

14 Ex-gratia payments to social welfare branch managers

- 14.1** As at June 2023, the Department of Social Protection (the Department) has 56 social welfare branch offices at various locations in the State.¹ Social welfare branch offices are privately run, with each branch office assigned to a 'parent' Department office, generally the nearest Intreo centre.²
- 14.2** Each branch office is operated and managed by a branch manager who is engaged as an agent of the Department, under a contract for services.³ Branches have access to the Department's IT systems, and their work is closely integrated with the work of the Department. Branch managers are required to meet the cost of providing the agency service, including staff pay and premises costs, from the payments they receive from the Department.
- 14.3** Branch managers operate under one of three types of permanent contract (see Figure 14.1). The remuneration terms of these contracts were revised in 2018, following discussions between the Department and representatives of the branch managers, led by a facilitator.^{4,5} New contracts would have required an open competition in line with current procurement law. The Department stated that, prior to modification, it reviewed each of the contracts and received advice from the Chief State Solicitor's Office and the Office of the Attorney General in relation to compliance with procurement requirements. A letter setting out the new arrangements was sent to each branch manager in April 2018.⁶

1 Branch offices were initially established under the *Labour Exchanges Act of 1909*.

2 Intreo is a service from the Department which provides a single point of contact for all employment services and income supports.

3 The full range of services provided by branch offices is outlined in Annex 14A.

4 Prior to 2018, the remuneration of branch managers was variable, based on the volume of services provided — see Annex 14B.

5 The Branch Managers' Association and the Representative Group of Branch Managers represent branch managers in discussions with the Department.

6 The letter was reviewed by the Office of the Attorney General.

Figure 14.1 Branch managers' contracts, by type, August 2022

Contact type	Contract conditions	Number of branch managers on contract ^a	Issuance period
Contract for life/open-ended contract	Branch manager has a contract for the duration of their lifetime. ^b	17	Up to 1984
Contract to retirement	Branch manager retains the contract to provide the service until the branch manager reaches a specific age (65, 66 or 70 years old). ^c	24	1985 to 2007
Five-year contract	The branch manager retains the contract to provide the service during the contract period.	14	2006 to present
Temporary contract	A temporary contract to ensure continuity of service.	1	

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

- Notes:
- a Number of contracts at August 2022 when the ex-gratia payments were calculated.
 - b At August 2022, five branch managers were aged 66 to 69 and ten were aged 70 or more.
 - c With effect from January 1999, permanent contracts offered to new branch managers contain a clause which stipulates compulsory retirement.

14.4 The Department has stated that the revised payment model for the branches reflects a move from one based on transaction volumes (fee per item e.g. per claim processed) to one based on service quality and adaptation to new ways of working.

14.5 Under the contracts with the branch managers, the payment model includes a core fixed remuneration amount for each branch office. This amount is based on the average payments made to branch offices in 2017 under the previous payment model, and consists of three core elements

- a standard payment of €40,000, made to each office, regardless of size
- a services and support payment of 80% of the fixed remuneration amount for the office less the €40,000 standard payment
- a service level payment of 20% of the agreed remuneration amount for the office, payable for achieving the required service levels of the improved service delivery model.¹

1 The criteria against which performance is assessed relate to branch adherence to Departmental circulars and instructions. In addition, branch office accommodation must be maintained at the standard required by existing contracts and relevant provisions.

14.6 The Department stated that following the introduction of the new arrangements, it engaged in a process of performance monitoring by way of inspections and reporting — every branch office should have two control checks and one general inspection conducted annually, and at least one of those control checks should be conducted during the fuel allowance season.²

2 Fuel allowance season refers to the period during which fuel allowance is paid to claimants. It normally begins in late September of each year and ends in April.

14.7 The 20% final portion of the branch manager's remuneration is paid on the basis of performance which forms part of these required inspections. The Department has not reduced payments to any branch office for a failure to meet the required service level. It stated that the issue of withholding the 20% service level payment did not arise in relation to any of the branch offices. However, internal audits carried out in 2022 and 2023 raised issues with the non-completion of control and general inspections within the sample of branch offices it reviewed.

3 These payments are approved by local Department management.

14.8 In addition to the fixed remuneration amount, branch offices also receive

- per item fees for processing of public services card applications, SAFE registration and PPSN allocation — €476,000 to 44 branch managers in 2022 (2021: €290,000 to 42 branch managers — an increase of 64% year on year)
- payments for accommodation to facilitate the attendance of the Department's staff who provide employment, control or community welfare services in the branch area — €163,000 in 2022 (2021: €166,000)³
- payments to retiring branch office managers — €68,000 paid in 2022 to two retiring branch managers (2021: nil).^{4,5}

4 The clients of the two closed branch offices were absorbed by Intreo offices.

5 The Department stated that it is obliged to make these retirement payments under a 1966 scheme.

6 Revenue's Tax and Duty Manual (04-01-19) sets out the relevant process. Branch manager income is taxed as self-employment income (returned under Schedule D).

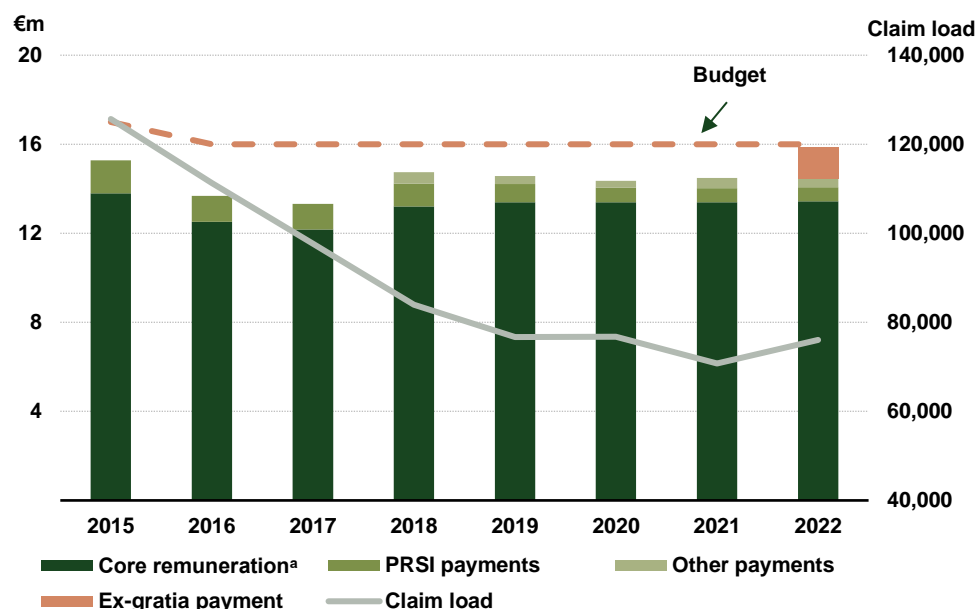
The Department also paid €644,000 in 2022 (2021: €631,000) directly to Revenue in relation to branch manager's PRSI (class A contributions).⁶

- 14.9** In June 2018, the Department of Public Expenditure, National Development Plan Delivery and Reform (DPENDPDR) sanctioned the revised remuneration arrangements but expressed concern that it (DPENDPDR) had not been consulted before the agreement was reached. A condition of the sanction was that there was to be no agreement on continuation of this new model beyond 31 December 2020 and that there must be detailed prior consultation before any decision is taken beyond 2020.
- 14.10** The Department stated that given the unique circumstances of the Covid-19 pandemic in 2020, it operated on the assumption that the 2020 sanction automatically continued for 2021 and 2022, within the previously sanctioned limits. In March 2023, the Department stated its intention to seek sanction from DPENDPDR for payments to branch managers in 2023.

Payments to branch offices

- 14.11** The claim load of the branch offices, as measured by the number of claims being managed at the year end, has declined by around one third since 2015 (see Figure 14.2). Payments increased in 2018, reflecting the revised contract arrangements, and remained relatively stable thereafter. Because the payment rate is fixed for each office, there was no material change in payments to branch offices during the period of the pandemic.
- 14.12** The Department stated that while there were fewer applications for jobseeker payments during the pandemic, branch offices remained open and accepted pandemic unemployment payment (PUP) applications, but did not process them.

Figure 14.2 Payments to branch managers, 2015 – 2022



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

Note: a Due to different remuneration structure prior to 2018, there is no split between core remuneration and other payments for 2015 to 2017.

- 14.13** The annual budget for payments to branch offices included in Vote 37 Social Protection was a constant €16 million a year, from 2016. In the period 2018 to 2021, there was an underspend on the voted provision each year of between €1 million and €1.4 million.
- 14.14** The Department met with representatives of the branch managers in June and July 2022 to discuss financial pressures on branch offices due to increases in the costs of living, the delivery of services, and supports for Ukrainian claimants.
- 14.15** In response, the Department prepared a proposal to make a one-off payment to branch managers, in recognition of the impact of their increased business costs. The proposal contained information on the general economic outlook and rising costs of living. It referenced inflation projections, increases in the consumer price index and data on energy price increases.
- 14.16** However, the proposal did not include any detailed analysis on the impact of the cost of living increases on branch offices, nor did it estimate the additional costs incurred by branch offices as a result of increased service demands arising from the influx of Ukrainian refugees.
- 14.17** The Department devised a method of apportioning one-off 'top-up' payments to each branch manager, based on the branch claim load and the number of Ukrainian claimants in the branch office area. The total payment allocated across all branches remained within the Department's overall budget allocation for branch offices.
- 14.18** The total value of ex-gratia payments made in 2022 was €1.425 million ranging between €16,000 and €51,000, allocated based on two components¹
- €782,000 apportioned based on the number of claimants of the branch office (payments ranged from €12,000 to €18,000 for individual branch offices) to address increased financial pressures²
 - €547,000 apportioned based on the number of Ukrainian clients in the area (payments ranged from €4,000 to €35,000 for individual branch offices).³
- 14.19** The Department had no obligation to make the 'top-up' payments under the terms of the 2018 agreement. Furthermore, the Department made these payments in the absence of evidence based detailed analysis to substantiate the validity of the payments.

¹ This comprised a payment of €1.329 million directly to branch managers and €0.096 million to Revenue for PRSI.

² Based on a total claim load managed by branch offices of 71,150 at end September 2022.

³ Total Ukrainian clients for all branch offices was 5,000 at end September 2022.

Approval for the ex-gratia payments

- 14.20** DPENDPDR's *Public Financial Procedures* defines an ex-gratia payment as a payment not legally due under a contract or otherwise and states that such special payments usually require prior sanction and should be the subject of a note in the relevant appropriation account.
- 14.21** The Department did not seek DPENDPDR sanction for the ex-gratia payments to the branch managers but has, following from an audit query, included a note in that regard in the Vote 37 appropriation account for 2022.

- 14.22** The Department stated that the contracts with the branch managers provide for the Minister to vary at any time the amount of remuneration payable and it was under this provision that the Department responded to the cost pressures faced by branch managers. The Department stated that the use of an ex-gratia payment was a measured response which did not embed an ongoing increase in fees in a situation where there was still some expectation that price pressures might be temporary in nature.
- 14.23** In addition, the Department's view is that the payment to branch managers was funded from the voted subhead proper to such payments and the total cost remained within the voted amount under that subhead, for which sanction was already in place.
- 14.24** DPENDPDR has stated that *Public Financial Procedure* (section C2, paragraph 13) makes clear that the Exchequer has first claim on any savings on a Vote and in the normal case departments are expected to surrender such savings rather than retain them for allocation to other items of expenditure, except where prior approval of DPENDPDR has been obtained.

Conclusions and recommendations

- 14.25** Social welfare branch offices are provided and managed by self-employed contractors who are responsible for meeting the costs of providing the service, including staff and premises costs.
- 14.26** The structure of payments to branch managers was revised in 2018, against the background of a declining case load. The revised arrangements were scheduled to expire in 2020. DPENDPDR sanctioned the revised arrangement in 2018, after it had been agreed between the Department and branch managers, and requested that the agreement would not be extended without its input.
- 14.27** The Department continued to apply the revised contract terms in 2021 and 2022, without seeking a further sanction. As at June 2023, branch offices continued to operate under the terms of the 2018 agreement.

Recommendation 14.1

The Department should engage with DPENDPDR to agree on an approach to discussions with branch office managers on the contract terms and governance arrangements for the future operation of social welfare branch offices.

Department of Social Protection Accounting Officer's response

Agreed.

The Department will engage with DPENDPDR to ensure that the necessary sanctions and governance arrangements are in place for the proper remuneration for branch managers. The Department will consult with branch managers prior to finalising any revised arrangements which impact on the operation of branch offices.

Timeline for implementation

By end 2023 in respect of budget 2024 estimates.

- 14.28** In addition to the payments provided for and approved under the 2018 agreement, the Department made ex-gratia payments totalling €1.425 million to branch managers in 2022. The Department stated the top-up payments were made in response to financial pressures on branch offices due to inflation, and the requirement to deliver services and supports for Ukrainian claimants.
- 14.29** The Department's internal proposal for the ex-gratia payment was based on general cost increases in the economy, rather than a detailed evidence-based assessment of the impact that cost of living increases and service demand increases had on branch offices. In the absence of any such detailed and specific analysis, it is difficult to determine if there is a valid case for making any top-up payment.
- 14.30** The ex-gratia payments represented a significant enhancement of the sanctioned payment terms provided for in the 2018 agreement. The amount paid out used up available voted funding that otherwise would have resulted in a saving to the Exchequer. *Public Financial Procedures* makes clear that such savings are not available to vote managers to use without the prior approval of DPENDPDR. Since sanction for this use was not sought, the expenditure was irregular.

Recommendation 14.2

The Department should engage with DPENDPDR to seek prior sanction for any proposed future ex-gratia payments.

Department of Social Protection Accounting Officer's response

Agreed.

The Department will apply a default rule of applying for sanction for one-off/ex-gratia payments. This rule will be applied in all but exceptional cases and in compliance with the guidance contained in *Public Financial Procedures*.

However, noting that *Public Financial Procedures* does not insist on such sanction in every case, it is important to retain some discretion and not to apply too burdensome a process where it is not necessary to do so for procurement or financial control reasons.

For example, sanction may not be necessary in cases where a one-off payment is substituting, at a lower cost, for an on-going spend or is permissible within the terms of a contract for which sanction is already in place.

Nevertheless, in all cases ex-gratia payments with or without sanction, will in future be subject to sign-off at a minimum at Deputy Secretary General level in accordance with approved authorisation levels.

Timeline for implementation

With immediate effect.

Annex 14A Services provided by branch offices

Branch offices provide the following services:

- information provision — ensuring that individuals have access to accurate, comprehensive and clear information relating to all social welfare schemes and services, including community welfare services and employment services
- triaging claims and assisting customers in accessing all Department of Social Protection (DSP) schemes and services
- registering and maintaining claims for all services provided by Intreo centres — currently jobseeker's allowance and benefit, one-parent family payment, farm assist, fish assist, benefit payment for 65 year olds, and fuel allowance
- supporting employment services — hosting group or joint information sessions for jobseekers
- ensuring payment integrity/control activities — working with DSP control functions to ensure the correct operation of the Department's fraud and control policies
- identity authentication — processing customer applications for the Public Services Card
- accommodation provision — providing facilities for the Department's staff to meet with clients on an 'as needs' basis.

Annex 14B Branch manager contract prior to 2018

Prior to 2018, remuneration of branch managers comprised three elements.

- A standard annual salary: ranging from €43,199 to € 71,485 per annum, depending on the claim load of the Branch Office.
- Tiered Services Allowance: ranging from €2,959 to €29,411 per annum, depending on claim load and subject to the maintenance by branch managers of an adequate standard of accommodation and is intended to cover all operational costs.
- Variable costs: no payment was made in respect of an office with an annual claim load of less than 500. For offices with higher annual claim loads, the payment was € 3,083 for the first 101 to 500 claims per annum rising to € 7,713 for each subsequent 100 claims per annum.

