

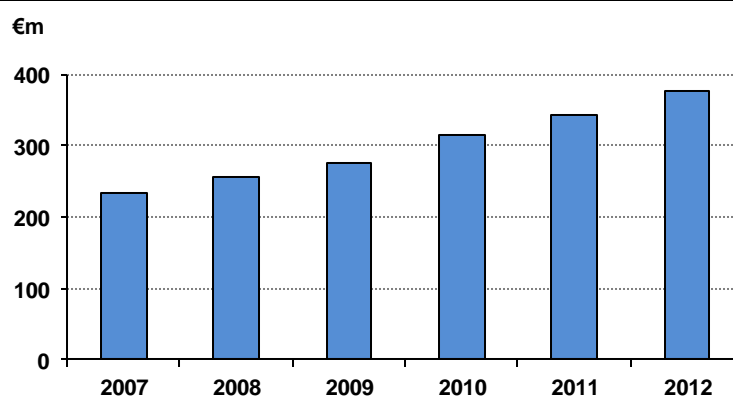
18 Welfare Overpayment Debts

- 18.1** The Department of Social Protection (the Department) makes income support payments to about 1.5 million people each week. Its overall budget for 2013 is approximately €20 billion.
- 18.2** An overpayment of income support arises where a claimant received a payment to which they were not entitled or the level of payment they have received exceeds their entitlement.
- 18.3** Overpayments may occur due to fraud or error. They may come to light where a claimant provides new information voluntarily or as a result of control activity by the Department. When an overpayment is identified, the payment is terminated or reduced to the correct level. A legally enforceable debt may be recorded and the Department will seek to recover that debt. The Department's Fraud Initiative 2011-2013 recognised that effective debt recovery is essential in deterring fraudulent activity.
- 18.4** This report examines overpayment trends in recent years and the progress by the Department in implementing recommendations from previous examinations of its management of overpayments. The legal action taken in cases of fraud or to recover overpayments is also reviewed.

Overpayment Debt

- 18.5** The total overpayment debt outstanding at the end of 2012 was €375 million — an increase of 9% or €32 million over the 2011 debt. Overall, the amount outstanding has increased by 62% since 2007 (Figure 18.1). The debt outstanding is a factor of the level of overpayments identified as well as the extent to which they are recovered and written off or cancelled.¹

Figure 18.1 Overpayment debt, 2007 to 2012



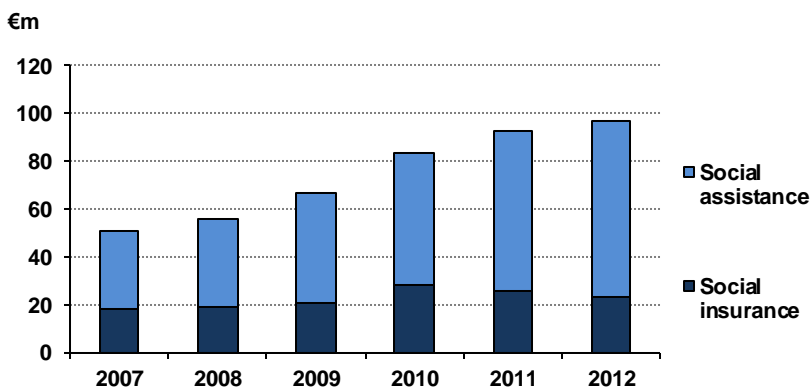
Source: Annex A

¹ Details of overpayments recorded, written off or cancelled, and the debt outstanding for the period 2007 to 2012 are set out in Annex A.

Overpayments Recorded

18.6 The value of overpayments recorded increased by 5% in 2012 to €97 million. Since 2007, the level of overpayments recorded annually has increased by 92%. Over the same period, expenditure on welfare schemes increased by 25%. Overpayments arising from Vote funded schemes, which are mainly in the nature of social assistance, represented 76% of all overpayments in 2012 (see Figure 18.2).

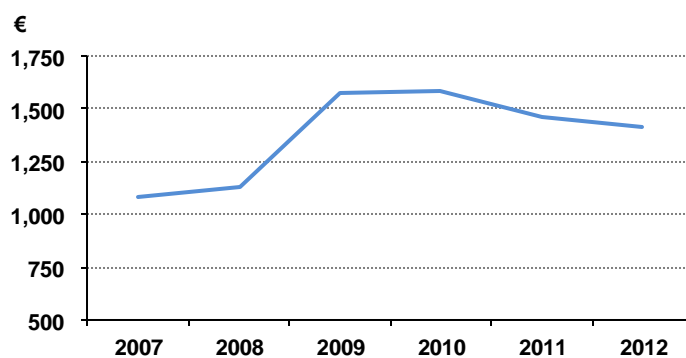
Figure 18.2 Overpayments recorded by scheme type, 2007 to 2012



Source: Annex A

18.7 Figure 18.3 shows the average value of overpayments recorded each year from 2007 to 2012. In 2009, the average increased to €1,570 and remained at around that level in 2010. By 2012 the average had fallen to around €1,420.

Figure 18.3 Average value of overpayments, 2007 to 2012



Source: Annex A

Overpayment of Fuel Allowance

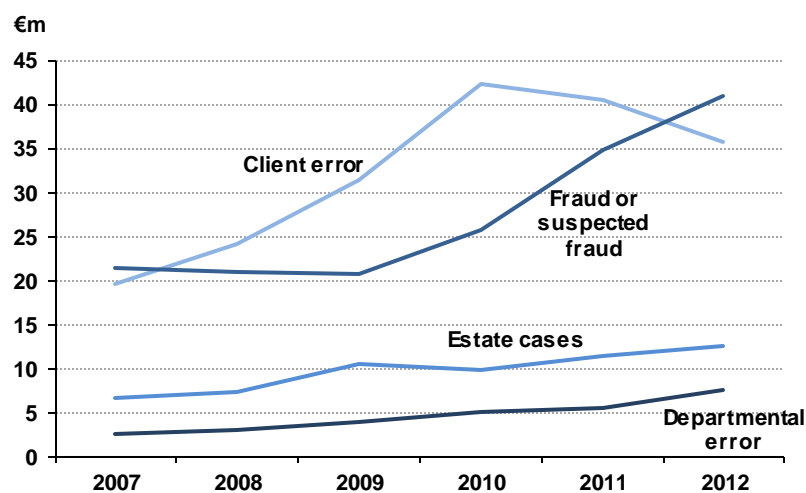
18.8 Due to their distorting effect on the trend, some 60,000 overpayments totalling €1.2 million that arose from the payment in error of an additional week's fuel allowance in 2012 have been excluded from the calculation of the 2012 average.¹ Just over €1 million of the fuel allowance overpayment was recovered from some 52,000 cases by deferring by one week the start of the 2012/2013 fuel allowance payment. This was not possible in cases where those overpaid were no longer entitled to the allowance. A further 1,300 cases have since repaid or are currently repaying the debt. The Department has indicated that all remaining debts will continue to be pursued.

¹ See Chapter 23 (paragraphs 23.32 to 23.35) of the 2011 Annual Report.

Reasons for Overpayments

- 18.9** The Department distinguishes between overpayments it attributes to fraud (or suspected fraud), client error, departmental error and those relating to estate cases.¹ The movement in the value of overpayments for each category over the period 2007 to 2012 is shown in Figure 18.4.

Figure 18.4 Value of overpayments, by reason, 2007 to 2012



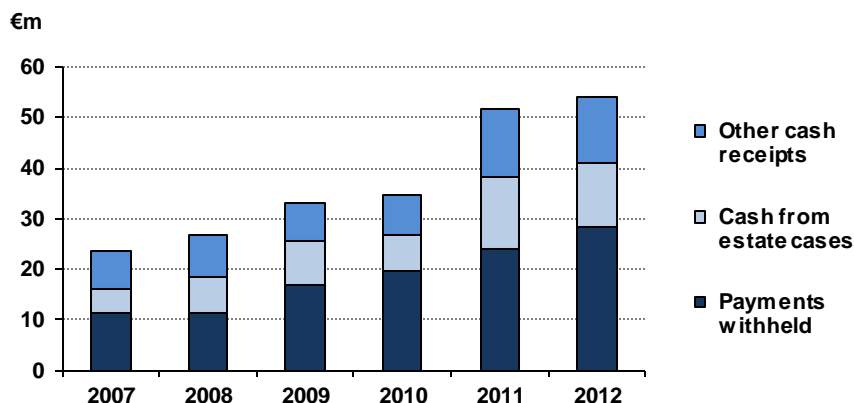
Source: Annex A

Recovery of Overpayments

- 18.10** The Department recovers overpayments in two ways
- withholding some or all of welfare entitlements
 - direct payments (lump sum or instalment) by claimants or their estates
- 18.11** The total amount recovered has more than doubled from €24 million in 2007 to €54 million in 2012 (see Figure 18.5). The amount recovered in 2012 comprises
- €28.3 million (53%) recovered by withholding payments due
 - direct payments from the estates of deceased claimants amounting to €12.5 million (23%)
 - the balance of €13.4 million was recovered by direct payments.

¹ Overpayments in estate cases are identified where mandatory returns to the Department from the estates of deceased claimants indicate that an overpayment has been made.

Figure 18.5 Overpayments recovered, by method of recovery, 2007 to 2012



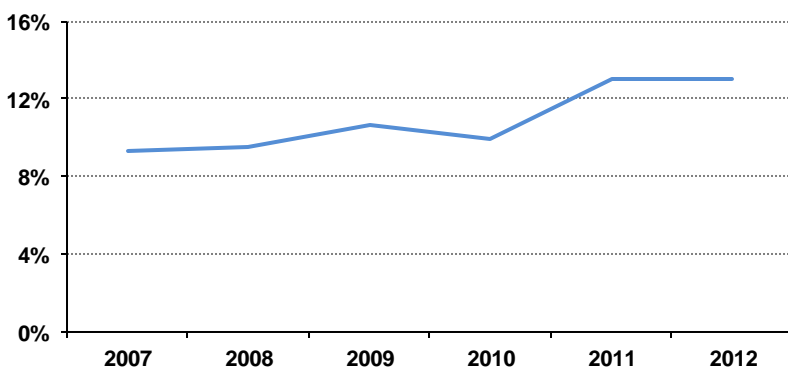
Source: Annex A

Recovery Rate

18.12 One measure of the effectiveness of debt recovery is the amount recovered each year relative to the total amount of recoverable debt. The recoveries in 2012 of €54 million represented 13% of the total recoverable debt (see Figure 18.6).

18.13 A potentially better measure of the effectiveness of debt recovery is the proportion of debt for specific periods which has been recovered. However, the Department's system cannot produce a report setting out for each year, the overpayments recorded, written off, cancelled and recovered and the resultant debt still outstanding.

Figure 18.6 Amount recovered as a proportion of recoverable debt, 2007 to 2012



Source: Annex A

- 18.14** The Department has provided details of the current amount of debt outstanding in relation to overpayments raised each year between 2007 and 2012 (see Figure 18.7). The extent to which the debt reductions for each year has been due to recovery, cancellation or write off is not known.

Figure 18.7 Aged analysis of overpayment debt, 2007 to 2012

	Overpayments recorded €m	% outstanding	
		June 2012	July 2013
2007	50.5	39	36
2008	55.6	42	38
2009	66.8	47	43
2010	83.4	51	45
2011	92.4	59	50
2012	96.9	—	59

Source: Department of Social Protection

- 18.15** Some 59% of debt recorded in 2012 was still outstanding at July 2013. The analysis indicates that just over 40% of debt remains outstanding after four years.

Recovery Procedures

- 18.16** Initially, the relevant scheme office or local office, as appropriate, will endeavour to put in place a recovery plan with the individual that has been overpaid. The Department's Central Overpayments and Debt Management Unit (CODMU) may become involved where local efforts fail. The Department's guidelines indicate that overpayment cases should be referred to CODMU if the overpayment is greater than €1,000, there has been recent unsuccessful recovery efforts undertaken by the scheme office or local office, the individual is no longer receiving welfare payments and their whereabouts are known. In 2012, 369 cases with a value of €3.3 million were referred to the CODMU (244 cases in 2011). To July 2013, repayments totalling €107,000 have been made in respect of 129 of these cases. The Department has pointed out that most of these cases repay the debt over a number of years.
- 18.17** Samples of overpayments were reviewed during the course of the 2012 audits of the Social Protection Vote and the Social Insurance Fund. Overall, a sample of 184 overpayment cases was examined across seven welfare schemes. The results of the examination of those cases are summarised in Figure 18.8.

Figure 18.8 Results of examination of sample of overpayments

Status of case at time of audit	Number of cases	% of sample
Fully recovered	47	25%
Appeal or review	12	7%
Cancelled or written off	20	11%
Recovery plan in place	62	34%
No recovery plan in place	43	23%
Total	184	100%

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

- 18.18** Of the 43 cases that did not have a plan in place to recover the overpayment at the time of audit review, 13 met the criteria for referral to CODMU and seven of these had been referred.

Cancellation and Write Off of Overpayments

- 18.19** A recorded overpayment debt may be cancelled where it is established that no overpayment actually occurred or an overpayment was recorded in error. Overpayments can be written off where it is deemed that there is no realistic prospect of repayment. Since February 2013, Departmental guidelines have been revised to provide for the approval and management review of write offs and cancellations.

Management of Overpayments

- 18.20** The Department's Debt Management System, introduced in 2006, has a number of inadequacies. It is not capable of performing analysis or producing management information with an appropriate level of detail, or of recording the recovery actions taken and outstanding at an individual case level. The Department has decided to develop a new debt management system.

Legislative changes

- 18.21** The Social Welfare Act 2012 provided for an increased recovery amount from those who continue to receive a welfare payment. Previously, a deduction from an on-going entitlement to recover an overpayment could not reduce the payment below the Supplementary Welfare Allowance rate appropriate to the claimant. This meant that in most cases the amount recoverable was €2 per week and a higher deduction could only be made with the claimant's written agreement. The new provisions allow for a recovery rate of up to 15% of the claimant's on-going entitlement. The claimant must be informed of the Department's intention to recover the debt in this way and given the opportunity to provide any information they deem relevant in relation to the proposed recovery.
- 18.22** The Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 provides for the use of attachment orders to recover overpayments in certain circumstances. The possibility of recovering overpayments by withholding tax rebates is being considered as well as the application of attachment orders to other State payments.

Legal Enforcement

- 18.23** Legal action by the Department may entail criminal prosecutions in relation to significant cases of welfare abuse and/or civil proceedings to facilitate the recovery of welfare overpayments or the collection of PRSI arrears.¹

Criminal Prosecution Cases

- 18.24** The Department seeks to ensure that prosecutions are taken in the more serious cases where there is strong evidence of fraud. In considering cases for legal proceedings, the Department uses criteria such as the duration and amount of the fraud and the previous history of the case. Weightings are then applied to each of the criteria to assess cases suitable for prosecution.

¹ Debts to the Department may arise where employers evade payment of PRSI contributions due.

- 18.25** The number of overpayments on social welfare schemes in 2012 attributed to fraud was 20,720. Just over 1,000 of these fraud overpayments had values above €6,500. In 2012, 274 cases (26%) were considered by the Department's Central Prosecution Unit for criminal proceedings.
- 18.26** The number of cases sent forward for criminal proceedings in 2012 was 242 (381 in 2011). A total of 158 cases were referred to the Chief State Solicitor and local State solicitors, and 84 were referred to An Garda Síochána under the Criminal Justice (Theft and Fraud Offences) Act 2001.

Outcome of Prosecution Cases

- 18.27** In 2012, 146 criminal prosecution cases were finalised (209 in 2011). Fines, ranging in value from €100 to €6,000, were imposed in 89 cases. A prison sentence or suspended sentence was the outcome in around 10% of the cases finalised.
- 18.28** In addition to proceedings against welfare recipients, four employer-related cases were finalised (nine in 2011). Fines were imposed in three of these cases averaging €1,000 each. The final case was struck out because the company had gone into liquidation.
- 18.29** At the end of 2012, 675 cases were on hand with State solicitors and were at various stages of the prosecution process.

Civil Debt Enforcement Proceedings

- 18.30** In civil cases, the person's ability to repay the debt is examined. Proceedings are not taken in circumstances where the debt is being repaid or the client is not in a position to repay or does not have any assets. Civil proceedings in such cases would be futile and would result in significant costs to the Department.
- 18.31** The Department pursues civil proceedings to recover debts only where there is a reasonable expectation that the debtor has sufficient means to discharge the debt. The Department has made limited use of civil proceedings to recover amounts.
- 18.32** Between 2008 and 2012, the Department finalised a total of 153 civil proceedings. Positive outcomes were achieved in 72 cases which included
- lump sum settlements agreed in six cases resulting in the recovery of debts amounting to €236,000
 - the agreement of instalment arrangements in 62 cases
 - judgements in favour of the Department in four court cases.¹
- 18.33** The remaining 81 cases were terminated due to changes in the circumstances of the debtor (57 cases) or because the case had become statute barred. At the end of 2012, the Department had 25 civil cases that had yet to be finalised. The equivalent figure at the end of 2011 was 48.

¹ These included decrees awarded (1 case), instalment orders granted (2 cases) and a judgement mortgage (1 case).

Views of the Accounting Officer

- 18.34** The Accounting Officer is of the view that because of the limits placed on the recovery of debt from those in receipt of welfare payments, the time taken to recover debt and the monetary value of recoveries does not reflect the Department's overall performance in this area. She considers that significant increases in the amounts of debt recorded and recovered reflect the increased efforts by the Department to address overpayments and improve debt management.
- 18.35** The introduction of legislative provisions to increase the recovery amount and to provide for the use of attachment orders will enhance the Department's ability to pursue those who are not making adequate efforts to repay. The provision to increase the recovery amount has only been available since January 2013, and so it is not possible yet to provide definitive figures on its impact. However, there has been an increase in the number of debtors with a higher value deduction in the first six months of 2013 when compared to 2012. The Department considers that the higher recovery rate will have a deterrent effect.
- 18.36** A debt does not become statute barred and can be recovered from all future entitlements, as well as the claimant's estate. The Department continues to recover debt irrespective of the age of that debt. In 2012, for example, €345,000 was collected in respect of debts aged 20 years and older.

Conclusions

- 18.37** Overpayment debt outstanding at the end of 2012 was €375 million — an increase of 62% since 2007. In the same period, overpayments recorded each year have increased by more than 90%. This compares to a welfare expenditure increase of 25%.
- 18.38** In 2012, overpayments recorded totalled €97 million. This represents 7% of overall annual departmental expenditure.
- 18.39** Over 40% of recorded overpayments are attributed to fraud. A further 37% arise from client error. The high proportion of fraud cases underlines the importance of ensuring that there is effective recovery of debts arising from overpayments. Increasing the extent to which overpayments are recovered is likely to act as a disincentive to fraudulent behaviour by claimants.
- 18.40** Recoveries of overpayments in 2012 totalled just over €54 million — an increase of over 120% since 2007. In 2011 and 2012, the amount of debt recovered as a proportion of total debt was around 13%. Aged analysis of debt indicates that around 40% of recorded overpayments are recovered or written off in the first year. Incremental collection of debt continues over succeeding years but over one third of debt remains outstanding after five years.
- 18.41** The Department's Overpayments Debt Management system, introduced in 2006, is not effective as a debt management tool and is not capable of producing the information required to enable the Department to monitor the effectiveness of its debt management processes. The Department has decided to develop a new replacement system.

18.42 The Accounting Officer has stated that she envisages that the new debt management system will support debt management and accounting functions. The Department recognises the need for the system to provide management information to assist in evaluating the effectiveness of debt management. It is expected that the new system will be operational in the second half of 2014.

Annex A

Figure A1 Overpayments and debt, 2007 to 2012

	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Outstanding debts at 1 January	149.5	232.1	256.6	276.6	314.8	343.4
Prior year adjustments	61.6 ^a	1.8	(1.0)	—	—	—
Overpayment recorded	50.5	55.6	66.8	83.4	92.4	96.9
Debts cancelled	(1.4)	(1.1)	(1.3)	(2.2)	(6.7)	(4.6)
Debts written off	(4.3)	(4.9)	(11.6)	(8.5)	(5.6)	(6.2)
Total recoverable debts	255.9	283.5	309.5	349.3	394.9	429.5
Debts recovered ^b	(23.8)	(26.9)	(32.9)	(34.5)	(51.5)	(54.2)
Outstanding debts at 31 December	232.1	256.6	276.6	314.8	343.4	375.3

Source: Department of Social Protection

Notes: a After the introduction of the ODM system in November 2006, adjustments were required for debts that had previously been written off for accounting purposes (€44 million) and overpayments not previously recorded centrally (€17 million).

b Includes cash received and welfare entitlements withheld.

Figure A2 Overpayments recovered 2007 to 2012, by method of recovery

Recovery method	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Welfare payments withheld	11.2	11.3	16.9	19.7	24.2	28.3
Cash from estate cases	4.8	7.1	8.7	7.2	14.1	12.5
Other cash receipts	7.8	8.5	7.3	7.6	13.2	13.4
Total recovered	23.8	26.9	32.9	34.5	51.5	54.2

Source: Department of Social Protection

Figure A3 Number and value of overpayments, 2007 to 2012

	2007	2008	2009	2010	2011	2012 ^a
Value of overpayments recorded	€m	€m	€m	€m	€m	€m
Social insurance	17.7	18.5	20.3	27.7	26.0	22.9
Social assistance	32.8	37.1	46.5	55.7	66.4	72.9
Total	50.5	55.6	66.8	83.4	92.4	95.8
Number of overpayment cases						
Social insurance	26,250	29,490	24,630	26,300	23,750	22,630
Social assistance	20,150	19,610	17,880	26,300	39,560	45,030
Total	46,400	49,100	42,510	52,600	63,310	67,660
Average value of overpayments	€1,088	€1,131	€1,571	€1,585	€1,459	€1,416

Source: Department of Social Protection

Note: a Excludes overpayments of €1.2 million to some 60,000 cases arising from the payment in error in 2012 of an additional week's fuel allowance.

Figure A4 Overpayments 2007 to 2012, by reason

Reason for overpayment	2007	2008	2009	2010	2011	2012	
	€m	€m	€m	€m	€m	€m	%
Client error	19.7	24.1	31.5	42.4	40.5	35.8	37
Fraud or suspected fraud	21.4	21.1	20.7	25.9	34.9	40.9	42
Estate cases	6.7	7.3	10.6	9.9	11.5	12.6	13
Departmental error	2.7	3.1	4.0	5.2	5.5	7.7	8
Total	50.5	55.6	66.8	83.4	92.4	97.0	100

Source: Department of Social Protection

Figure A5 Recovery rate, 2007 to 2012

	2007	2008	2009	2010	2011	2012
	€m	€m	€m	€m	€m	€m
Recoverable debt	255.9	283.5	309.5	349.3	394.9	429.5
Recovered in year	23.8	26.9	32.9	34.5	51.5	54.2
Recovery rate	9%	9%	11%	10%	13%	13%

Source: Department of Social Protection