



25/2/2019

INOUE Submission to the DEASP's Control Strategy 2019 -2023

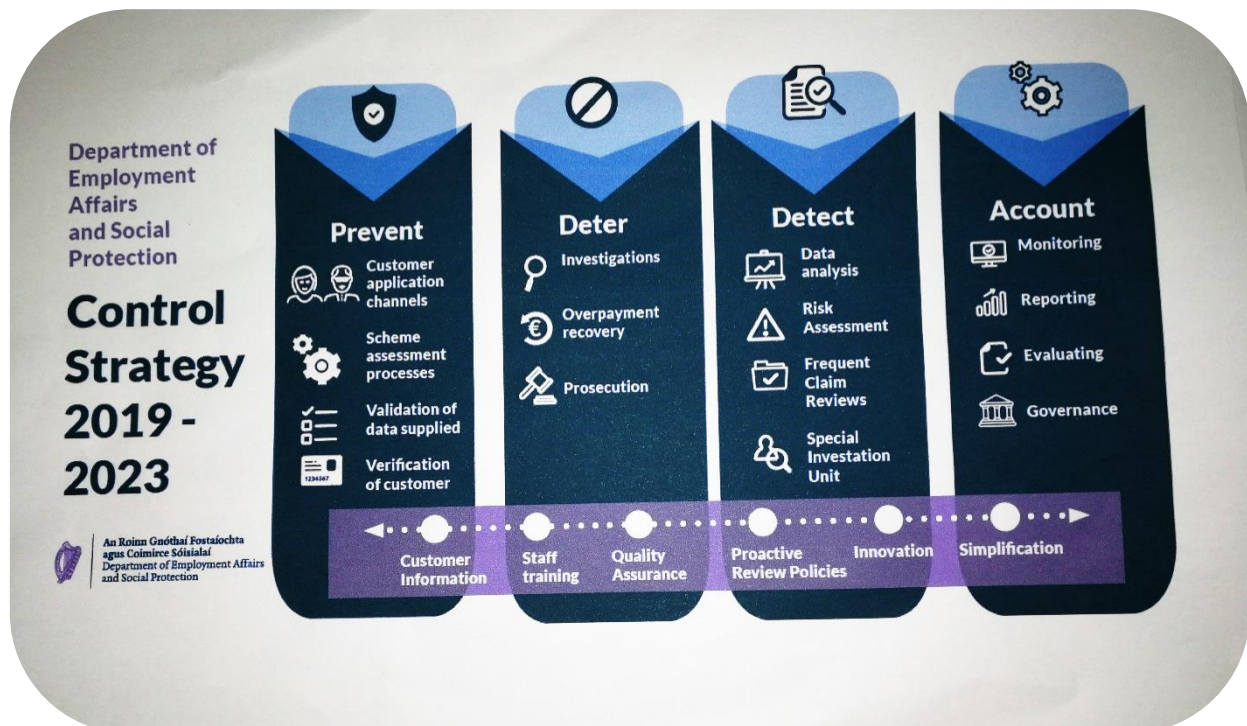
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INTRODUCTION

The Irish National Organisation of the Unemployed (INOU) *“is a federation of unemployed people, unemployed centres, unemployed groups, community organisations and Trade Unions. The INOU represents and defends the rights and interests of those who want decent employment and cannot obtain it. We promote and campaign for policies to achieve full employment for all. We also campaign for an acceptable standard of living for unemployed people and their dependents. The INOU is an anti-sectarian, anti-racist, non-party political organisation which promotes equality of opportunity within society.”* (INOU Mission Statement)

The organisation has 200 affiliated organisations and individual members. We work at the local and national level on issues affecting unemployed people through the provision of training and welfare rights information services; analysis of Government policies and related advocacy work; and working with a wide range of other organisations on issues of common concern.

The INOU welcomes this opportunity to make a submission to Department of Employment Affairs and Social Protection’s (DEASP) Control Strategy 2019-2023 as outlined below.



In the Department’s Statement of Strategy 2017-2020¹ it says that the Department’s mission is *“To promote active participation and inclusion in society through the framework of employment rights and the provision of income supports, employment services and other services.”* And that the Department’s overall objective for 2017 to 2020 is *“To continue putting our clients at the centre of all our operations, providing an efficient and effective service and to continue developing our staff, structures and processes.”*

The INOU sees these three aspects of the Department’s work are closely intertwined.

¹ Ref: http://www.welfare.ie/en/downloads/Statement_of_Strategy_2017-2020.pdf

DEALING WITH A COMPLEX SYSTEM

Ireland's social protection system is complex: it consists of payments based on entitlement built up through work and PRSI contributions; to payments accessed through a combination of meeting the eligibility criteria associated with a payment, including a means test; to the only universal payment, Child Benefit.

Then for people of working age, in particular those in receipt of a Jobseeker's payment, there is the application of the activation model which should assist people to accessed employment or an appropriate employment, education and training. However, the INOU knows through the course of our work that referrals to existing supports do not necessarily match the person to the most relevant or useful option for them. While, amongst the feedback from our affiliates, is whether or not the people they are trying to work with are on the most suitable social protection payment for them.

To address these issues it is absolutely essential that DEASP frontline staff are supported to deliver a person-centred service with good guidance and information on the best options available to people who are either clients or potential clients of the Department. To that end staff must be fully trained on the range of social protection and activation measures available to people, and when and how they can access them.

It is equally important that care is taken to ensure that people are on the right payment; that they are properly briefed on their entitlements; and if they are not entitled to a payment or support that they are fully informed on why they are not; and whether they can appeal the decision.

APPLICATION AND ASSESSMENT

A critical aspect of ensuring people are in receipt of the correct payment is the provision of clear, relevant and timely information. The INOU is conscious that the processes around accessing a Jobseekers payment have improved in comparison to the past, and that increasingly where issues arise it is a consequence of the individual's circumstances not easily fitting existing criteria. Given the changing nature of the labour market, it will be important to ensure that social protection supports meet people's needs and that potential clients do not find themselves cut off from badly needed supports.

At all stages of the process the correct information must be provided, for example, on www.welfare.ie/en/Pages/jobseekers_home.aspx the first item should be 'Income Supports'. Similarly, on the 'Income Supports' page the text in the middle column should explain to readers what Jobseeker's Allowance, Jobseeker's Benefit, Farm Assist and Fish Assist payments are and where information may be obtained locally. The Intreo/Local Office locator is located in the right hand column of the web page and assumes people know what this means; while in the body of the text on these payments the terms 'Intreo Centre or Social Welfare Branch Office' are used. At no stage in the process should it assumed that people know everything they need to know, good sign posting, spelling out all the steps required, is essential for a client centred service, and should help to reduce error.

Under Objective 1, '*Put the Client at the Centre of Services and Policies*' it notes that the Department will "*Ensure speedy access to accurate decisions, payments and reviews for all schemes and services, which are clearly communicated to the client*". Through the INOU's

welfare rights work concerns have been raised about a lack of clarity in the information provided and cases going to appeal that should have been resolved at the local Intreo Centre / Social Welfare Office.

In the INOU's *Social Welfare Appeals Project Report, 2017*² it was "recommended that information be produced and disseminated, both printed and online, more prominently highlighting an individual's right to request a copy of their DEASP file under the provisions of engagement with the Social Welfare Appeals Office and in accordance with the DEASP's obligations under the Freedom of Information Act."

BEING CALLED IN FOR INTERVIEW

It would be important that the person making or in receipt of a claim should be formally advised in writing of the purpose of the interview; if the interview will be conducted under caution, the purpose of conducting the interview under caution; their rights to decline attendance at interview and any penalties incurred by failure to attend interview. Any official caution should be reaffirmed at the beginning of the interview and note taken that the person has acknowledged the caution has been administered.

The person should be clearly informed of any underlying inherent right or right by established precedent, to have legal counsel or any other named representative present at such interview. If the person involved advises of mental incapacity or disability which could unduly affect their ability to adequately present fact or engage in the interview, or where such is apparent by the nature of any payment by the Department or medical evidence provided to, or in the possession of, the Department, that facility be granted for the attendance of a representative 'ad litum' in support of the claimant during any interview.

The person should be afforded the right of full and complete disclosure of documents, as afforded under the Department's *Guidelines for Decision Making and Natural Justice*, prior to any such interview, wherein such does not require an application under the Freedom of Information. The person should also be presented with any records or notes of the interview at the conclusion of the interview. They should be invited to sign the records or notes to confirm that they are a true and accurate reflection of the content of the interview. The person should have the right to refuse to sign such records or notes where, in their opinion, said records or notes are not a true or accurate reflection of the interview. Any refusal to sign the records or notes should be noted. The person should have the right to request that any inaccurate or incomplete information contained in said records or notes are corrected or amended, and a record of such request be made.

And finally, the person should be advised of any procedure or process that the Department may undertake stemming from the interview.

DEALING WITH OVERPAYMENTS

The INOU has concerns, from a welfare-to-work and work retention perspective, that the receipt of *Attachment of Earnings Notice* by an employer could unduly and unnecessarily

² Available at https://www.inou.ie/download/pdf/swa_project_report_final_2017.pdf

prejudice any current and future prospects for continued employment for the person subject to the notice.

Under normal circumstances the legal recovery of monies where a debt is owed is authorised by the Courts system. Where an employer receives such attachment notice through the court system it does not specify the cause or reason for such debt. This debt could have arisen from a variety of circumstances including outstanding maintenance payments, loan repayments, hire-purchase agreements, traffic/parking fines and other penalties etc. and, it would be reasonable to suggest, would not necessarily, in the normal course of events, unduly reflect on the veracity, reliability or honesty of an employee.

However, where such notice is issued directly by the Department of Employment Affairs and Social Protection there is an inherent and implied connotation, given that employers will not receive any information or clarification as to the cause or reason for the resulting debt to the Department, that this debt 'more than likely' relates to some type of nefarious or fraudulent activity on the part of the employee.

It would be generally accepted that the Department's overarching emphasis is to not only support the return to work of jobseekers, and those of working age, but to actively promote the long-term sustainability of such employment as evidenced by the number of direct, and indirect, back to work supports and initiatives provided by the Department.

It is therefore essential, in cases where the Department are not actively seeking formal prosecution of what technically constituted a fraudulent offence, that any action taken by the Department in seeking to recover any outstanding debt does not undermine or impede the claimant's ability to seek, obtain or sustain employment in the longer term.

The INOU would contend that Attachment of Earnings notices issued by the Department of Employment Affairs and Social Protection could constitute a grave and onerous 'threat' to a person's continued employment in that receipt of an Attachment of Earnings by an employer may directly prejudice the continued employment of an established employee; or may directly prejudice the employment of a new employee, particularly one under any probationary period with a new employer.

The INOU would recommend that the Department would not seek to directly issue any Attachment of Earnings notice where no prosecution is being sought, and that the Department would instead seek to pursue all recovery of overpayments through existing legal processes already established for the recovery of debts.

The INOU also recommends that where a claimant, or ex-claimant, is engaged with the Money Advice and Budgeting Service (M.A.B.S.) in addressing debt that the Department should:

- engage with the client and MABS *before* making any statutory/mandatory deduction from their Social Welfare payment.
- work with MABS and the claimant to identify and establish a reasonable and practical level of statutory deduction based on any debt management plan determined by MABS.

The INOU is conscious that the Department has an obligation to mind and use properly the resources entrusted to it, however, the organisation is also aware that most control issues arise because of misunderstandings and miscommunication between the Department and the client. To that end if the person involved lacks the financial and personal resources to deal with

this situation, then care must be taken to not further impoverish them. In the INOU's 2017 Social Welfare Appeals report we "*recommended that information be produced and disseminated, both printed and online, more prominently highlighting an individual's right to seek a Basic Supplementary Welfare Allowance payment from the DEASP where they have submitted an appeal, or are engaged with an appeals process, with the SWAO.*" Similarly, that information on Exceptional Needs Payments (ENP) / Urgent Needs Payments (UNP) would also be disseminated.

The INOU would also be concerned that at times the Department has brought people to court who have engaged with them and sought to address the irregularity of their situation and repay any monies for which they were not entitled. While the organisation appreciates that deliberate fraud should be dealt with appropriately, it strikes us as harsh, and a questionable use of resources, that people who may have received an overpayment through error, either personal or official, and who have engaged appropriately with the redress mechanisms find themselves before the courts.

DATA

The Department has highlighted its use of data matching for control purposes. With the introduction of the Public Services Card, concerns have been raised by a range of commentators about the use of biometric data and data harvested through on-line activity.

It seems odd that such data can be used for control purposes, yet the dissemination of targeted data that would assist people to make the welfare to work journey seems to be so hit and miss. Better and more constructive engagement between the system and the person would lead to less control issues arising and would ensure that objectives 3 and 2 of the Department's Statement of Strategy where properly supporting objective 1: develop staff, structures and processes to efficiently and effectively put the client at the centre of services and policies. For example:

- *Claimants Signing-Off*: Where a claimant signs off from a Jobseekers payment, or other payment of working age, or other supported scheme (CE, TUS, etc.) said client should automatically receive notification of available back-to-work supports e.g. Part-time Job Incentive Scheme; Back to Work Enterprise Allowance; Back to Work Family Dividend.
- *Family Working Payment (FWP)*: Automatic notification of FWP where a claimant has signed off from a Social Welfare payment and has qualified dependent children and has registered with Revenue as an employee.
- *JobsPlus*: JobsPlus is an employer incentive which encourages and rewards employers who employ jobseekers on the Live Register and who have been out of work for long periods. The Department pays the incentive to the employer monthly in arrears over a 2-year period. It provides 2 levels of regular cash payments €7,500 and €10,000 depending on the potential employee's circumstances.

REPORTING

Good monitoring and reporting on the Department's control functions are important. In popular discourse there is an assumption that fraud is wide scale. Yet, the evidence shows that most control issues arise because of misunderstandings and miscommunication resulting in misinformation and error, on both sides of the counter. To that end it will be important to

support frontline staff to deliver a person-centred service with good guidance and information on the most suitable options for the person concerned.

In the Department's Statement of Strategy 2017-2020 it says: *"Ensure that the Department's services and information are accessible to all service users and that the Department is compliant with its Public Sector Duty³ in all its activities."* And it will be particularly important that in the development and delivery of any Control Strategy the Department is seen to take this into account.

Many people living on the margins of Irish society fear to engage with the system, as they are concerned that it will worsen their circumstances. Yet, the opposite may in fact be the case. So, it is absolutely critical that there is good engagement between service delivers and service users, and that clients or potential clients see their local Intreo or Social Welfare office as the place to go to get help; what that help may be; and how best to address any changes in circumstances that may arise.

IN CONCLUSION

In meeting its control obligations, the Department must ensure that the mechanisms and procedures it uses, including the messaging and reporting, do not undermine its mission is *"To promote active participation and inclusion in society through the framework of employment rights and the provision of income supports, employment services and other services."*

To ensure that people gain access to the correct supports and services, the Department must make certain that these services are person centred; pro-active and supportive; provide the full range of information; flexible to facilitate participation; integrated within and across relevant organisations; for people of working age, identify clear pathways into a decent job; commit to and deliver on inclusive services; and have the right resources, in particular the staff, to deliver on these services.

³ The Irish Human Rights and Equality Commission Act, Section 42 (1) describes this Duty as:

"A public body shall, in the performance of its functions, have regard to the need to:

a. eliminate discrimination,

b. promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and

c. protect the human rights of its members, staff and the persons to whom it provides services."