



## **TITHE AN OIREACHTAIS**

**An Comhchoiste um Airgeadas, Caiteachas Poiblí  
agus Athchóiriú**

**2012**

**Bealtaine 2012**

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## **HOUSES OF THE OIREACHTAS**

### **JOINT COMMITTEE ON FINANCE PUBLIC EXPENDITURE AND REFORM**

**Report on data exchange between  
the Department of Social  
Protection and the Revenue  
Commissioners**

**May 2012**

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## FOREWORD

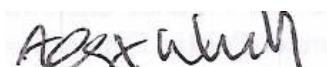
The Joint Committee on Finance, Public Expenditure and Reform has a remit under its orders of reference in respect of bodies under the aegis of the Department of Finance and the Department of Public Expenditure and Reform. The Committee views its role in respect of oversight of such bodies as one of its key functions.

The duties of the Joint Committee are discharged in two ways – (1) there will be items of business referred to it by one or both Houses of the Oireachtas and (2) it can select business for consideration itself, from the areas within its terms of reference. In practice the Joint Committee's work comprises the examination of EU business and key policy areas.

One body which comes under the Joint Committee's remit is the Office of the Revenue Commissioners. Toward the end of 2011 the Revenue Commissioners, on foot of data received from the Department of Social Protection and an analysis of said data, issued some 150,000 letters to pensioners relating to possible tax liabilities in respect of their pensions and non-disclosed additional income that could be taxable.

These letters caused some considerable distress to pensioners, and officials from the Revenue Commissioners and the Department of Social Protection were asked to come before the Joint Committee on 11 January 2012 to answer questions as to how the events that unfolded came about and what could be learned from what happened.

The Joint Committee felt that, as the issues involved are of considerable concern to its citizens and the amounts of potential tax revenue substantial, it should look into what happened with a view to reporting the outcomes and its recommendations to the Houses.



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Alex White T.D.

Chairman

May 2012

## **1. BACKGROUND TO THE COMMITTEE'S CONCERNS**

Data exchange between the Department of Social Protection (the Department) and the Office of the Revenue Commissioners (Revenue) has been ongoing for a number of years. Legislative provisions that allow for such data sharing between the Department and Revenue (and other Departments and agencies) are contained in section 261 of the Social Welfare (Consolidation) Act 2005. Such data exchanges are carried out in accordance with the data protection legislation, as contained in the Data Protection Act 1988 and Data Protection (Amendment) Act 2003.

In terms of information provided by the Department to Revenue, information relating to short-term benefits, such as illness benefits, occupational injuries benefit and jobseekers benefit is provided on a weekly basis. Information relating to some other long-term schemes, including long-term illness payments, child benefit, carer's allowance and one-parent family payment is provided to Revenue on an annual basis.

In recent years, the Department has improved its bilateral liaison with Revenue through the establishment of a high level group at management board level, the main purpose of which is to deepen interaction between the organisations at strategic and operational levels. This has resulted in closer co-operation between the two organisations with a view to aligning expertise and information across their operations. In this context, a number of working groups have been established which are examining a range of specific issues, including social welfare abuse and tax compliance.

On foot of a specific data matching exercise carried out by the Department in November 2011, following work done by one of the high level groups' sub-groups, more than 560,000 records of pensioners were provided by the Department to the Revenue Commissioners on 1 December 2011. The data comprised the customer name and weekly entitlement payable for a week in November.

When Revenue received what was an extremely large data set from the Department, they set about matching it with their own records. An analysis of the

data, when matched, concluded that in three quarters of the cases no immediate concerns arose because in these 310,000 cases the pensioner either had

- only a Department of Social Protection pension; or
- the figures matched - in other words Revenue knew about all their sources of income.

A further 100,000 cases, additional to the 310,000 noted above, were in the self assessment system and due to make tax returns next October in the normal way.

However, in the remaining 150,000 cases - taxed through the PAYE system - the figures did not match. It was decided that the immediate priority was to rectify the mismatches speedily for the tax year 2012 and beyond. During the analysis of the mismatch of figures, it became apparent that the mismatch might be far greater than initially thought. In the words of the Chairman of the Revenue Commissioners, *"somewhat to our surprise, the scale of the numbers of cases and the likely tax at risk became apparent to us. The likely tax at risk was material in the aggregate. It was a serious amount of money."*<sup>1</sup> This serious amount of money yielded a potential tax liability estimated at between €45m and €55m.

Given that a large potential tax liability had been identified involving substantial amounts, it was decided that these moneys should be collected in 2012 for a number of reasons –

- this was money that was owed to the State;
- collecting the moneys owed at the beginning of the year avoided tax arrears developing for pensioners;
- any announcement in the Budget in early December in regard to tax rates, bands or allowances inevitably left little time for Revenue to go through the records thoroughly enough to issue individual letters to each of the 150,000 pensioners involved.

It was judged, by Revenue, that a large scale public announcement that they were examining the tax records of 560,000 pensioners would have caused wide

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<sup>1</sup> Chairman of the Revenue Commissioners, Ms. Josephine Feehily. Transcript of the meeting: <http://debates.oireachtas.ie/FIJ/2012/01/11/00004.asp>

scale and unnecessary distress, and that it would be better to concentrate on the much smaller number of 150,000 who might have a tax liability. It was decided to categorise these pensioners into four distinct groups and issue letters to the persons in those groups –

- 20,000 cases who were paying too much tax;
- 30,000 cases who had never reported their Department of Social Protection pension to Revenue, and on the basis of information available to Revenue, could be liable to pay more tax in the future;
- 85,000 cases who had reported their Department of Social Protection pension but had under-reported, or their circumstances had changed since they reported;
- 15,000 cases that did not report their Department of Social Protection pension to Revenue but as it appeared that their total income is less than the exemption limit for those over 65, they would have no liability (in this instance there was the possibility of a temporary hiatus while Revenue updated their records and prepared new tax credit certificates for these pensioners).

The letters issued in early January 2012. The difficulties these letters caused were unprecedented and the response was never anticipated by Revenue. At the Joint Committee meeting at which both the Department and Revenue discussed this matter with the Members of the Committee, the Chairman of the Revenue Commissioners stated *"We caused confusion and distress to some people and I am sincerely sorry for that."*<sup>2</sup> In addition to this apology, the Chairman of the Revenue Commissioners admitted that errors were made. However, it was pointed out that lessons were learned and that if a similar exercise were to be performed tomorrow, things would be done differently.

## **2. Recommendations**

While it is admitted by Revenue that lessons were learned with respect to the issuance of the letters to the 150,000 pensioners and in regard to general communications matters, the Joint Committee felt that the circumstances that gave rise to the controversy also needed to be considered.

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<sup>2</sup> Ibid

As was pointed out at the Joint Committee meeting of 11 January 2012, bilateral liaison between Revenue and the Department was established through a high level group at management board level, the main purpose of which was to deepen interaction between the organisations at strategic and operational levels.

As became apparent at the meeting, Revenue's receipt of the Department's data in late November/early December i.e. so close to the budget, was a contributing factor in the ensuing confusion when the letters to the pensioners were issued. As the Chairman of the Joint Committee, Alex White TD pointed out, *"Part of the difficulty is that an issue lay dormant for a long time and then suddenly it had to be resolved at breakneck speed. That is what concerned many people. Why was there very little activity and then quite a lot of activity?"*<sup>3</sup>

On foot of what has gone before, the Joint Committee makes the following recommendations –

1. systems should be implemented to facilitate better project management between both the Office of the Revenue Commissioners and the Department of Social Protection.
2. Revenue should improve its method of communications through (i) the adoption of a numbered referenced system for all items of correspondence issued and (ii) improving and simplifying the wording of its letters. Where data is transferred between Departments, the setting up of a high level group must also include a project owner. In the future, all such data transfer between state bodies must have a named project owner to take responsibility for the project.
3. The project owner and the high level group must make each side aware of the time lines each organisation works to - the lesson from this episode clearly shows that one of two scenarios were at play:
  - a. The Department did not seem to appreciate or understand that Revenue would be at its busiest when the data was transferred i.e. at the end of the year; or
  - b. Revenue did not make the Department fully aware of what difficulties late-in-the-year transmission would mean for Revenue – especially - given that, depending on budget announcements with respect to taxation matters, Revenue would be at its busiest as new tax certificates would have to be issued in up to 1.9 million cases.

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<sup>3</sup> Ibid

4. The Department of Public Expenditure and Reform, given its remit in regard to Public Sector Reform, must be more actively engaged in managing reform projects that involve data transfer, and while recommendations 1 and 2 above have specific application as between the Department of Social Protection and the Revenue Commissioners, the Joint Committee considers that these recommendations have universal application across both the Public and Civil Service.

Accordingly, the Joint Committee recommends that the Department of Public Expenditure and Reform, as part of reforming public services, should issue a public sector wide directive in regard to projects that involve data transfer to include the following –

- a. the formal establishment of a high level group representative at management board level, the main purpose of which group would be to deepen interaction between the organisations at strategic and operational levels;
- b. that on establishment of the high level group one member must be appointed a project owner responsible for the delivery of the project in a professional manner that takes account of work pressures and dead-lines that apply to all the Departments, parties, organisations and bodies who are part of the data transfer project;
- c. the Joint Committee will review with the Secretary General of the Department of Public Expenditure and Reform, in not less than three months and not more than six months from the publication of this Report, the progress the Department of Public Expenditure and Reform has achieved in ensuring that the recommended public service wide directive is delivered.

### **3. Conclusion**

The Joint Committee note that both the Department of Social Protection and the Revenue Commissioners did not intend that the data exchange would happen in the manner it did with the consequences that followed including upset and concern for so many individuals. The Joint Committee note that there is now a greater emphasis being placed on both the Civil and the Public Service to deliver more and better services to the public using fewer resources. The delivery of this can only occur where people work 'smarter', not just longer or harder, and in the given instance the Joint Committee is clearly of the opinion that a contributing factor to the disquiet that took place was most likely the time pressure that



occurs in Revenue around budget time. What is not clear to the Joint Committee is if this was due to Revenue not making the Department of Social Protection fully aware of the pressures it would be under or, if Revenue did make the Department so aware, whether the Department did not fully appreciate the implications for Revenue.

Given that Public Sector Reform is a priority of the Government and that part of this reform will be more and more projects dealing with data transfer, the Joint Committee is also clear that the Department of Public Expenditure and Reform has a major role to play, and the *ad-hoc*, though well formulated approach that was evident in this case needs to be given strategic direction. Accordingly, the Joint Committee considers that the Department of Public Expenditure and Reform must issue a directive that formalises the process to be used in projects that involve data transfer, taking on board the Joint Committee's recommendation in regard to appointing a project owner. This will be reviewed with the Secretary General of the Department of Public Expenditure and Reform within the next six months to see what reform the Department has brought forward so as to help avoid the undoubted difficulties that arose in this case.

## Appendix I

### List of Members of the Joint Oireachtas Committee on Finance, Public Expenditure and Reform

<u>Chairman:</u>	Alex White, (LAB)
<u>Deputies:</u>	Richard Boyd-Barrett, (IND) Michael Creed, (FG) Jim Daly, (FG) Pearse Doherty, (SF) Stephen Donnelly, (IND) Timmy Dooley, (FF)* Sean Fleming, (FF) Joe Higgins, (IND) Heather Humphreys, (FG) Kevin Humphreys, (LAB) Peter Mathews, (FG) Pádraig Mac Lochlainn, (SF)* Mary Lou McDonald, (SF) Michael McGrath, (FF) Michael McNamara, (LAB)* Olivia Mitchell, (FG) Kieran O' Donnell, (FG) Arthur Spring, (LAB) Billy Timmins, (FG) Liam Twomey, (FG) (Vice-Chair)
<u>Senators:</u>	Sean D Barrett (IND) Thomas Byrne (FF) Michael D'Arcy (FG) Aideen Hayden (LAB) Tom Sheahan (FG) Katherine Zappone (IND)

#### Notes:

1. Deputies appointed to the Committee by order of the Dáil on 9 June 2011
2. Senators appointed to the Committee by order of the Seanad on 16 June 2011
3. \*Deputy Timmy Dooley appointed on 21 June 2011 in place of Deputy Seán O' Fearghail
4. Deputy Alex White elected as Chairman on 23 June 2011
5. Deputy Liam Twomey elected as Vice Chairperson on 23 June 2011
6. \*Deputy Michael McNamara appointed on 8 December 2011 in place of Deputy Thomas P. Broughan
7. \*Deputy Pádraig Mac Lochlainn appointed on 14 December 2011 in place of Deputy Jonathan O'Brien

## APPENDIX II

### Orders of Reference of the Joint Committee on Finance, Public Expenditure and Reform

#### **a. Functions of the Committee – derived from Standing Orders [DSO 82A; SSO 70A]**

- (1) The Select Committee shall consider and report to the Dáil on—
- (a) such aspects of the expenditure, administration and policy of the relevant Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann to form a Joint Committee for the purposes of the functions set out below, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—
- (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 164,
  - (c) Estimates for Public Services, and
  - (d) other matters
- as shall be referred to the Select Committee by the Dáil, and
- (e) Annual Output Statements, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies, and report thereon to both Houses of the Oireachtas:
- (a) matters of policy for which the Minister is officially responsible,
  - (b) public affairs administered by the Department,
  - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

- (d) Government policy in respect of bodies under the aegis of the Department,
  - (e) policy issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
  - (f) the general scheme or draft heads of any Bill published by the Minister,
  - (g) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
  - (h) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (i) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in paragraph (4)(d) and (e) and the overall operational results, statements of strategy and corporate plans of such bodies, and
  - (j) such other matters as may be referred to it by the Dáil and/or Seanad from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 105, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
  - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
  - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) A sub-Committee stands established in respect of each Department within the remit of the Select Committee to consider the matters outlined in paragraph (3), and the following arrangements apply to such sub-Committees:
- (a) the matters outlined in paragraph (3) which require referral to the Select Committee by the Dáil may be referred directly to such sub-Committees, and
  - (b) each such sub-Committee has the powers defined in Standing Order 83(1) and (2) and may report directly to the Dáil, including by way of Message under Standing Order 87.

- (7) The Chairman of the Joint Committee, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee and of any sub-Committee or Committees standing established in respect of the Select Committee.
- (8) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
  - (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
  - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (c) at the invitation of the Committee, other Members of the European Parliament.

**b. Scope and Context of Activities of Committees (as derived from Standing Orders [DSO 82; SSO 70])**

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 26. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.
- (4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Dáil Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.