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PAYMENT OF SUPPLEMENTARY WELFARE ALLOWANCE TO ASYLUM SEEKERS IN RECEPTION CENTRES.

Legal Issues.

In 1986, in the McLoughlin Case, the Supreme Court ruled that the then Department of Social Welfare was acting ultra vires in using the Supplementary Welfare Allowance Scheme to make fixed payments to people in respect of their fuel/heating needs. The reason given was that the SWA scheme requires that an individual assessment of need and means be carried out in respect of each application. This led to the establishment of the National Fuel Scheme as an administrative scheme under the remit of the Department of Social Welfare.

The payment of £15.00 per week in respect of adult asylum seekers and £7.50 in relation to children of asylum seekers is very similar to the circumstances that led to the Supreme Court judgement in that it implies that no individual assessment of need will take place. It is likely that the decision to make these payments will also be found to be ultra vires if challenged in the courts. Also, prior to any possible legal challenge, if these cases are appealed through the health boards appeals system and the appeals system of the Department of Social Community and Family Affairs, the appeals officers may take the McLoughlin judgement into account. Likewise the Ombudsman may take a similar line.

To pre-empt such decisions it would be wise to remove these payments from the SWA scheme and to establish an administrative scheme, which could be called the Asylum Seekers Scheme. If desired, provision could be made to have the payments made by CWOs through the ISTS payment system, using a defined code, which would allow for separate accounting.

Practical Issues.

It is proposed that from 3rd April 2000, all newly arrived asylum seekers will be routed through a number of reception centres, before moving into direct provision accommodation throughout the country. The intention is that they will spend a minimum of one week and a maximum of two weeks in such centres. There are a number of serious practical problems arising from the making of payments in reception centres using health board staff and the payment system of DSCFA.

- It is Government policy that no payments will be made until asylum seekers are in reception centres. This will require that CWOs take an application and make the first payment in the reception centre. There is very little space in reception centres for this task and in some cases this business may have to be conducted in communal areas.
- A manual cheque will require to be issued for the first payment. At present CWOs do not carry cheques to accommodation sites. Security issues and possible IR issues may arise. Also asylum seekers will be seeking to cash their cheques locally which is likely to pose problems for local traders and banks.

- After making the first manual payment the CWO will enter details on the ISTS system and will arrange as per standard practice for the second payment to issue in the local Post Office. By the time this second payment is due quite a number of asylum seekers will have moved out of the reception centres, necessitating the cancellation of a large number of bank drafts. Also, the nearest Post Office to the reception centre will be dealing with a large number of new asylum seekers each week, the majority of whom will be presenting for just one payment. This is likely to cause serious problems for these Post Offices.
- At present rate of arrival there will be a throughput of between 200-250 asylum seekers in the reception centres each week. This will be the number of new payments which will require to be set up on the system each week, and this will also be the number of cases that will require to be transferred via the system each week. When asylum seekers are dispersed the local CWO will be unable to make payments until the case is transferred on the system by the CWOs in Dublin. This will involve a lot of communication between the directorate, the CWOs in Dublin and the CWOs in other regions.

All of the above implies that there will be a tremendous amount of time and resources of health board staff in Dublin and the regions, post office staff and other staff in the making of what in most cases will be one financial payment to asylum seekers in reception centres.

It would make more sense if the full responsibility for asylum seekers, while in reception centres, rested with the Department of Justice Equality and Law Reform, with health board staff only becoming involved after they had moved to other areas in Dublin or the regions. A member of the directorate could hand the asylum seeker £15 in cash as they collect the keys to their room in the reception centre. On the assumption of a throughput of 15 asylum seekers per day in each reception centre this would require a daily cash float of about £225. Asylum seekers could sign for the payment on a prepared form.

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