



## Social Welfare fraud: ‘The reality is that many of them know that the chances of them being fined and prosecuted in this country are very low...’

### Dáil Committee of Public Accounts

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**Ms Niamh O'Donoghue** (Secretary General, Department of Social Protection) called and examined.

#### **Deputy John Deasy (Fine Gael):**

I welcome Ms O'Donoghue and the other officials. This is a complex area involving many payments. I deal with many social welfare queries in my office. I am not saying I know everything about it, but we are quite busy. We have a slight concern over deterrents and how people view the system before they engage in fraudulent activity in particular. I will give an example of an application I printed. In many cases the only deterrent is the warning printed at the bottom of a typical application that states: “Warning: If you make a false statement or withhold information, you may be prosecuted leading to a fine, a prison term or both.” Looking at the figures, the chances of that happening are quite small compared with other jurisdictions – I will come to that later.



**John Deasy: People who commit welfare fraud “would think twice about going down that road with Revenue...”**

In its Fraud Initiative 2011-2013, the Department recognised that an effective deterrent regime is important. It noted that effective debt recovery is an integral part of the deterrent regime and that the Department would take appropriate steps to effect the recovery of the debt, which is fine. The Comptroller and Auditor General has very comprehensively dealt with the issues on the surveys on fraud and error. He has identified the shortcomings in the local offices as being training, recovery of debt, etc. However, I am not concerned about after the fact but what happens beforehand and the thought process when an individual is tempted. There is considerably more temptation these days to commit welfare fraud for the obvious reasons. This can be compared with Revenue, for example. Among individuals thinking about going down the road of committing welfare fraud, is there sufficient deterrent in their mind before taking that initial step? That is our concern.

When I look at all these figures – I thank the liaison officer for putting all this together for me – the one concern I have is that we are dealing with it after the fact. Every year the Department issues press releases on the reviews and the savings made across the different payments. However, we need to work out how we can be more effective in deterring people from going down that road at the very beginning. I ask Ms O'Donoghue to outline her thoughts on that, which is clearly something the Department has identified through its initiative.

Ms Niamh O'Donoghue: I will refer to two different points I made in my opening statements. One is that we have a role that requires us to take a balanced view. We have to try to support people through income maintenance who are in vulnerable situations and ensure that need gets assessed and that payments get into payment quickly to those who are entitled to them while at the same time being extremely mindful of control of fraud. I suppose one of the things I

would point to, which I mentioned in my opening statement, is that the introduction of our new integrated service presents us with a real opportunity to represent a cultural change in our engagement with our customers. So the social contract that I referred to where people's responsibilities are very clearly outlined is a new dimension to our engagement with customers. Part of that engagement with customers is a much more frequent interaction with them, both in terms of helping them on progression paths but also in terms of reinforcing our control agenda and ensuring that they continue to remain eligible for whatever payments they are entitled to. Absolutely, I understand that it is perceived that the level of prosecution is low.

Deputy John Deasy: Because it is.

Ms Niamh O'Donoghue: Absolutely, I understand that, but what I would point to is the level of overpayment and particularly the number of overpayments that are attributable to fraud – the average overpayment is quite small. So we have to make a judgment when we are bringing things to prosecution as to the resources required and the level of evidence required to support a full-scale prosecution versus the likely outcome, particularly having regard to the circumstances. On that basis we have a matrix that we apply in determining whether we prosecute something. That has regard, obviously, to the amount of money involved. It has regard to the number of times somebody has been in offence.

Deputy John Deasy: I believe 2% to 3% of fraudulent cases are referred to prosecution. I asked the liaison officer to check in a different jurisdiction and look at what its rate is. There is a massive difference. Scotland was the one we looked at. The referral for prosecutions in Scotland was about 34%. Of that, probably 30% to 40% were prosecuted in criminal courts. I look at Irish figures of 2% to 3% and see that they are very small compared with that other jurisdiction.



Ms Niamh O'Donoghue (above): We focus on the more serious fraud cases. Some extremely high profile cases have been brought before the courts, particularly over the last year where very significant penalties have applied by the courts where people were found guilty.

Deputy John Deasy: They have, but my point is that very few cases end up going to court. I go back to the psychology involved and the psyche of an individual going down the road at the very beginning and taking one of these application forms. The reality is that many of them know that the chances of them being fined and prosecuted in this country are very low, and that is borne out by the figures. I am making the point that the deterrent is not there. The Comptroller and Auditor General and the Department are carrying out reviews, but the deterrent is greater in people's minds in other jurisdictions when they engage in fraud. It is borne out by the figures.

I will go back to Revenue, which has a reputation. Compliance levels in tax collection in this country are very high. It is due to the fact that Revenue is, like the Department, very willing to use very tough enforcement measures. When I compare the Department of Social Protection to the reputation of Revenue in people's minds, it is different, based on my experience as a Deputy. People with whom I deal would consider that the penalties and chance of being prosecuted and fined are quite slim given that they would think twice about going down that road with Revenue. We can put all the checks, reviews and surveys in place after the fact but we need to do far more work when it comes to the initial step, which is the deterrent in the first place. We certainly need to do more than the warning at the end of every application.

Ms Niamh O'Donoghue: As I said previously, it is more than just that warning in so far as what we have been trying to introduce in our internal processes from date of claim in terms of engagement is concerned. The use of data analytics to detect fraud is highlighted in the reports we provided to the committee. I accept that this is detection rather than deterrent. Our tools to detect fraud are becoming more sophisticated.

Deputy John Deasy: Ms O'Donoghue mentioned that in her opening statement and spoke about using data and information in a smarter way.

Ms Niamh O'Donoghue: In terms of deterrents, our primary role is to provide income support. Obviously, we do not want a situation to arise where people feel they can defraud us. We certainly use everything in our power to ensure people are aware of their obligations in that regard. If any payment is made to a person to which they are not entitled, there will be a consequence in terms of the recovery of that overpayment from them. Certainly, where it is considered a serious fraud, we will prosecute.

Deputy John Deasy: The Department has obviously thought about this because in her opening statement, Ms O'Donoghue mentioned that the maximum payment that can be deducted per week was €2 to €3. That was increased to 15% which translates to a deduction of €28 from a payment of €188, so the Department has thought about this. My guess is that nobody among the public knows this. It might be on the books for less than a year but I do not believe this deterrent is in people's minds. I looked at England where it has been proposed that the deduction be 25%. They are far tougher. How did the figure of 15% come about within the Department? How did it make a decision that it needed to be changed and why did we wait so long for that change to occur?

Ms Niamh O'Donoghue: It obviously required a change in policy and law. There was a provision within the law that protected the rate of recovery to the supplementary welfare allowance rate. On foot of the concerns expressed by the Comptroller and Auditor General, we considered what could be done. There was agreement and it was determined that 15% was a reasonable amount for us to look for. We will investigate what the Deputy is saying about the practice in England and Scotland. We have mechanisms for exchanging information on best practice and a conference is planned for September 2013 in Dublin which will involve representatives from a number of different countries and look at control agendas. We will look at deterrence issues there. I would not wish for there to be any confusion in anybody's mind but that we take it very seriously.

Deputy John Deasy: The Department does. I understand that we are talking about people with very little money. I deal with enough people who are in very tight situations. I will go back to the example of England. For those convicted in court, the Department for Work and Pensions has proposed introducing a two strike regime for imposing benefit deductions. It proposes to impose a loss of benefits for three months for a first conviction and six months for those convicted of benefit fraud on a second conviction. A third conviction would result in a loss of benefits for three years. It is a deterrent. I am of the opinion that a larger deterrent needs to be introduced in this country. We can spend a lot of time dealing with it after the fact. Ms O'Donoghue talks about the data and information the Department will utilise but we need to start thinking about the psychology before this occurs.

Every year, we receive reports from the Minister that are impressive with regard to the €600 million that has been saved when reviews are done throughout the different categories of payments, but we do not spend enough time thinking about how to deter people from doing this in the first place. The English obviously have thought about this and have put together proposals that are stricter. I think we need to consider it.

With regard to the recovery of overpayments, are there any new ways of examining how to recover overpayments? We have a debt bill of €343 million. Of that, 47% of the overpayment debt is more than five years old. Half those debts do not have any plan in place about how to get them back. When the study on the local offices in Clonmel and somewhere else was carried out, it was clear that there was no plan to recover many of the debts listed in that office. Could Ms O'Donoghue talk about that?

Ms Niamh O'Donoghue: Again, I have already gone into this in some detail in the update on the chapters I provided to the committee. Obviously, it was flagged in the Comptroller and Auditor General's report. We carried out our own assessment of practice in local offices and on foot of that, we certainly concluded that there was work to be done in

terms of updating and reissuing guidelines to deciding officers and recovery officers. With the new legislation that was brought to bear and only signed into law less than one month ago, which relates to the recovery of up to 15%, we are in the course of briefing and training our recovery officers in respect of the approaches to be taken not only with new debt incurred but also re-examining existing debt on our books with a view to seeing how we can improve recovery rates where such recovery can be effected.

The committee will appreciate that in a number of instances people who are overpaid and have a debt are no longer on our books because they have got out of payment for whatever reason. The overpayment and debt, however, do not die. We take the ultimate sanction of recovering from estates. The debt remains live and valid in every circumstance.

Deputy John Deasy: In reality, those are not really reviewed.

Ms Niamh O'Donoghue: It is a very substantial recovery.

Deputy John Deasy: The Comptroller and Auditor General found that there is no provision for the approval or review of a decision to cancel or write off overpayment debts.

Ms Niamh O'Donoghue: My point is that there are a number of different elements. I have detailed them in the update. They include the train that is going on for recovery items, revised guidelines on write-off and revised guidelines on recovery. All of those things have been progressed since the audit was carried out last year. There are two other elements I can draw to the committee's attention. We have also been investigating the possibility of using attachment orders.

Deputy John Deasy: That was my next question.

Ms Niamh O'Donoghue: This is work that has been progressed through the high-level group I referenced earlier with the Revenue Commissioners to see what we can do in that space. We are confident of making progress in that space.

Deputy John Deasy: Ms O'Donoghue is going back to the deterrent. If people understood that an attachment order was coming if they were convicted or found to have perpetrated welfare fraud, it would act as a deterrent. Is Ms O'Donoghue saying that is moving on now?

Ms Niamh O'Donoghue: Indeed. Finally, in a much more macro way, one of the areas that is being examined by the Department of Public Expenditure and Reform in the context of public service reform is out-sourcing debt collection across various different agencies of the State. There is an exercise going on currently to examine the feasibility and potential of that. Debt in the social welfare Vote will potentially be part of that. We will wait and be informed by whatever comes out of that particular process.

Deputy John Deasy: There was no recovery plan in place in the two local offices I mentioned where it was in the high 50th percentiles range. Obviously, that sets off alarm bells in Ms O'Donoghue's head with regard to every social welfare office in the State. What did she do when she heard about that?

Ms Niamh O'Donoghue: We must recognise that in very general terms the vast majority of staff in our local offices have been working over the last number of years under enormous pressure. I am sure members acknowledge that.

Deputy John Deasy: Enormous pressure, yes.

Ms Niamh O'Donoghue: There have been huge increases in claims and demands on processing times. There is even pressure on the types of claims that must be considered and the work that must go into that. For a period of time, there was an imbalance in terms of the focus being on claims progression rather than on recovery and control. Over the last year or so, we have been trying to redress that balance. We must do that by ensuring that people are appropriately trained and that vacancies are filled where possible and that people understand all elements of our business rather than just one. A great deal of training was carried out in 2011 and 2012 and it continues, particularly in the areas of guidelines, recovery and debt write-off. All of these areas have been developed and are being progressed following the publication of the report of the Comptroller and Auditor General.

Deputy John Deasy: Ms O'Donoghue is right about the pressure staff are under. We know it. A significant issue we come across is delay which I have raised with Ms O'Donoghue before. I acknowledge that the Department is trying to deal with it but an application for disability or invalidity benefit might take a year to deal with. Fraud, however, adds greatly to the stress of staff. I revert to the issue of deterrence. If we can stop this at point A, it would make a significant difference to the system.

Ms Niamh O'Donoghue: Our control activity starts at point of claim. When someone makes a claim, assessment, consideration of eligibility and the validation of information provided are all very important. Control activity starts at

that point and is about trying to achieve a balance between preventing overpayment and ensuring that people who are entitled to payments receive them as quickly as possible. It is a balance that must be constantly managed.

Deputy John Deasy: Of the €343 million which is outstanding, how much can be recovered? Ms O'Donoghue has referred to the improved systems being put in place in terms of reviews. Of the total amount, 47% has been outstanding for at least five years.

Ms Niamh O'Donoghue: If we can develop the power to attach debt which is off book - that is where people are not currently in receipt of payments - it gives us another tool and area of leverage. The 15% facility provides us with a whole new dimension for people who are currently in receipt of payments and have debt against them and in respect of any new overpayments that arise. We write off approximately €5 million per annum, which is not significant in terms of the overall amount of debt because our view is that we will pursue all debt.

Deputy John Deasy: An interesting statistic I came across is that of 66,000 people called for an interview between January and July 2012, 13,200 left the live register before the interview. It is a large number. That 13,000 approximately of 66,000 called did not show up for interview tells its own story. The Department does not track these people in any respect I am told.

Ms Niamh O'Donoghue: The introduction of the Intreo process represents a sea change in the way we deal with customers and in terms of tracking to see where they go and what happens to them. The amount of churn that happens in the normal course of events in the live register is very significant. Approximately 420,000 people are on the live register currently. In 2011, the churn - that is the number of people coming on and off - was approximately 900,000. The average duration on the live register is not long. A very significant proportion of people will move off anyway. I would not necessarily jump to the conclusion that it was because we invited them to an interview.

Deputy John Deasy: I am not jumping to a massive conclusion. I am just making-----

Ms Niamh O'Donoghue: Merely to make that point.

Deputy John Deasy: They jump to a conclusion, very quickly. That is my point.

Ms Niamh O'Donoghue: My point is that a proportion of them would have.

Deputy John Deasy: The one point I wish to make today is borne out of my experience in my offices over 12 or 13 years. My secretary has been doing the job for 25 years and would be the expert. She sees that the big problem is to stop people going down this road from the get-go. Everyone is thinking about how to deal with this and about better reviews and systems within the Department. My view is that we must inform people about what is out there and increase the level of deterrence from the initial stage.

**\*SEPARATE ISSUE\***

## **UK Fuel Allowance**

According to a headline on Sunday, 130,000 pensioners could be entitled to a British fuel allowance. More than 130,000 pensioners in Ireland who receive a British state pension have until the end of the current month to claim a winter fuel allowance worth up to €350 per annum. This follows a European Court of Justice ruling that pensioners who lived and worked in the UK and who are residing permanently in Ireland will qualify for this annual payment. It is a significant amount of money. It is obviously a significant number of pensioners. In the case of an individual, the minimum entitlement will be £100 and the maximum £300. For pensioners, it is very significant. A rough calculation suggests there would be 3,000 or 4,000 people who potentially qualify for the allowance in respect of my constituency in Waterford. I do not believe many of them know they can avail of it if they apply before the end of the month.

I realise completely that this is not the Department's bailiwick. I do not expect the UK Department for Work and Pensions to issue a press release stating it owes £20 million or £30 million. Is there some way the Department of Social Protection could facilitate the passing on of information to the pensioners who might be able to avail of it? It would be significant money for somebody during the winter. In some cases, it could amount to €350.

Ms Niamh O'Donoghue: There are two aspects to this. The Deputy is correct that it is not our scheme. It is a British scheme and the judgment has just been made. The implications are still being assessed. As we are in regular contact with our colleagues in the Department for Work and Pensions, we can certainly raise the issue with them. Pensioners with either contributory or non-contributory pensions may be in receipt of a British pension with a top-up Irish pension.

Deputy John Deasy: Many of them have it.

Ms Niamh O'Donoghue: In total, we are aware of approximately 118,000 pensioners in Ireland who are in receipt of a British pension. If those in receipt of means assessed pensions here were to apply for and receive additional income from the United Kingdom, it would potentially have implications for their means assessed pension here.

Deputy John Deasy: That is an important point.

Ms Niamh O'Donoghue: It needs to be known.

Deputy John Deasy: As long as they are aware that receiving a payment would have an effect.

Ms Niamh O'Donoghue: The onus would be on them to tell us that their means or circumstances had changed. Otherwise, if we were to subsequently establish that their means had changed, it would be a case of overpayment recovery.

Deputy John Deasy: That brings us back to the question of deterrents. As long as they are informed, they can make up their own minds. I take the point being made.

Ms Niamh O'Donoghue: We have a process in place for most of our means-tested schemes, whereby people must confirm their continued eligibility and declare to us on a regular basis that their circumstances have not changed.

Deputy John Deasy: Privacy issues are also involved. The Department needs to think this out before it goes to the Department for Work and Pensions.

Ms Niamh O'Donoghue: Absolutely. We can certainly have a conversation with our colleagues in the Department for Work and Pensions to establish what are the implications. In some cases, their customers are also our customers. We obtain some information from the Department for Work and Pensions on pensions payable, but there are strict confidentiality rules in using this data. We must be very careful to preserve this agreement.

Deputy John Deasy: Fair enough. Today is 14 March and one must apply before the end of the month. Will the Department think about this issue quickly and consider issuing a protocol to inform those pensioners who do not know this information and who may be able to avail of it? That would be useful.

Ms Niamh O'Donoghue: We will certainly engage with our colleagues at the Department for Work and Pensions and see what its proposals are.

Deputy John Deasy: If it is £20 million or £30 million of which we can avail, why not?

Ms Niamh O'Donoghue: People must understand the difficulties this may present, particularly where a means assessment is required.

Deputy John Deasy: I thank Ms O'Donoghue.

\*See [here](#) for *Irish Times* report.