

21.02.09

## **8 Deputy R.J. Ward of the Minister for Social Security regarding requests for redetermination of a decision regarding Income Support (OQ.31/2021)**

Will the Minister advise how many requests have been made in the last 5 years for the redetermination of a decision regarding Income Support; of these, how many are still outstanding; how many claims, if any, have consequently been adjusted in favour of the recipient; and what is the administrative cost of this process?

### **Deputy J.A. Martin (The Minister for Social Security):**

Since 2016, there have been 39 formal redeterminations. Many queries on claims are resolved informally by an officer speaking with an individual concerned. Of the 39 formal redeterminations, 5 were decided in favour of the claimant. An estimate of the administrative costs of this process over the last 5 years is approximately £37,000.

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

Can I ask the Minister whether she feels that is a number that is representative, given the number of overpayments that exist? Also, whether she is pleased with that number or feels there should be more involvement from people on income support to be more able to question the determinations that have been made on income support?

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

We send out thousands of letters each year, let alone in the last 5 years. As I said, many people may need a bit of help to find out why their claim has gone up or down and they phone the department. Normally, that phone call resolves the issues. Then they are advised, if they are still not happy, they can go for redetermination. If they do not like the redetermination, they can go to tribunal. So it does work.

### **6.8.2 Deputy G.P. Southern:**

Is it not the case that, whatever the source of the error that results in an overpayment - the department - where that fault lies with the staff of the department making a mistake, has a policy that they will chase all errors, including that made by their own staff and insist that people pay back any overpayments?

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

Yes, that is the policy, Deputy. Sometimes there are mistakes made. As I say, we are dealing with thousands of letters on a yearly basis. If the department makes a mistake, it is normally noticed very quickly, and then there is a repayment asked to be paid back.

### **6.8.3 Deputy G.P. Southern:**

Is it also true that, whereas in the past staff have negotiated a reasonable rate of repayment, that no longer happens and they are just told: "You will pay that back at the following rate, which will leave you this much to live off"? Is that not the case?

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

To answer the Deputy's question, that may be the case on the first letter. Many do phone up and say: "I cannot afford that amount" and we negotiate a payment that the customer can afford. That happens in a lot of cases. I think the Deputy deals with people in these circumstances.

#### **6.8.4 Deputy M.R. Higgins of St. Helier:**

Could the Minister tell us how often she has intervened in any of these cases regarding overpayments or complaints that the department has miscalculated what people are owed or things of that nature?

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

This is operated by the great staff at C.L.S. (Customer and Local Services) and I have to trust them. As I said, some determinations work in favour of the claimant. At the end of the day, everything that is paid out is taxpayer money. If there has been an overpayment, it is the policy that this money is retrieved.

#### **6.8.5 Deputy M.R. Higgins:**

Does the Minister ever use her discretion under the law in cases when it is absolutely impossible for people to repay?

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

It has never been brought to me under the law that I have that discretion. As I say, I have been asked so many times is it my policy to get the money back. I like to get the money back so then it can do the full circle and it can go to somebody else in need.

#### **6.8.6 Senator S.Y. Mézec:**

Is the Minister aware of how many incidences there have been where there has been an overpayment that the claimant has contested, claiming that it was the department's fault rather than theirs, which they have asked for a redetermination on and that redetermination has not been successful for them. Then they have said they would go to tribunal and then at that point the department offers a settlement with the claimant. Is she aware of how many have got to that stage where a tribunal has been threatened and then a settlement has been offered at that point? So it is after the redetermination but before it reaches a tribunal hearing.

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

This has really wandered from the original question. I do not have those answers. I can get them and if the Deputy wants me to I will follow up on those questions.

#### **6.8.7 Senator S.Y. Mézec:**

It is relevant because, in my experience as a constituency representative, there have been instances where we have pushed to get redeterminations because we believed it has been the department's fault rather than the claimant's. The department has not caved in. We have threatened a tribunal and then all of a sudden they cave in. Many claimants will not feel confident enough to get to that point in the first place. Would the Minister endeavour to get that information of how many settlements have been offered at the point of a tribunal being threatened and give that information to States Members?

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

I am slightly confused by the question. I think the Senator is saying that the department caved in at threat of a tribunal and then changed the amount or changed the redetermination. I do not think that has ever happened. I am not quite clear on what the Senator is intimating.

#### **The Bailiff:**

Deputy Southern, you have asked for a supplementary question. Generally, we do not allow a second supplementary question because there is normally simply not enough time for them and it would end up a simple question and answer. I can allow one on this occasion though, there is a little bit of time left allocated.

**6.8.8 Deputy G.P. Southern:**

It is a very simple question. Does the Minister consider that, where it is shown that her department has made a mistake, this insistence on seeing that paid back of an overpayment is fair treatment of these clients who are very vulnerable?

**Deputy J.A. Martin:**

The Deputy has made 2 statements there. That everyone who has had an overpayment are a vulnerable client. That is definitely not true. The fairness comes in that all the income support payments, the £80 million of it, comes from the taxpayer. So, I am sorry, mistakes will be made on both sides and the repayments have to be repaid.

**6.8.9 Deputy R.J. Ward:**

Does the Minister agree that it is the problem with the Social Security Law that puts the onus on the claimant fully understanding every aspect of the claim and claiming back if they perceive an error that leads to so many of these overpayments? Would she not agree that the policy of we will reclaim overpayments regardless is putting many people into serious financial debt and trapping them in a cycle of poverty?

**Deputy J.A. Martin:**

On every single letter that goes out we remind the client that: "If your circumstances change at all, either you get more money in or you get less money in, contact the department straight away." We do renegotiate payments, it can be as low as £3 per day, and I know that some people will find that hard. But they may have had 3 weeks prior an extra £200 or £300 a week in their payments. So where has the money gone? It has to be repaid back. I cannot let everybody not pay an overpayment back and then not be able to have enough money to pay on to the next person in need of the safety net.