

2019.02.12

**1 Deputy R.J. Ward of St. Helier of the Minister for Social Security regarding the system of repayment in cases where overpayments of Social Security were made as a result of miscalculation or error: [OQ.41/2019]**

May I ask the Minister, will the Minister review the system of repayments of overpayment of Social Security where recipients have not committed any deliberate deception, and/or where it is clearly a Social Security miscalculation or error, to ensure the system is fair on such recipients?

**Deputy J.A. Martin of St. Helier (The Minister for Social Security):**

Thank you, Deputy. I am satisfied that the system for managing overpayments of Social Security is fair. People can be overpaid benefits for a number of reasons but in all cases people have been paid more than they were entitled to, so it is appropriate that this money is repaid. In most cases the money is paid back by a weekly deduction from their ongoing benefits.

**3.1.1 Deputy R.J. Ward:**

The real-life outcome is often to keep people at the minimum level of income or even below it for sometimes years in these circumstances which are not of their making and these questions come from a number of cases that we deal with as Deputies. Do you consider that to be a fair situation?

**Deputy J.A. Martin:**

As already said, there can be many reasons that a benefit is overpaid and our system is benefits paid in advance. To look at the overall system would be to go something like Universal Credit and pay in arrears, because every time somebody's income increases in that week, they may have worked, they may have done a bit of it overtime, it needs to be repaid the next week. So I really do not understand where the Deputy thinks I can change the system. Yes, there have been mistakes on both sides but the benefit is the benefit and if it is overpaid the benefit unfortunately needs to be repaid back so it can then go on to other people needing benefits.

**Deputy R.J. Ward:**

Just a point of clarification, if I can. The question is regarding historic payments that were in error, not necessarily payments that were because of a change of circumstance within a week or a month. Some of these go back 5 years or so and were not picked up for 3 or 4 years. I think it is an important distinction to make there.

**Deputy J.A. Martin:**

I understand where the Deputy is coming from, in some cases - obviously historically - these were not picked up quick enough, there were things that I passed in P.77 that allows the benefit systems to talk to each other but the emphasis now is people are one-to-one more often or on the phone one-to-one with the staff at the Social Security emphasising: "Please let us know everything. Tell us any circumstances that is changing or even if it may be changing. If you want to move someone into your house, if you want to take a new job." If you want to do this, find out first and then we will not have overpayments. The system is improving and it has improved over the years.

**3.1.2 Connétable R. Vibert of St. Peter:**

Would the Minister confirm if Social Security review cases of hardship where there have been overpayments? I ask the question because I have a parishioner who is having deductions from

something historic, from many years ago, and now faces great hardship. That hardship is as a result of the deductions that are being made. There should be a system. This particular person now has a muscle-wasting disease and is virtually unable to walk and needs their full benefit paid to them. So could you confirm that they do review cases of hardship? Thank you.

**Deputy J.A. Martin:**

I really do not want to get into individual cases but I would advise the Constable to speak to Social Security with the person and make sure they are getting all the benefits because it sounds like their health is deteriorating and they might need more benefits. There are negotiations on a daily basis of how much people can pay back or afford to pay back. It can be a £1 a day, £7 a week, it is never normally more than £3 a day. Some people realise they have got more money than they should have got and have not spent it and want to pay it back straightaway, but I absolutely take where the Constable is coming from and literally if he needs to talk to me about this case, not in the coffee room but face-to-face I would really like to hear about it.

**3.1.3 Connétable D.W. Mezbourian of St. Lawrence:**

I hope this does not move too far from the original question. I had a parishioner who contacted me recently because he had been refused payments for being signed-off with a medical condition - sick pay - because he had not made enough contributions. The Minister mentioned her department speaking to each other. He was refused this and therefore had no income of his own. He contacted me. When I contacted the department... only when I contacted the department, did they then look to see whether he was entitled to income support, and they established that in fact he was. However, had he not contacted me, he would have been in the situation of having no income for himself and I wondered why that is continuing to happen and how the Minister can address it?

**Deputy J.A. Martin:**

I thank the Constable for her question. Obviously, this case ... and I do not know how recent it is, Customer and Local Services has been in since October, November, we have more staff, we have people greeting at the desk and I am sorry that this case was not picked up. I appreciate that the constituent had to contact the Constable so it was then picked up. Probably should have been advised down at Social Security that maybe he was entitled ... I do not know if he was in person there or he just sent in the sick note, he maybe got a letter back saying he had not paid the contributions and unfortunately if there was not something to say: "You may be entitled ..." I am glad to hear that the case was resolved but obviously ongoing we should be more cross-referencing. This is what currently we are doing down at Customer and Local Services.

**The Bailiff:**

The Constable was right, she really went too far in her question. The question is the system of repayments and overpayment and not every Social Security matter that could be asked.

**3.1.4 Deputy M. Tadier of St. Brelade:**

Mine relates to the rationale for the policy on overpayments. Does the Minister think that there are double standards being applied to the methodology for overpayments when the public sector workers are demanding a year-on-year pay increase? They are told: "We have no money" and that is considered to be a reasonable excuse for not giving a cost of living pay increase. Yet when the poorest in our society have been given an overpayment through no fault of their own and say: "We have no money to pay you back" that is not considered a satisfactory excuse.

**Deputy J.A. Martin:**

Surely this is a bit far from the original question but I will answer it. We are not saying that these people do not have money. The Deputy, like me, lived in the real world and he used to get paid, sometimes one week you'd get more money, sometimes you would do overtime. This is money that is not my money, it is unfortunate that because we pay in advance ... I want to pay in advance, I would be loath to go down the Universal Credit system which can wait for 4 to 6 weeks and is really causing poverty in the U.K. (United Kingdom). If he wants to make me answer about the pay, I refuse.

### **3.1.5 Deputy M. Tadier:**

We are generally not speaking about short-term errors which relate to fluctuations; that is understandable. We know how the 3-month back payment systems works for contributions, *et cetera*. But when there are years in some cases of overpayments which are not the fault of our constituents and when they run up tens of thousands of pounds of back payments which are not their fault, would it not be a better outcome if the department said: "When it is our error, after a certain period of time if we have not picked that error up we will not expect you to repay that" and it might focus the minds of her officers in their department to work a bit more thoroughly?

### **Deputy J.A. Martin:**

I can assure the Deputy the officers in my department do work thoroughly. I have said we are improving things. The Deputy has just spoken about going back years and thousands of pounds and he wants me, as public money or looking after public money, to write this off. I do not think £1 or £3 a day will put somebody into poverty who has had, in the Deputy's own words, thousands of pounds from the department that they were not entitled to.

### **3.1.6 Deputy R.J. Ward:**

I think the key to this question is the historic nature of these payments. I would not want us to go down the Universal Credit route, that is not the point I am making here. Small changes over short periods of time, weeks and months, yes, I absolutely understand, but these are historic payments which could have be 5 or 6 years ago and they are putting people into hardship. People who only have their pension to live on and every time they get a pension increase they do not see it and they are stuck in a poverty trap right at the bottom of our income scale. I think it would be sensible, and what I am asking you to do is, to review a point in time where we do write-off these repayments because that money was spent years ago.

[10:00]

We can write-off money from the Innovation Fund and all sorts of other areas of States spending but when it comes to the poorest on our Island we are still claiming back, which may appear to be small amounts but amounts that are significant to them. Can I ask, would you please consider taking a cut-off point? I am quite happy to discuss it - I know we have discussed situations before - so we can just simply help people to get out of this poverty trap?

### **Deputy J.A. Martin:**

I understand where the Deputy is coming from. I am not making a policy decision standing here. I do not know the cases the Deputy is specifically talking about and, again, if he wants to bring them to my attention, I am more than willing. I cannot stand here and say: "If this repayment is more than 4 years old I am not going to ask people for their money." Again, not my money, we need this money, there is a pot for benefits, it is rated and people have had the money. I am willing to speak to anybody who has people who they feel are in hardship but, as I say, they are negotiated and if the

officer does see ... I have seen cases, they have showed me, they can go back to and say ... some, even if they are old or if they are only a week or 2 old, are paid at a £1 a day. Other than that, the only way to rectify this is to make sure it is watertight, is to go down the Universal Credit and make it in arrears.