

Chapter 34

Department of Social Protection
Non-Contributory State Pension Scheme

Non-Contributory State Pension Scheme

34.1 The Department of Social Protection pays State pensions to older and retired people under a range of schemes. In terms of number of beneficiaries and annual expenditure, the main schemes²⁴³ are

- State pension (contributory) — which is paid to around 265,000 pensioners, at a cost of over €3.4 billion in 2009
- State pension (non-contributory) — which is paid to around 98,000 pensioners, at a cost of €1 billion in 2009.

34.2 In order to qualify for the contributory State pension, a claimant must have a sufficient social insurance record. Where a claimant has a qualifying record, the relevant payment is made without regard to the claimant's assets or to any income from other sources.

34.3 A person aged 66 years or over who does not have an entitlement to a contributory State pension or who has an entitlement to a reduced-rate contributory pension may apply for a State pension non-contributory (SPNC). Under this scheme, the Department takes account of any financial means the claimant has in deciding whether or not he/she is entitled to a pension, and the amount of the payment. As a result, the determination of SPNC entitlement is more complex than in contributory pension cases, and carries a higher risk that excess payments may arise.

34.4 Prior to 2006, recipients of payments under other means-tested schemes could continue as claimants on the original scheme after reaching retirement age. In a rationalisation of the schemes in 2006, existing recipients of other means-tested payments aged 66 and over were automatically transferred to the SPNC scheme. This resulted in an increase in the number of SPNC pensioners from around 84,000 at the end of 2005 to around 97,000 at the end of 2006. The total number of recipients of SPNC has increased marginally since then.

Chapter Focus

As part of the financial audit of the 2009 Appropriation Account for the Vote of Social and Family Affairs, the management of claims under the State Pension (Non-Contributory) scheme was examined. The main aims of the examination were

- to verify, based on examination of a random sample of cases, that the payments made under the scheme were correct and conformed to the scheme conditions
- to assess if the controls over the payments are adequate, given the nature of the scheme, and that they are being applied as intended
- to confirm that where payments in excess of entitlements are detected, they are recovered to the maximum extent possible.

34.5 The audit reviewed the control framework put in place by the Department in relation to the SPNC scheme. It also examined the information on the Department's electronic case processing system in relation to live claims for SPNC at 16 October 2009. A random sample of 29 SPNC cases was extracted from the payment file for detailed examination, and the Department was asked

²⁴³ Under the State Pension (Transition) scheme, around 8,400 individuals aged 65 were receiving income support payments at end 2009, at a total cost of €105 million in the year. Under the Pre-Retirement Allowance scheme around 7,500 individuals aged 57 to 64 were receiving payments at end 2009, at a cost of €97 million in the year.

to provide the full documentary file containing the history of each case. It was able to present 27 original files and two duplicate files²⁴⁴.

34.6 The audit also examined in detail five cases where large overpayment debts were recorded in 2009, and relevant reports of the Department's Internal Audit Unit.

Scheme Structure

34.7 To qualify for the SPNC, an applicant must

- be aged 66 years or older
- have a valid Personal Public Service (PPS) number
- be habitually resident and living in the State
- have assessed means of €37.50 a week or less (including means of a spouse or partner, if any).

34.8 The maximum personal rate of payment for an individual claimant under the scheme is €19 per week. A pensioner aged 80 or over receives an additional €10 per week, and a claimant who lives alone is entitled to a further €7.70 per week. A pensioner on a full-rate payment with an adult dependent receives an additional €44.70 per week. Recipients of SPNC may also be entitled to benefits under the Department's various 'free' schemes.

34.9 Where the claimant (or a spouse or partner) has means, the overall payment entitlement may be reduced. In the assessment of means, certain amounts of income (depending on their source) are disregarded. The amount payable reduces as the assessed means amount increases. There is a legal obligation on those who receive pensions to report (within three months) any increase in means to the Department, to allow the payment to be adjusted, if necessary.²⁴⁵

34.10 The average payment to recipients of SPNC in 2009 was around €10,200, or €195 per week. This compares to an average payment to recipients of contributory State pension of €12,400 a year, or around €240 per week.

Claimant Profile

34.11 The profile of recipients of SPNC²⁴⁶ reflects variations in demographic factors and in the historic labour market/social insurance experience of different segments of the population. As a result

- almost two-thirds (63%) of recipients of SPNC are women — by comparison, women account for only one-third (34%) of recipients of contributory State pension
- just 3% of recipients of SPNC have dependent adults, compared to around 24% of recipients of contributory State pension — this is because dependent adults in SPNC cases generally apply for the pension in their own right on reaching age 66

²⁴⁴ The Department uses the term 'duplicate file' to describe a file created for a case where the original application file cannot be located e.g. due to misfiling. It, therefore, usually does not contain all the papers relevant to the case.

²⁴⁵ A single person who has no other means can have capital of up to €40,999 and qualify for a maximum rate pension. With capital of €92,000, a single person can still qualify for a reduced pension of around €7 per week.

²⁴⁶ Based on end 2009 data from Social Welfare Services Statistical Report 2009 (July 2010).

- significantly higher proportions of pensioners in the less urbanised areas of the State are dependent on SPNC than on the contributory State pension — there are about equal numbers of pensioners dependent on contributory pensions and on SPNC in border and western counties such as Cavan, Donegal, Mayo, and Roscommon; in contrast, in Dublin city and county, there are almost six contributory pension recipients for each recipient of SPNC
- older pensioners are more reliant on non-contributory pensions — 43% of State pensioners aged 80 and over rely on the SPNC, while 21% of State pensioners under 80 rely on SPNC.

Scheme Administration

34.12 The non-contributory pension scheme is administered centrally by the Department's Pensions Office (Social Welfare Services), based in Sligo. The Department manages claims for SPNC on its PENLIVE system.

34.13 The Department has stated that, to address limitations of the PENLIVE system, a project is underway to implement a Service Delivery Modernisation (SDM) programme for the SPNC scheme. The expected benefits of the SDM programme are

- more effective systems for control of fraud and abuse
- capacity to view all claim information on-line in one place allowing staff to provide a higher quality of service
- the capacity to become more proactive in initiating services for claimants
- system-generated communications giving claimants timely information relevant to their particular entitlements
- capacity for more flexible organisational structures, providing staff with a greater variety of work and the consequent development of new skills.

34.14 New applicants are required to complete a detailed application form, which must be sent, together with relevant supporting documentation, to the Pensions Office. The form requires the applicant to declare personal means, and those of a spouse or partner, if appropriate. Applicants already in receipt of an income support payment under another scheme, and approaching the age of 66 are asked to fill out a similar declaration form.

34.15 Applications are checked to ensure that they are completed in full and may be returned to the applicant if it is found that relevant information or supporting documentation is missing. Fully completed applications are registered and passed to a vetting officer to determine whether the file should be referred to a social welfare inspector to interview the applicant in connection with his/her application, or whether the entitlement can be desk-assessed based on the information provided. The vetting officer will also write to the applicant requesting any outstanding information/documentation required before a decision on entitlement is made.

34.16 Completed files (including reports returned by social welfare inspectors where relevant) are examined by a deciding officer, who determines entitlement to payment (if any). The deciding officer writes to the applicant informing him/her of the decision. Payment is initiated in cases where the decision is to award a pension.

34.17 There is provision for the applicant to appeal the deciding officer's decision.

Timeliness of Processing of Claims

34.18 The Department encourages applicants to apply for SPNC three months prior to their 66th birthday to allow sufficient time for the claim to be processed and, in so far as is possible, to commence payment on the applicant's 66th birthday. Applications are accepted up to six months prior to the customer reaching 66 years but the customer must confirm that there has been no change in his/her circumstances before commencement of any payment.

34.19 There is provision for backdating late applications, normally up to six months, where a valid reason is provided for the late application. In exceptional circumstances consideration may be given to backdating for longer periods.

34.20 The Department received a total of just over 10,800 applications for SPNC in 2009. The average time taken to process the applications was nine to ten weeks.

Take-on Controls

34.21 In the sample of 29 files examined during the audit, it was found that the application process and take-on controls had generally been applied as intended.

34.22 In a small number of the cases examined, it was found that there were problems with SPNC application forms. These included

- incorrect dating of forms or failure to date them
- misfiling of applications.

34.23 The Department has since reviewed the circumstances of cases brought to their attention in the course of audit in the context of the procedures in place at the time the entitlement was being assessed. It has concluded that they were dealt with appropriately and in accordance with the procedures.

34.24 The audit examination of the case files also found that eight of the application forms had not been date stamped by the Department. The Department has stated that applications for SPNC are submitted through a variety of channels — by post to the office in Sligo, via other Department offices, via social welfare inspectors or sent by local representatives or politicians. A date-received stamp only appears on the application form when it is received by post. Applications received by other means are registered on the PENLIVE system immediately on receipt in the SPNC office. The Department's view is that the date of receipt only becomes relevant where the application is received after the applicant's 66th birthday.

Evidence of Bank Balances

34.25 In assessing claimants' means, the Department relies to a significant degree on self-declaration by claimants of income, savings and other assets (including those of a dependent adult, where relevant). Claimants are asked to give details of their accounts in financial institutions, and to provide statements for each account showing the balances over the three month period prior to submission of the claim.

34.26 The review of documents backing up payment in the sample cases examined revealed six cases where claimants had declared that they had bank accounts, but where the required three months' bank statements were not on file.

34.27 The Department has stated that bank statements are not always retained on the file. In many instances, an inspector will examine bank statements during the course of the interview with the applicant and will return them to the customer directly where s/he is satisfied that there is nothing unusual or requiring further examination. In other cases, where the Department receives bank and other personal information, applicants will often request that the documents are returned as soon as possible, and the deciding officer will often return the bank statements when a decision on entitlement is made. Copies of bank statements are normally only retained where there is evidence of another source of income e.g. payment of an occupational or other pension, or regular income lodgements of note. The Department has considered retaining copies of bank statements on file but it concluded that the administrative effort associated with this would be excessive.

Accuracy Checks

34.28 In early 2010, the Department initiated a process to independently check 5% of all SPNC cases decided each month, to ensure the accuracy of decisions, that they accord with entitlement and that the payment is made to the correct recipient. In addition, 5% of desk-assessed claims are subsequently forwarded for investigation by a social welfare inspector to confirm accuracy of the decision/payment. Scheme managers check 5% of cases where arrears between €1,905 and €7,500 are paid, and approve in advance, all cases where arrears exceed €7,500.

34.29 No overall record has been kept of the frequency of revision of decisions following the accuracy checks. The Department has indicated that arrangements will be put in place to keep a manual record of the outcome of the checks. It expects the implementation of the SDM programme for SPNC to allow for streamlining of the accuracy checking process and to give greater control over quality checks.

Review and Control Strategy

34.30 The Department revised its review and control strategy in relation to the SPNC scheme during 2009. This revision took on board the findings of an internal audit report on review of estate cases in June 2008 and the results of a fraud and error survey of SPNC undertaken in 2007. Based on risk assessment, the strategy aims to ensure that targeted reviews of pension cases are undertaken in a timely manner. In addition, SPNC cases are reviewed when the claimant provides new information, or when relevant new information comes to light.

34.31 Implementation of the strategy was delayed by industrial action but a designated Control Unit is being set up in Sligo in conjunction with the proposed transfer of the scheme to the SDM programme by the end of 2010.

34.32 The Department has stated that the most significant risk identified in the fraud and error survey on the scheme was failure to make consequential change in rates of payments to pension recipients as a result of changes made in UK Retirement Pension payments. This risk is now being targeted through a new data-matching process with UK authorities on the relevant Retirement Pension payees in receipt of SPNC payments.

34.33 The Department has also developed the capacity to validate assets and income being declared through information received from a number of sources, including the Department of Agriculture, Fisheries and Food and the Private Residential Tenancies Board. More recently, the Revenue Commissioners have provided information on assets recorded on their database.

Review Frequency

34.34 The Department set a target of carrying out 7,660 reviews of SPNC cases in 2009. This was equivalent to a review rate of around 8% of the total claims in payment. The outturn was 8,814 cases reviewed — about 9% of all claims in payment in 2009.

34.35 For the sample of 29 SPNC cases examined during the audit, the case files indicated that

- only five cases had been reviewed in the period 2007-2009
- seven cases were last reviewed in 2005 or 2006
- 15 cases were last reviewed in 2003 or earlier, with individual ‘last review’ dates going back to 1988
- two cases (commenced in 2001 and 2006 respectively) had never been reviewed since initiation.

These results are broadly consistent with the 2009 target review frequency.

34.36 One of the sample cases reviewed commenced payment in 1993. The examination of the case file indicated repeated failures on the part of the Department to implement case review findings and recommendations. In this case, reviews by a social welfare inspector in 2003 and in 2005 found there had been an undeclared sale of property by the claimant in 1999 and several undeclared bank accounts. This indicated the claimant had means in excess of the limits for any pension payment. Decisions to stop the payment were recorded on the case file in 2004 and again in 2005, but the claimant was still in receipt of the maximum rate of pension at the time of the audit, and no overpayment had been recorded. While the circumstances of an individual case may not be representative of the scheme management as a whole, this case gives rise to concerns about the lack of follow through where reviews of ongoing claims are undertaken.

Payment Termination

34.37 Just over 6,600 SPNC claims were terminated in 2009 following the deaths of the claimants. The scheme provides for SPNC entitlements to continue to be paid to a qualified spouse/partner of a deceased claimant for six weeks after the death occurs. Otherwise, entitlement to payments ceases from the date of death of the claimant.

34.38 Family members or other representatives of the claimant’s estate may notify the Department of the claimant’s death. The Department aims to register notified deaths on the PENLIVE system within a week. This stops the payment.

34.39 If notification of death is not received from a family member or other representative of the claimant’s estate, or is delayed, payment may be stopped on receipt of a message from the General Register Office, which automatically notifies the Department of all deaths registered in the State. However, the legal obligation to register a death allows for up to six months to carry out the registration. Consequently, there are risks that payments can continue for periods after the death of the claimant.

34.40 The Department has stated that all pension claimants are paid through An Post or directly to a claimant’s account with a financial institution. If a payment is made following the death of a claimant, the Department has the facility to recoup the overpayment from An Post or the financial institution concerned.

34.41 The Department has reported that in 95% of the cases where an identified overpayment arose through payment after the death of the claimant, it has been possible to recoup the overpayment from the financial institution/An Post, or out of the entitlement to a six weeks payment after death due to a spouse.

Estate Cases

34.42 The Department operates an Estate Case Recovery Unit, which aims to identify overpayments (if any) in relation to cases of deceased pensioners. Reviews are based on information and declarations supplied to the Unit by representatives of the estates of deceased persons, who are legally obliged to notify the Department when they are processing the assets of an estate.

34.43 In 2009, the Unit reviewed a total of 1,548 estate cases.²⁴⁷ This is equivalent to around 23% of the number of cases that ended in the year due to the deaths of pensioners. The Department has pointed out that many pensioners die without leaving any estate.

34.44 Of the SPNC cases reviewed by the Unit, 324 resulted in overpayments being identified. The total value of the overpayments identified was € million (an average of around €27,800 per case).

34.45 A 2008 internal audit of the operation of the Estate Case Recovery Unit noted significant concerns in relation to the following

- The Department had no control mechanism to ensure that all relevant estate cases were notified to it.
- Local social welfare inspectors investigating estate cases were found to have agreed with the representatives of the estates concerned the amount of overpayments due for repayment and arranged for the repayment of the agreed sums. The quantum of overpayments should instead have been determined by a deciding officer following a review of each case.
- Settlements in estate cases resulted in overpayment debts being only partly recovered even though there were sufficient assets in the estate. In a sample of ten cases examined by the internal auditors, there were eight where the available assets were sufficient to repay the full debt, but the recovery rate was between 42% and 81% of the total debt. No explanations for the amounts not pursued were evident on the files.

34.46 The Department has stated that the arrangements it currently has in place in relation to estate cases are as follows

- It relies primarily on the legal obligation on the personal representatives of deceased persons to notify it when they are processing the assets of an estate. In addition, it has now arranged for regular reports from the Probate Office that will identify cases for targeted review through the Estate Case Recovery Unit.
- A local social welfare inspector computes the level of overpayment owing in an individual case, based on the Department's procedures. For practical purposes, there is a system in place where estate representatives can make a payment on account based on the calculations of the inspector.
- While, on the face of it, a particular estate may have enough funds to repay the full arrears owing, some assets may not be easily converted to cash. Legitimate expenses of the estate (e.g. funeral expenses) are also allowed before a final settlement is reached. Where the

²⁴⁷ Includes some widows' pension (non contributory) estate cases.

estate is mainly comprised of property that cannot be easily converted into cash, a pragmatic approach is often adopted to ensure that settlement is reached in a timely manner.

A review is currently underway to further enhance processes and procedures within the estates area.

Payments in Excess of Entitlements

Fraud and Error Survey Results

34.47 The Department undertook a fraud and error survey in relation to SPNC in 2007. This involved reviews of a random sample of over 1,000 current claims. In just over 17% of the cases reviewed, it was found that the payment entitlement needed to be adjusted in some way — stopping the payment in a few cases, or changing the payment amount to reflect changes in assessed means. The net adjustment was a reduction of 1.9% in the overall amount paid to the sample of pensioners²⁴⁸. This implies that there is likely to be a material level of payment in excess of SPNC entitlements.

34.48 Regular fraud and error survey results in the UK for the means-tested Pension Credit Scheme also identify a material level of excess payment, estimated at 5.1% of the total expenditure on the scheme in 2008/2009.

34.49 The Department has pointed out that since the fraud and error survey on the SPNC scheme was completed it has developed a control review policy to target the control risks identified in the survey, which is now being implemented. In light of the action taken by the Department to address the risks, it considers that 1.9% does not reflect an up-to-date estimate of the cost of fraud and error in the scheme. In addition to the improved and targeted controls in place, the transfer of the scheme to the SDM programme by end 2010 will enable a more effective and efficient review process for SPNC claimants, including an automated re-certification process.

Estimate of Control Savings

34.50 The Department estimates that it generated control savings of over €42 million on SPNC expenditure as a result of control/review activity carried out in 2009.

34.51 The control savings estimate is based on a multiplier of 136 weeks i.e. the amount of a detected excess weekly payment is multiplied by 136 to derive the control saving in each case. This multiplier is the one commonly used by the Department for long-term scheme cases. The Department has indicated that it is currently undertaking a review of the control savings multipliers it uses.

²⁴⁸ The gross overpayment level was 2.1%.

Recorded Overpayments

34.52 In 2009, the Department formally recorded overpayments in respect of 1,080 SPNC cases, with a total value of €10.3 million. Figure 165 gives a summary of the Department's classification of the circumstances giving rise to the recorded overpayments.

Figure 165 Recorded overpayments in SPNC cases, by reason, 2009

Reason overpayment arose	Number of cases		Value of overpayments		Average value
	No	%	€000	%	€/case
Undisclosed means – estate cases	324	30	9,000	88	27,800
Undisclosed means – other ^a	53	5	517	5	9,800
Payment continued after death	508	47	405	4	800
Duplicate payments made	84	8	57	1	700
Other reasons	111	10	249	2	2,200
Total (all reasons)	1,080	100	10,288	100	9,500

Source: Department of Social Protection

Note:

a Includes cases where means were found to have been under-declared, and cases where means increased after declaration and were not reported.

34.53 The primary method for discovery and determination of overpayments of SPNC is through estate cases. These accounted for almost 90% of the value of the overpayments recorded. Averaging at €27,800 per case, this implies that the payments in excess of entitlements are both substantial and long standing.

34.54 Around 5% of estate cases were assessed as having overpayments. This suggests a sizeable incidence of excess payment of SPNC in the overall population of cases.

Conclusion

In the sample of SPNC case files examined during the audit, it was found that the application process and take-on controls had generally been applied as intended. In one case, the original pension application form has been missing since at least 2006, probably due to misfiling. The Department should develop a suitable claim re-declaration protocol to apply in cases where it may have mislaid original claim application documents.

There is an onus on SPNC applicants to provide bank statements as evidence of account balances declared in application forms. In six cases examined, account balances had been declared by applicants but copies of relevant statements were not on file. If copies of statements are not retained, files should record the fact that the necessary evidence was provided, that it supported the declared balances on the form, and that it was returned to the claimant. This record might be in the form of a file memorandum note made by the social welfare inspector, and/or by the deciding officer.

The evidence from the Department's fraud and error survey in 2007, the results of estate case and other reviews and the level of recorded overpayments all indicate that there is a material level of payment of SPNC that is in excess of the entitlements due to pensioners. In the main, this arises because of non-declaration or under-declaration of means. Claims for SPNC are usually of long duration, and while there is a requirement on claimants to declare increases in means, in practice, many claimants may overlook or neglect doing so.

Reviews of estate cases involve detailed examination of income and assets of deceased pensioners. These result in the eventual detection of a significant amount of pension overpayments. However, where assets are used or otherwise disposed of before death, excess payments may not come to light. There can also be difficulties and delay in enforcing repayments in the context of probate proceedings, resulting in lower recovery of debts.

The Department should consider initiating a periodic re-declaration system for non-contributory pensioners. This could have a long repeat cycle — say, every three years. It could include a request for provision of bank statements for 'spot check' periods during which pension payments had been made.

Accounting Officer's Response

34.55 The Department recognises that regular and ongoing interaction with claimants is required to ensure that timely information is available to it in determining ongoing entitlement to the SPNC. It expects the designated SPNC Control Unit and the transfer of the scheme on to the SDM programme will ensure a more effective, efficient and timely review process for SPNC claimants. It also expects that SDM will ensure that customers are aware on an ongoing basis of their obligation to notify the Department of a change in their circumstances which may affect the rate of their entitlement.

34.56 Periodic re-certification of SPNC claims will be considered when the scheme moves to SDM, which can facilitate such a process.

34.57 The Department notes that the fraud and error survey on SPNC indicated this is a low-risk scheme with fraud being negligible. New efforts to target the cases most likely to result in control savings include data-matching projects using Private Residential Tenancies Board and the Revenue Commissioners' data on capital assets and information about UK Retirement Pension payments.