control Activity, November 2003.

Figure 101 Results of Fraud and Error Surveys

Scheme	Base Year	Sample Size	Change Cases	Level of Fraud and Error Estimated ^a
Jobseekers Allowance ^b	2003	443	15.8%	
Jobseekers Benefit ^b	2003	500	1.8%	
One Parent Family Payment ^b	2003	814	29.5%	
Child Benefit	2004	1000	2.3%	1.8%
Rent Supplement ^c	2005	915	—	—
Family Income Supplement	2005	528	2.8%	3.3%
Disability Allowance	2005	955	12.1%	7.0%
Illness Benefit (SIF)	2006	1,081	2.5%	0.4%
OAP Non-contributory	2007	1,008	17.2%	1.9%
One Parent Family Payment	2007	1,000	27.2%	7.0%

Notes:

- a This is the percentage by which the payments sampled exceeded the amount of entitlement.
- b While the percentage of cases changed was recorded there was not sufficient data captured to give a cost of fraud and error.
- c The survey was carried out in conjunction with four HSE regions. As there was a high variance in results between the regions, the Department considered the survey less reliable than those carried out by the Department.

30.4 Figure 102 presents the likely financial impact of the baseline fraud and error rates detected in the five statistically reliable surveys together with total expenditure for the schemes for the years the surveys were carried out.

Figure 102 Financial Impact of Baseline Fraud and Error Rate

Scheme	Base Year	Total Payments in Survey Year	Likely Impact
		€m	€m
Child Benefit	2004	1,765	30.0
Disability Allowance	2005	631	44.0
Illness Benefit (SIF)	2006	628	2.5
OAP Non-contributory	2007	920	17.5
One Parent Family Payment	2007	962	67.0

Note: The extrapolation is on the basis that, if the level of baseline fraud and error found in the sample were replicated in the payments in the year sampled, payments in excess of entitlement of the order indicated would have occurred.

30.5 When the extrapolated results of the surveys are compared with overpayments recorded by the Department in each base year the pattern in Figure 103 emerges.

Figure 103 Comparison of Recorded Overpayments and Baseline Fraud and Error

Scheme	Base Year	Extrapolation Financial Impact	Recorded Overpayments in Base Year	Percentage Recorded
		€m	€m	%
Child Benefit	2004	30.0	1.7	5.6%
Disability Allowance	2005	44.0	2.2	5.0%
Illness Benefit (SIF)	2006	2.5	1.7	68.0%
OAP Non-contributory	2007	17.5	7.4	42.0%
One Parent Family Payment	2007	67.0	4.9	7.3%

30.6 The comparison suggests that significant amounts of money are likely to have been paid out each year in excess of entitlement⁹¹ and that, in some cases, a relatively small element of payments made in excess of entitlement is being detected and pursued for recovery.

Reporting Control Performance

30.7 The Department annually publishes the results of its control and review activity which is focused on high risk schemes and customers. In its 2008 report, the Department indicates that 564,000 reviews were carried out. In approximately 88,000 instances the Department claims future savings of €476 million across all schemes⁹². The calculation of most of the savings involves the use of a multiplier based on the Department's estimate of the average amount of time a person who has had a payment reduced or terminated would otherwise have remained on the scheme. This time varies from scheme to scheme and ranges from four to 136 weeks. In many cases where payments are reduced or terminated, and where savings are claimed, the Department does not establish and record that a payment in excess of entitlement has occurred. In cases of non-fraud, a deciding officer may determine the effective date of a revised decision to be a current date, rather than a retrospective date, in which case no overpayment legally arises. In other cases, there is no way of establishing the date the claimant's entitlement ceased and accordingly the deciding officer does not have the evidence to make a retrospective decision resulting in an overpayment.

30.8 The savings claimed in the control and review activity report for 2008 in respect of the schemes that were the subject of the five fraud and error surveys where extrapolation was possible are given in Figure 104 together with the amount of overpayments⁹³ raised by the Department. The figure also presents a comparison the number of overpayment cases raised in the year against the number where savings are claimed.

⁹¹ Payments in excess of entitlement include all instances of unwarranted access to the welfare system whether or not overpayments have been raised for recovery by the Department.

⁹² The savings include overpayments resulting from control activity amounting to €37 million.

⁹³ Recorded by the Department with a view to recovery or prosecution.

Figure 104 Control Activity Results and Overpayments Recorded 2008

Scheme	Savings Claimed	Overpayments raised by Department	Number of Savings Cases	Number of Overpayment Cases
	€m	€m		
Child Benefit	48.6	3.2	5,141	2,007
Disability Allowance	25.1	2.8	1,413	277
Illness Benefit (SIF)	42.9	3.3	8,212	3,376
OAP Non-contributory	22.9	7.8	1,255	1,340
One Parent Family Payment	115.4	8.8	19,305	2,312

30.9 The results suggest that a significant proportion of reviewed cases counted for the purposes of savings calculations do not result in overpayment actions.

30.10 The Department has stated that it uses the surveys to estimate levels of fraud and error and to identify and target high-risk schemes and beneficiaries in order to focus its control activity where it is most likely to result in a reduction or termination of unwarranted payments. A recent report on Disability Allowance payments carried out by the Department's Internal Audit Unit found, however, that while a fraud and error survey was carried out in this scheme in 2005 no risk evaluation was carried out to target control activity. The Accounting Officer informed me that a new control review policy had been introduced for the scheme since January 2009.

Conclusions

Payments must meet a regularity test in that recipients have to have entitlement to them.

It is a basic accountability of the Department to prevent and detect irregular payments. This is underscored by the obligations set out in the Department's Annual Statement on Internal Financial Control. The conduct of fraud and error surveys are a key step in positioning the Department to discharge that accountability.

The baseline level of fraud and error is significant in some of the schemes surveyed to date. The findings in the five surveys where extrapolation was possible suggest that there is a significant level of payment in excess of entitlement in the schemes sampled.

In the five schemes reviewed, savings of €255 million were claimed by the Department in respect of 35,779 review cases in 2008. Overpayments were recorded by the Department in the year in about a quarter of that number *viz.* 9,312 cases.

The Department is also accountable for having systems, practices and procedures in place to enable it to evaluate the effectiveness of its operations. The effectiveness of control activity could be measured by the degree of convergence of the value of payments in excess of entitlement actually detected and the estimated value of fraud and error found in surveys. This can best be achieved by carrying out regular and systematic surveys across all schemes. Accordingly, greater use should be made of surveys in order to allow the Department to objectively assess the effectiveness of its control activities.

A further accountability is to ensure that there are adequate controls built into the welfare payments system. Without regular systematic follow up surveys, it is not possible to conclude on whether control adjustments put in place are working. Follow up surveys could also assist in determining the optimum level of resources to deploy to control work.

General Views of the Accounting Officer

30.11 The Accounting Officer informed me that the Department recognised the importance of fraud and error surveys and had completed surveys on all high expenditure schemes. Having achieved this by 2008, it intended to conduct two surveys every year on high risk schemes, *i.e.* Jobseekers Allowance, One Parent Family Payments, Disability Allowance and also on Child Benefit, which although the overall rate of fraud and error was low the incidence amongst non-Irish nationals was high. In this way, each high risk scheme would be surveyed every second year. However, the Department was not in a position to proceed with the surveys due to the increase in the live register and consequent lack of capacity amongst social welfare inspectors to review cases for the surveys. A survey on Jobseekers Allowance was however now planned for completion in the fourth quarter of 2009.

30.12 She added that the fraud and error surveys were an integral part of the Department's control strategy and sought to understand the nature and characteristics of fraudulent behaviour. This would lead to a better understanding of the risks in the social welfare system in general and more specifically as they related to individual income support schemes. The surveys were devised to identify the high risk schemes and categories within schemes and to estimate baseline levels of fraud and error.

30.13 She stated that in light of legal provisions⁹⁴ under which deciding officers may make revised decisions from a current date, there was no basis for concluding that a relatively small element of payments made in excess of entitlement was being detected. The number of cases to which savings were attributed was evidence that a high number of fraud and error cases were being detected. Overpayments arising from revised decisions with retrospective dates were recorded and recovery was pursued in accordance with legislation and guidelines.

30.14 With regard to the regularity of payments, she accepted that the Department was obliged to ensure that financial transactions were made in accordance with authorising legislation, the regulations made under the governing legislation as well as financial and auditing standards and applied for the purpose intended by the Oireachtas.

30.15 She stated that fraud and error surveys served as just one aspect of the overall control strategy in preventing, detecting and deterring fraud which had been adopted by the Department. In addition, the Department had implemented more systematic and strategic approaches to fraud and control. Guidelines to deciding officers would be reviewed and training provided to ensure tight control and strict adherence to governing legislation.

Overall Conclusions

While accepting that only a proportion of payments in excess of entitlement are pursued for recovery action and that this arises as a result of the exercise of their statutory discretion by deciding officers, surveys suggest the existence of a much greater level of fraud and error. This, in turn, has implications for the regularity of payments reported in the Department's Appropriation Account.

The baseline level of fraud and error when extrapolated suggests that the overall extent of payments in excess of entitlement in the schemes concerned is significant in the context of the charge to the related subheads.

⁹⁴ These provisions allow discretion to deciding officers to determine the effective date from which a change of entitlement will have effect.