16 Regularity of Social Welfare Payments

16.1 The Department of Social Protection (the Department) is required to ensure that the expenditure it incurs has been applied for the purposes for which the money was made available by Dáil Éireann, and that its financial transactions conform with the authorities under which they purport to have been carried out. Financial transactions are considered to be 'regular' when both of these conditions are satisfied.

16.2 I have referred in my audit certificates on the 2014 Appropriation Account for Vote 37 and the 2014 Account of the Social Insurance Fund to the level of irregularity of scheme payments, which I consider to be material in the context of each account.

16.3 Payments in excess of entitlement under the terms of welfare schemes are 'irregular'. Such payments can arise due to

- claimant fraud – where the claimant intentionally provides incomplete or inaccurate information in order to receive benefits, or deliberately fails to inform the Department of relevant changes in circumstances
- claimant error – which arises when the claimant has provided inaccurate or incomplete information, or failed to report a relevant change in circumstances (such as an increase in means or a change in medical condition), but there is no clear fraudulent intent on the claimant's part
- departmental or administrative error – where benefits are paid incorrectly due to inaction, delay or mistakes made by the Department's staff.[1]

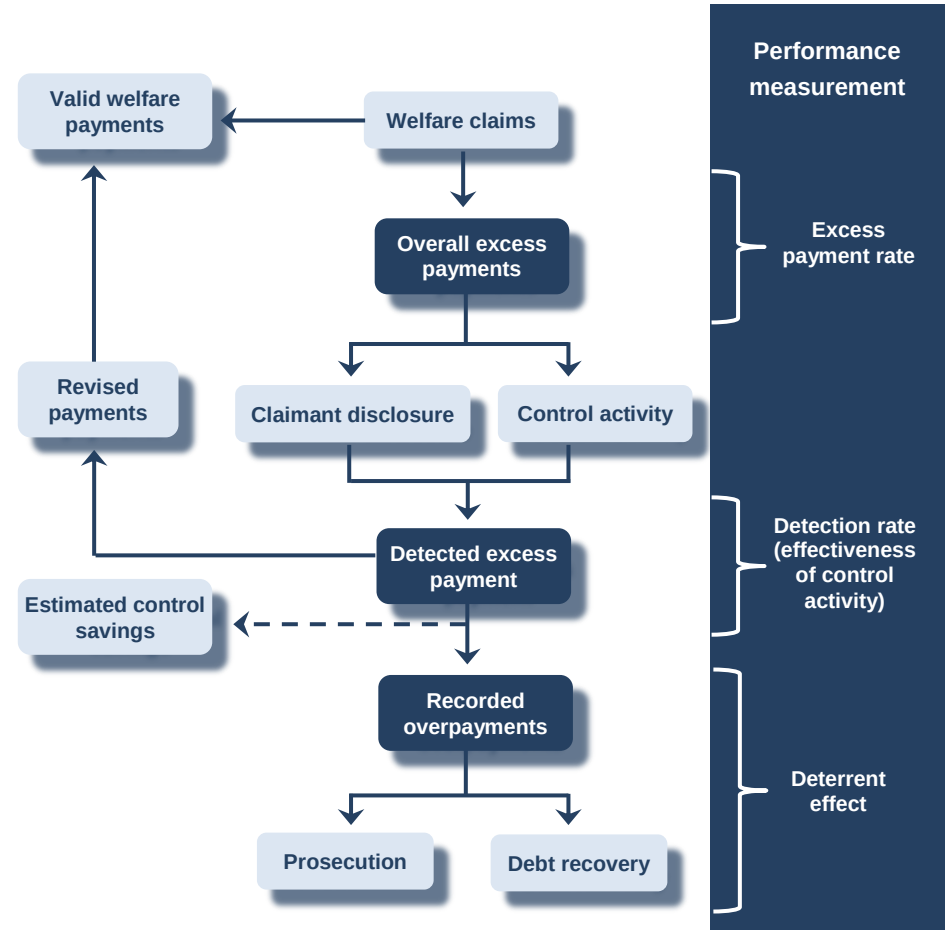
16.4 Where excess payments arise, the Department's objective is to promptly identify the excess payment and adjust the payment level accordingly. Where a deciding officer determines that an overpayment has occurred, the Department seeks to recover the overpayment from the claimant.

16.5 The Department's performance in managing the risk of excess payment can usefully be considered from three perspectives, as outlined in Figure 16.1,

- the overall level of excess payments across welfare schemes,
- the success of the Department in detecting cases of excess payment, relative to the underlying problem,
- the deterrent effect of the Department's response to cases of excess payment it detects, including recovery of overpayments.

1 In some cases, claimant and departmental error can also result in claimants receiving less than they are entitled to.

Figure 16.1 Managing and measuring excess welfare payments



Source: Office of the Comptroller and Auditor General

'Fraud and Error' Surveys

16.6 The Department undertakes fraud and error surveys of social welfare schemes. These are point-in-time measurements of fraud and error in schemes. The surveys involve reviews of a random sample of claims in payment to establish if the claimants are entitled to the payments they are receiving and if so, whether the correct amounts are being paid. The surveys assist the Department in identifying scheme risks and the need for any changes to the control measures in place.

16.7 The Department set out its programme of fraud and error surveys to be carried out over the next five years in its Compliance and Anti-Fraud Strategy 2014 – 2018 which was published in April 2014. Since then, it has reviewed and revised the schedule. The complete schedule of planned surveys (as at September 2015) is set out at Annex A.

Estimates of Payments in Excess of Entitlement

16.8 Because fraud and error surveys are focused on randomly selected claims in payment, the survey results provide a basis for estimating the underlying level of payments in excess of entitlement for each scheme surveyed.

16.9 Figure 16.2 sets out estimates of the scale of excess payments identified for schemes where surveys have been carried out.

Figure 16.2 Estimated level of excess payments in surveyed schemes

Account and scheme	Year of survey[a]	Estimated level of excess payments		Scheme cost 2014
		Scheme[b]	Department[c]	€m
Vote schemes				
Rent Supplement	2013	6.0%	5.0%	338
Child Benefit	2012	0.5%	0.5%	1,902
Jobseeker's Allowance	2012	4.6%	3.1%	2,923
One-Parent Family Payment	2011	7.1%	2.7%	867
Disability Allowance	2010	18.4%[d]	4.1%[d]	1,238
State Pension (non-contributory)	2007	1.9%	n/a	954
Family Income Supplement	2005	3.3%	n/a	298
Social Insurance Fund schemes				
Illness Benefit	2014	13.3%[d]	5.9%[d]	626
Invalidity Pension	2014	2.8%[d]	1.5%[d]	652
Widows'/Widowers'/Surviving Civil Partners' Contributory Pension	2013	0.8%	0.7%	1,370
Jobseeker's Benefit	2011	2.5%	1.6%	420
State Pension (contributory/transition)	2008	1.1%	n/a	4,259

Source: Department of Social Protection

Notes:
a Base year for latest scheme survey. More than one survey has been undertaken for some schemes.
b Includes cases which were subsequently successfully appealed.
c Net loss to welfare system taking account of cases where disallowed scheme claims are succeeded by claims/dependent payments on other schemes or where appeals are successful. The survey reports do not disaggregate these two categories.
d Includes cases deemed medically ineligible.

16.10 Welfare schemes are funded through the Vote for Social Protection and the Social Insurance Fund (SIF). Vote funded schemes are mainly in the nature of social assistance, often based on means tests. SIF schemes are based on social insurance, where eligibility is dependent on the level of the claimant's PRSI contributions. The nature of schemes and their eligibility criteria affects the potential for excess payments to arise.

Vote Funded Schemes

16.11 There is wide variation in the level of excess payments found by surveys of Vote funded schemes. Apart from child benefit which is a universal payment (i.e. not means-tested), the estimates range from 1.9% of scheme expenditure in the case of the non-contributory State pension to 18.4% for the disability allowance scheme (including medical ineligibility). Surveys in more recent years include an adjustment to the estimate to take account of cases successfully appealed or found to be ineligible for the scheme surveyed but entitled to a payment under another scheme, either as the claimant or as another claimant's dependant. In the case of the disability allowance scheme, this adjustment reduces the estimate to a net excess payment rate of 4.1%.

16.12 The surveyed Vote schemes account for €8.5 billion of 2014 expenditure. The extent of fraud and error in schemes that have never been surveyed and which account for a further €2.5 billion of expenditure, is not known.

SIF Funded Schemes

16.13 There is also variation in the level of excess payment in the SIF schemes surveyed. Estimates range from 0.8% for widows'/widowers'/surviving civil partners' contributory pension to 13.3% for illness benefit (including medical ineligibility). The surveyed SIF schemes with estimated levels of excess payments over 1% of expenditure accounted for 73% of the €8.2 billion SIF scheme expenditure in 2014.

Medical Ineligibility

16.14 Medical eligibility is a key qualifying criterion for payment under certain welfare schemes. For example,

- claimants of disability allowance must be suffering from an injury, disease or physical or mental disability that has continued or may be expected to continue for at least one year,
- claimants of illness benefit must be unable to work due to illness or injury – weekly or monthly certification of their continuing inability to work must be provided to the Department by their G.P. and a final medical certificate must be provided to the Department before they return to work, at which point payment ceases,
- claimants of invalidity pension must be permanently incapable of work, or have been incapable of work for at least 12 months and be likely to be incapable for work for at least a further 12 months.

16.15 Because the medical condition of a welfare claimant can change over time, a question arises as to whether a conclusion of medical ineligibility as a result of a medical review can be categorised as fraud or error.

16.16 The rates of excess payment noted in Figure 16.2 for the disability allowance, illness benefit and invalidity pension schemes include medical ineligibility rates of 15.3%, 12.9% and 2.3% respectively. Had medically ineligible cases been excluded, the scheme excess payment rates would have been 3.1% in the case of disability allowance, 0.4% in the case of illness benefit and 0.5% in the case of invalidity pension. The Department excess payment rates would have been 2.1% in the case of disability allowance, 0.3% in the case of illness benefit and 0.5% in the case of invalidity pension.

16.17 The Department does not consider that a review finding that a claimant is medically ineligible necessarily constitutes a payment error or fraud. The Department considers that up to the point of medical review, the payment is supported by previous medical evidence. In its view, the change found on medical review does not reflect a payment error by the Department or the customer as both were acting in good faith, supported by medical evidence up to this point.

16.18 While improvements in medical condition can result in a claimant losing entitlement to a welfare payment, the identification of such cases as a consequence of an entitlement review indicates the existence of a payment in excess of entitlement which should be included in the estimation of excess payment levels.

Latest Survey Results

16.19 The Department has completed fraud and error surveys of two schemes in 2015 – illness benefit and invalidity pension. Both surveys had originally been scheduled for 2013. An analysis of the results of those surveys is set out in Figure 16.3 below.

16.20 Because the results of the surveys only became available in August 2015, it was not possible to audit the survey process before completion of this report. The survey reports will be audited against relevant criteria and the results reported in due course.

Figure 16.3 Estimated level of payments in excess of entitlement, illness benefit and invalidity pension, August 2015

	Percentage of claim payments found to be in excess of entitlement		
	Scheme rate	**Reinstated or transferred claims**	**Net department rate**
Illness benefit			
Due to fraud	0.3%	–	0.3%
Due to error			
– *Department* [a]	–	–	–
– *Claimant*	0.1%	0.1%	–
Due to medical ineligibility [b]	12.9%	7.3%	5.6%
Total	**13.3%**	**7.4%**	**5.9%**
Invalidity pension			
Due to fraud	0.1%	–	0.1%
Due to error			
– *Department* [c]	–	–	–
– *Claimant*	0.4%	–	0.4%
Due to medical ineligibility [b]	2.3%	1.3%	1.0%
Total	**2.8%**	**1.3%**	**1.5%**

Source: Fraud and Error Survey Reports, Department of Social Protection, August 2015

Notes:
a Overpayments and underpayments were netted against each other in arriving at the overall rate of departmental error, thereby cancelling each other out in the case of the illness benefit scheme. The rate in each case was very low (0.05%).

b A sub-sample of 300 cases was selected for medical review out of the total survey sample of 1,000 cases.

c Department errors resulted in overpayments of 0.01% in the case of the invalidity pension scheme. There were no underpayments identified in the survey.

Illness Benefit

16.21 Illness benefit is a short-term weekly payment to people who cannot work because of illness or injury and are covered by social insurance (PRSI). A person may qualify for illness benefit if they

- are unable to work due to illness
- satisfy the PRSI contribution conditions and
- are under 66 years of age.

Medical eligibility is therefore a key criterion for payment eligibility under the scheme.

16.22 At the end of 2014, there were 57,024 recipients of illness benefit. Expenditure in 2014 amounted to €626 million. While some claims may continue for an extended period (maximum two years), there is a high level of turnover on the scheme. In the period January to August 2015, an average of around 11,000 cases closed each month.

16.23 A random sample of 1,000 claims in payment in the last week of November 2014 was selected for review as part of the fraud and error survey. A sub-sample of 300 of these cases was then randomly selected for medical assessment. Overall, the survey took about nine months to complete. This was a significant improvement on the timeframe taken to complete the last survey involving medical review (the disability allowance scheme) which took 22 months to complete.

16.24 The extent of excess payment identified by the survey represented 13.3% of expenditure, including a medical ineligibility rate of 12.9%.

16.25 When account is taken of cases successfully appealed or transferred to other social welfare schemes, the net rate of excess payment in the latest survey is 5.9%.

16.26 Based on the survey results, the Department estimated that the weekly gross amount of excess payment in the illness benefit scheme was €1.5 million.[1]

16.27 In all fraud and error surveys, there may be instances where cases selected for review have to be excluded, such as where a person has died or the social welfare inspector has been unable to review the case. Where a significant number of such cases arise, oversampling may be used.

1 The confidence interval ranges were calculated separately – €5,000 to €103,000 for fraud and error and €1 million to €1.9 million for medically ineligible cases.

16.28 Of the 1,000 surveyed cases, 190 (including 69 cases selected for medical review) were classified as 'normal movement' cases. These mainly comprised cases where claimants had left the scheme (medical eligibility or benefit entitlement expired) or had moved to other schemes after the sampling selection date. The classification of cases as 'normal movement' introduces an element of ambiguity into the survey process. For example

- the welfare payment rates changed for 121 of the 190 cases, but this was considered as resulting from 'normal movement', and not due to any fraud or error. Seventy of these provided final medical certificates from their certifying doctor and the Department is satisfied that they were medically eligible up to that point in time
- eight cases that had rate changes and remained in payment under the scheme, were considered 'normal movement' based on the routine provision of information by the claimant
- 13 cases failed to return the required IBFE3 review form issued to them as part of the survey process. These cases were treated as 'normal movement' even though they were not reviewed.

16.29 Apart from the 'normal movement' cases, there were 52 cases in total of suspected fraud, error or medical ineligibility (four fraud, two customer error, five departmental error and 41 medically ineligible). When account is taken of cases successfully appealed or transferred to other social welfare schemes, the net number of cases with payment errors was 29.[1]

Invalidity Pension

16.30 Invalidity pension is a payment for insured people who cannot work because of a long-term illness or disability. To qualify, a person must satisfy both social insurance (PRSI) and medical conditions.

16.31 Expenditure on invalidity pension in 2014 amounted to €652 million and at the end of 2014, there were some 54,223 recipients.

16.32 A random sample of 1,000 claims in payment in the last week of November 2014 was selected for review as part of the fraud and error survey process. A sub-sample of 300 of these cases was then randomly selected for medical assessment. The survey took about eight months to complete. It was carried out concurrently with the illness benefit survey.

16.33 The gross rate of excess payment identified by the survey was 2.8% of expenditure. This included a medical ineligibility rate of 2.3%. When account is taken of cases successfully appealed or transfers to other social welfare schemes, the net rate of excess payment is 1.5%. This was the first survey to be undertaken on the invalidity pension scheme.

16.34 Based on the survey results, the Department estimated that the weekly gross amount of excess payment in the invalidity pension scheme was €348,000.[2]

1 Eight appeal cases were still under consideration at the report finalisation date. Following an examination of each case, the Department, for the purpose of the survey, classified six of the eight cases as likely to be restored to payment on appeal and the remaining two as likely to have their initial ineligibility determination confirmed. These two cases are included in the figures given here.

2 The confidence interval ranges were calculated separately – €28,000 to €96,000 for fraud and error and €70,000 to €503,000 for medical ineligibility.

16.35 Of the 1,000 cases reviewed, 15 (including six selected for medical review) were classified as 'normal movement' cases. These mainly comprised cases where claimants had left the scheme after the sampling date (e.g. transferred to other social welfare schemes such as State pension at age 66, or had died). These cases were treated as 'no change' cases for the purpose of the survey and included in the overall calculation of fraud and error rates. Because the numbers were low in this instance, this is unlikely to have impacted significantly on the excess payment calculation.

16.36 Overall, the Department identified 39 cases of suspected fraud, error or medical ineligibility (eight fraud, 23 customer error, one departmental error and seven medically ineligible). In addition to the medically ineligible cases, in general, the issues related to the payment of additional allowances to which claimants were not entitled (e.g. the means-tested payment for qualified adults or the means-tested free fuel allowance or living alone allowance).

16.37 The Department identified that the variables with the strongest influence on the likelihood of a case involving excess payments were

- the claimant's family circumstances – whether the claimant was in receipt of additional allowances in respect of qualified adult dependants
- the claimant's location – claimants with an address in Dublin had a somewhat higher probability of excess payments compared to claimants in other counties.

Conclusions and Recommendations

16.38 The surveys commenced in 2014 were completed more expeditiously than previous surveys. This is likely to have improved the reliability of the survey results.

16.39 The requirement to establish medical eligibility for certain scheme payments complicates the interpretation of review results. The medical condition of claimants can change, especially in the high turnover, illness benefit scheme. Around 19% of the sample selected for the survey of that scheme had subsequent rate changes or left the scheme, these were treated as 'normal movement' – and not classified as payment errors. However, a significant number of cases, accounting for 12.9% of welfare expenditure for the sample, were found not to satisfy the medical eligibility criterion and had their payments stopped. After appeals and establishment of entitlement to payments under other schemes, the rate of medical ineligibility in illness benefit was found to be 5.6% of sample expenditure. The corresponding values for invalidity pension were 2.3% and 1%. While in some cases this may indicate a genuine change in medical circumstances over time, in other instances it could be reflective of a lack of timely medical review, which is a key control in schemes based on medical eligibility.

16.40 A previous report on invalidity pension identified a need to ensure that a medical review status was assigned to all cases (indicating if a review should be carried out in the future and if so, when that review should take place) and that as far as possible medical reviews be carried out as scheduled.[1] At that time the Department indicated that it was conscious of the need to increase its capacity to carry out medical control reviews.

1 Chapter 20, Report on the Accounts of the Public Services 2012

Recommendation 16.1

Given the survey findings in respect of the incidence of medical ineligibility for scheme payments, the Department should reconsider whether the controls currently in place in respect of those schemes are adequate and seek to address any deficiencies that exist in its capacity to carry out medical control reviews.

Accounting Officer's response

Agreed. The Department carries out control reviews on medical eligibility in all the relevant schemes in accordance with each scheme's risk policy and the capacity available to carry out those reviews. In the case of illness benefit, each payment is supported by weekly or monthly certification by a qualified medical doctor. In the case of invalidity pension, there is a significant medical eligibility test prior to awarding the payment as it is considered a long-term medical payment.

Control reviews of medical eligibility involve a significant investment of resources in the forms of deciding officers, medical assessors and appeals officers and also in the area of payment to client doctors for the completion of necessary medical/diagnostic reports, etc. These reviews also tend to take a considerable length of time from start to finish.

Since 2012, the numbers of new claims for long-term disability and caring schemes has increased. For instance, disability allowance is receiving 37% more new claims per week in 2015 than was the case in 2012. The numbers in receipt of medical eligibility schemes has also increased over the period, for example, 14% in disability allowance and domiciliary care allowance schemes, 18% in the case of carer's allowance and 10% in the invalidity pension scheme.

It is an ongoing challenge for the Department to maintain current numbers of medical assessors and it is proving extremely difficult to recruit and retain replacement or additional medical assessors. A medical assessor recruitment competition was completed by the Public Appointments Service earlier this year and assignments are currently being made. A further recruitment competition will be held in 2016. Furthermore, the Department is in the process of seeking tenders from external agencies for the supply of suitably qualified medical assessors (doctors and nurses) on an 'as required' basis. It is hoped that a contract for such services will be in place in the first quarter of 2016.

To enhance its medical control procedures, the Department has also undertaken a number of initiatives aimed at the medical profession (mainly general practitioners) through bodies such as the Irish Medical Organisation and the Irish College of General Practitioners. These are in the areas of guideline provision and education about the Department's schemes and their conditionality. This additional information highlights the efforts that the Department is making to maintain appropriate, cost-effective and risk-based control measures in relation to its schemes with medical eligibility conditions in an extremely challenging resource environment.

Annex A Schedule of fraud and error surveys, 2015 to 2018[a]

Planned survey timing		Scheme	Previous survey year
Commence	**Completion**		
Q4 2015	Q2 2016	Farm Assist	–
Q4 2015	Q2 2016	Household Benefits Package	–
Q4 2015	Q2 2016	Family Income Supplement	2005
Q1 2016	Q4 2016	State Pension (contributory)	2008
Q1 2016	Q2 2017	Carer's Allowance	–
Q3 2016	Q3 2017	Supplementary Welfare Allowance	–
Q1 2017	Q4 2017	Back to Work Enterprise Allowance	–
Q1 2017	Q1 2018	State Pension (non-contributory)	2007
Q4 2017	Q1 2019	Disability Allowance	2010
Q1 2018	Q2 2019	One-Parent Family Payment	2011

Source: Department of Social Protection

Note: a As planned at September 2015.