



Oifig an Ombudsman
Office of the Ombudsman



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Report to both Houses of the Oireachtas

I hereby submit my sixth Annual Report to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act, 1980. This is the 25th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

A handwritten signature in cursive script, reading "Emily O'Reilly". The signature is written in black ink on a white background.

Emily O'Reilly

Ombudsman

June 2009

An Ombudsman agus na hOspidéal Poiblí

The Ombudsman and the Disability Act 2005

Office of the Ombudsman

Complaints

An Ombudsman agus An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí agus Comhlachtaí Gaelmhara

Complaint Form

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

Office of the Ombudsman

The Ombudsman and Local Authorities

An Ombudsman agus An Roinn Gnóthaí Sóisialacha agus Teaghlaigh agus An Oifig Achomharc Leasa Shóisialaigh

Frequently Asked Questions

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

The Ombudsman and the Health Service Executive

The Ombudsman is

- Impartial
- Independent
- A free service

Public

Public Bodies and the Citizen

Redress

The Ombudsman is

- Impartial
- Independent
- A free service

The Ombudsman's Guide to Standards of Best Practice for Public Servants

Getting it wrong and putting it right

Chapter One

Message from the Ombudsman

In good economic times, many people can live their lives to the full from their own resources or with some amount of help from the State. The State itself can respond quickly and adequately to many needs through higher exchequer yields. When a downturn happens, people are forced in greater numbers to seek State assistance and may experience significant stress if that assistance isn't forthcoming, or if they feel that they are being treated unjustly by the administration.

That is where the real value of the Office of the Ombudsman in a time of recession becomes apparent. I cannot increase Government revenue but I can ensure that people are treated fairly and properly and that poor practices by a Government department or other public body do not add to the hardship already caused by the financial downturn.

We constantly strive not only to assist our complainants in getting redress or a remedy to their problem, where we have found maladministration but also to encourage

public bodies to bring forward new procedures, policies or management changes to ensure that similar complaints do not recur. Learning lessons from resolved complaints and putting in place systemic change is a key goal of my Office. By identifying and addressing systemic problems the Office is:

- i) A low cost agent of change,
- ii) Bringing about concrete improvements in the operation of the public service, often avoiding expensive consultancy expenditure and external reviews and reports,

"Given the global recession and the dramatically changed economic circumstances people are facing, I believe that the institution of the Ombudsman has an even greater role to play in helping people"

- iii) Providing remedies to complaints which, in the vast majority of cases, are acceptable to the parties involved without the need for costly litigation and court awards, and
- iv) Enabling the wider public sector to learn lessons from the outcome of a specific complaint resolution which can help the bodies to avoid repeating the same mistake or misjudgement and to maintain a consistent high quality and fair service to their customers.

So, it is not just people who complain to my Office that can benefit but also those who have similar difficulties and who gain as an off-shoot from a particular case resolution. That is the reason why in every Annual Report and, periodically, through the publication of digests of complaints, I take the opportunity to spotlight cases of interest and applicability across the public service. To be fair to public bodies, I find that there is in most cases a genuine willingness on their part to engage with my Office and to resolve grievances in a non-adversarial way. Indeed, those that are

“Learning lessons from resolved complaints and putting in place systemic change is a key goal of my Office”

committed to best customer relations practice will invariably take on board lessons from case studies which have applicability wider than the complainant. To that end, I have highlighted in this year’s report a number of cases which resulted in systemic change or benefits gained by others, as well as my complainants. This underlines the difference the institution of

the Ombudsman can make in improving the day-to-day life of people. In some cases complaints made to me about decisions of public bodies appear to the complainant to be so fundamentally unfair that they cannot fathom the reason behind the rulings. In other cases, it may be that the decisions are based on incorrect or incomplete information, misinterpretation of the rules, or indeed, while seemingly unfair, are caused by strict adherence to governing law. Whatever the circumstances, my Office examines each case objectively and impartially and if we find wrong-doing on the part of the public body, we recommend an appropriate remedy which is designed to ensure a fair outcome for the public body and complainant alike.

In highlighting particular cases like these of systemic value, I hope to shine a light on

to the sometimes hidden difficulties faced by people, often in difficult circumstances, who are unable to get fair play and redress from public bodies who have treated them inappropriately. Examples of the cases I am speaking about which demonstrate the value of an oversight include:

Dispute about a tax payment resolved. Revenue Commissioners refund €9,810 late tax payment interest charge to self-employed man. See Chapter 4 - case 4.2.1

The dispute in this case related to an interest charge for late payment of tax. While the complainant contended that he had lodged the required amount to his bank current account, the electronic transfer to the Revenue failed to go through due to an error in entering the correct payee account number. The case centred on whether there was documentary evidence that the complainant had been notified by the Revenue of the non-payment of tax. My Office sought to establish by reference to Revenue computer records whether there was evidence to show that the two notifications actually issued. Without notification the man could not have been aware that a banking error occurred. Providing documentary evidence did not prove possible as the issue of the letters was by manual process. In the absence of that proof I asked the Revenue to make a refund to the man. I am pleased that the Revenue agreed to my request and that the complainant was paid back the interest charge in full.

Revenue Commissioners' decision not to allow tax relief on two additional €13,000 voluntary pension contributions in the same year revised. See Chapter 4 - case 4.2.2

Pensions and their value are increasingly of interest to people in these turbulent times and I am glad to highlight a case involving investment in personal retirement savings accounts (PRSA), additional voluntary contributions (AVC) and the Revenue. The upshot of this case demonstrates a lack of clarity on the part of the Revenue on the time limit for claiming AVC tax relief. The welcome agreement of the Revenue to amend the wording of its guide to AVC's, will without doubt, help others who find themselves in the same type of situation. In this instance, the complainant had invested in AVC's, with the intention of having the tax relief due refunded in the same year (2006). The initial decision of the Revenue not to allow him to do so was eventually revised.

Council compensates planning objector for error in failing to notify decision. See Chapter 5 - case 5.2.1

This case highlights a situation where a couple were deprived of their right to appeal a planning permission, due to an administrative error by the council. Initially, the council, while admitting its mistake and apologising for its oversight, was of the view that there was nothing it could do to remedy the consequences of its failure. This left my complainant with no redress. The fact that the council revised its decision and agreed to my suggestion of financial compensation of €1,000 was a good outcome. I welcome the council's initiative to put in place additional manual checks to prevent a recurrence. However, if such an error can occur in one local authority then it is quite possible that it could happen in another. It would certainly be prudent for all local authority planning offices to check out their own notification processes to avoid the same error happening again.

Councils exceed their authority on parking permits for residents. See Chapter 5 - case 5.2.2

As the spread of regulated parking extends further and further into the suburbs of our cities and towns, residential parking permits are becoming increasingly important to people who wish or need to park near to their homes. In both these cases, the councils involved were, in my view, exceeding their authority. The practices adopted by both councils placed people in an invidious position, having to fight a public body to get fair treatment. The issue of residential parking permits is a nationwide concern, given the difficulty in accessing public transport in some areas and the rise of commuter towns.

Refusal by council to pay disabled persons grant revised - €17,202 paid. See Chapter 5 - case 5.2.3

It is important to highlight cases such as this one where public bodies impose restrictions not provided for in law. For the disabled person at the centre of the case, the frustration and disappointment in having his application turned down was daunting. The positive result achieved was especially welcomed by my complainant.

Policy change on access to recycling facilities for landlord of rented properties. See Chapter 5 - case 5.2.4

This case also has systemic applicability as a lot of tenants in rented accommodation may not have access to transport for bulky domestic waste items. Landlords who invariably do have such access, may want to assist them to keep their properties tidy. Again, it is a case where a county council acted without proper authority and it took the intervention of my Office to persuade the council to change its stance.

Planning site notices not lawful if placed on gates which are left open. See Chapter 5 - case 5.2.6

People invariably have an interest in planning applications for developments in their locality. It is a cornerstone of planning law, and indeed long-established practice, to inform the public of planning applications by use of site notices, among other requirements. This case throws an interesting light on the need to affix the notices to fixed objects which do not move, so that they are open to view at all times, otherwise, planning applications will be deemed invalid. It is a decision that has applicability for all local authorities.

Playwright / local newspaper contributor gets non-contributory pension after means review of joint house ownership by the Department of Family and Social Affairs - arrears of €37,954 paid. See Chapter 6 - case 6.2.2

The redress involved here was significant, in what was an unusual case. Not all writers are fortunate enough to be Aosdana members, or derive a generous income from their endeavours. This case centred on the inclusion of a jointly owned house in the assessment of my complainant's means. The fact that the house, although placed on the market, remained unsold, was the critical factor in the revised decision by the department to award a pension and pay substantial arrears, which I am sure, was a boon to a person on a very modest income. In the light of the downturn in the property market, this case may have implications for others in a similar situation with a shared property inheritance.

Contributory State pension increased by Department of Social and Family Affairs for farm worker who left school after primary level, following review of social insurance contributions - arrears of €18,000 paid. See Chapter 6 - case 6.2.3

The relationship between the validated social insurance contribution and final pension entitlement has become a thorny issue. The records available in the department upon which decisions are based, can be at odds with the applicant's recollection of their working life and contributions made. In this case, which demonstrates the open and painstaking approach of my Office, the applicant, like a lot of others in his time, had left the education system after primary school but his first recorded insurable employment was not until he was 20 years of age. Following a review by the department, which established his true entitlement, he was awarded extra social insurance contributions, which raised his pension from a 50% rate to a 75% rate. He also got €18,000 arrears paid to him. Other people in his situation who find that their appeal to the department proved unsuccessful might leave it at that and subsist on a lesser pension income than that for which they actually qualified. There may be others in a similar situation who feel, on the strength of this case and its positive outcome for the pensioner involved, that it might be worthwhile to have a look again at their own circumstances and their working history of social insurance contributions. If so, we would be only too delighted to help.

Decision to halve State pension (contributory) revised by the Department of Social and Family Affairs - arrears of €39,538 paid. See Chapter 6 - case 6.2.6

This case has resonance for pensioners who have had their pensions revised when their spouse qualified for a pension in their own right. In this instance, the case review disclosed that the man was entitled to a full pension and the decision was revised by the department, with significant financial redress (€39,538).

Community care home resident has in-patient service charge of €96.60 weekly reduced to nil and refund of €8,381 made by the Health Service Executive. See Chapter 6 - case 6.4.2

This case is notable not just because the redress involved was significant, but also because of the concern that there may have been other cases similar to that of

my complainant. I therefore asked the HSE to review the circumstances of other residents who were being assessed for in-patient charges in a similar way to my complainant, namely spouses of individuals in receipt of a qualified adult payment. I am pleased that the HSE commenced a further review of in-patient charges to ensure that the charges are being implemented correctly.

Decision not to grant a nursing home subvention revised by the Health Service Executive. Weekly allowance of €238.20 granted and arrears of €16,980.26 paid. See Chapter 6 - case 6.4.3

After the HSE revised its decision in this case, I was concerned that other people could have been adversely affected as a result of their applications for nursing home subvention having been handled in the same incorrect way. I decided to ask the HSE to undertake a review of the matter and to let me have a report. I was pleased to be informed by the HSE that following an extensive national review of its files, it had identified a small number of cases with similar circumstances and that the applicants involved would all benefit from arrears payments.

Three severely disabled children have decisions not to grant domiciliary care allowance (DCA) revised by the Health Service Executive - arrears/compensation €78,000 paid and weekly allowance of €299.60 granted. See Chapter 6 - case 6.4.4

The outcome of these cases was very significant for the families involved not only because the children concerned were severely disabled, but also because my Office delivered significant financial redress for the families.

In response to the recommendation for consistency and understanding in the interpretation of the DCA scheme, the HSE advised me that plans are at an advanced stage to transfer operational responsibility for the scheme to the Department of Social and Family Affairs during 2009.

An Ombudsman agus na hOspidéal Poiblí

The Ombudsman and the Disability Act 2005

Office of the Ombudsman

Complaints

An Ombudsman agus An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí agus Comhlachtaí Gaolmhara

Complaint Form

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

Tá an Ombudsman

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- neamhspleách
- saor ó chostas

Office of the Ombudsman

The Ombudsman and Local Authorities

An Ombudsman agus An Roinn Gnóthaí Sóisialacha agus Teaghlaigh agus An Oifig Achomharc Leasa Shóisialaigh

Frequently Asked Questions

Chapter Two

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

The Ombudsman and the Health Service Executive

The Ombudsman is

- Impartial
- Independent
- A free service

Public Redress



Public Bodies and the Citizen

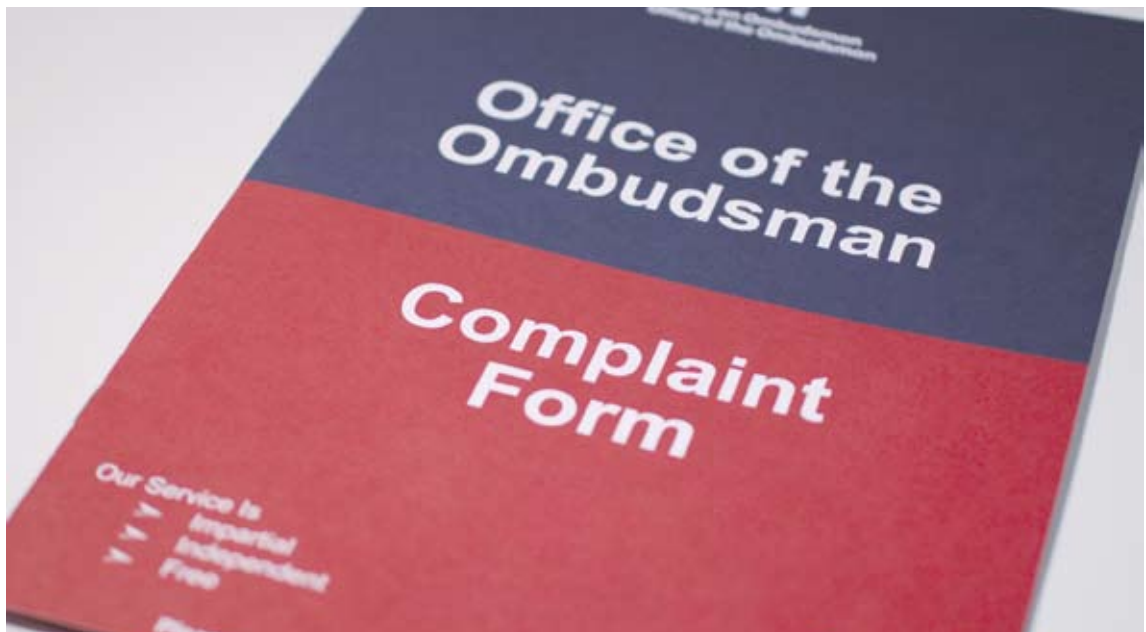
Getting it wrong and putting it right

The Ombudsman is

- Impartial
- Independent
- A free service

The Ombudsman's Guide to Standards of Best Practice for Public Servants

The Ombudsman's Business Review of 2008



2.1 Complaints Management

2008 was a record year for complaints and enquiries. We received 2,787 valid complaints and 9,498 enquiries. This represents a rise of just over 8% in the number of complaints and a 1.7% rise in enquiries, as compared with 2007. This is the highest level of complaints recorded since 1998. The pattern of growth is noteworthy with 2007 also being a record year, when complaint numbers grew by 14.8% and enquiry numbers by 15%, respectively. In addition, we also received a significant number of invalid complaints i.e. complaints that are outside of my jurisdiction, . These are also growing in number with 1,154 received in 2008 as compared with 1,072 in the preceding year. We do, of course, offer guidance to such complainants, where possible, on referral to other appropriate mediation services.

Apart from the HSE, the percentage pattern of complaints against individual public bodies showed little change:

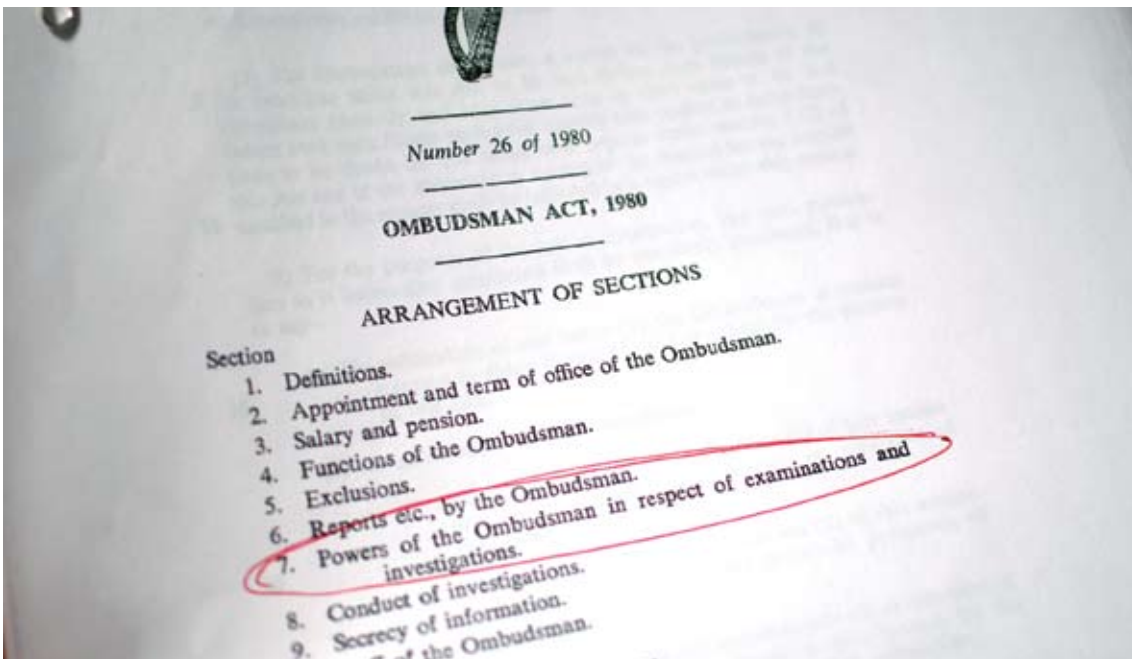
- Civil Service - accounted for 39.1%, **down 2.3%** on 2007,
- Local Authorities - accounted for 30.1%, **down 3.3%** on 2007,
- HSE - accounted for 27.5%, **up 5.3%** on 2007,
- An Post - accounted for 3.3%, **up 0.3%** on 2007.

The number of complaints received under the Disability Act 2005 was 6, as compared with 3 in 2007.

The total number of cases completed in 2008 was 2,701 as compared to 2,520 in 2007 - an increase of 7%. Progress on achieving case targets is rigorously monitored on a monthly basis by the internal office Management Advisory Committee. Individual sectoral areas and staff members have their targets under performance management plans closely reviewed on an ongoing basis. While the increase in complaints made in 2008, a particularly challenging year, was substantial, nevertheless we were pleased to have increased the number of case completions by 7%.

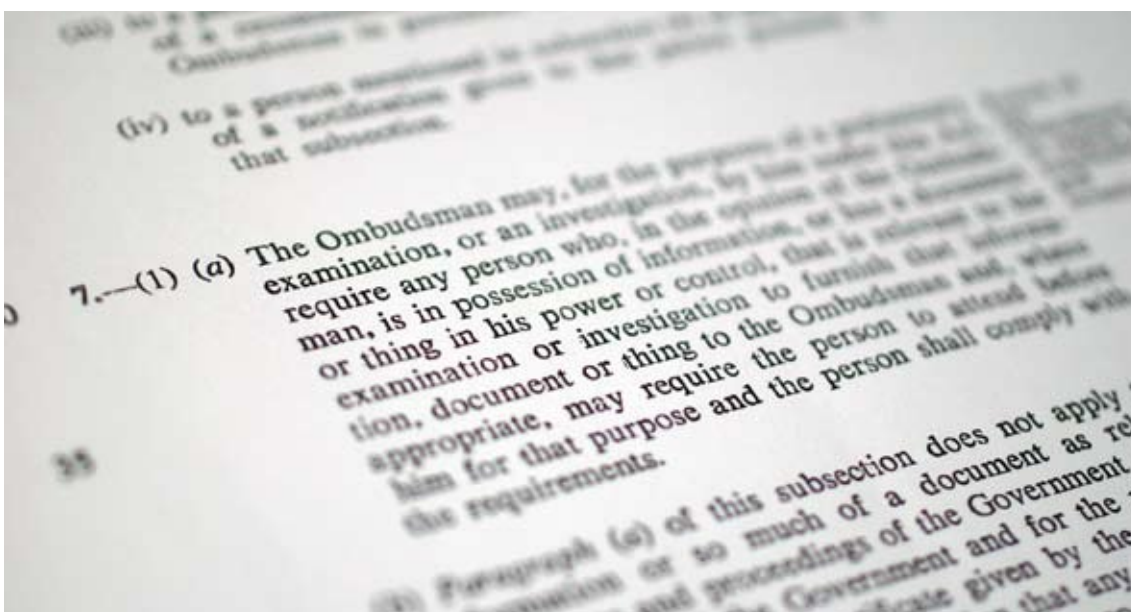
2.2 Notices issued to public bodies under Section 7 of the Ombudsman Act, 1980 - demanding information

Under Section 7 (1) (a) of the Ombudsman Act 1980, I am empowered to request information from a person or body, which in my opinion is relevant to an examination



or investigation. Consequently, during the course of the year, my Office may issue a Section 7 notice seeking the required information, in a case where there has been a delay in responding to such a request. A breakdown of the number of notices issued was first published in the Ombudsman Annual Report 1998. The annual pattern of such notices issued since then is as follows:

Year	Number of Section 7 notices issued
2008	7
2007	18
2006	18
2005	31
2004	6
2003	12
2002	16
2001	19
2000	14
1999	27
1998	45



There was a significant drop in Section 7 notices for 2008, with just seven being issued by my Office. In fact, this is the second lowest issue figure in the last ten years, in what I hope is a welcome trend, which will continue. In particular, I am pleased to record that no notices were issued to the Department of Justice, Equality and Law Reform in 2008 - 10 notices were issued to the Department in 2007.

The following is a listing of the seven Section 7 notices issued in 2008 and the timelines involved for each notice.

Two Section 7 notices were issued to Tullamore Town Council in 2008

Tullamore Town Council (i)

Report requested on 28 April - No acknowledgement received.
First reminder issued on 12 May - No acknowledgement received.
Final reminder issued on 28 May - No acknowledgement received.
Section 7 notice issued on 13 June.
Report received on 30 June.

Tullamore Town Council (ii)

Report requested on 10 October - No acknowledgement received.
First reminder issued on 10 November - No acknowledgement received.
Final reminder issued on 28 November - No acknowledgement received.
Section 7 notice issued on 15 December.
Report received on 17 December.

One Section 7 notice was issued to Athy Town Council in 2008

Report requested on 27 May - Request acknowledged on 28 May.
First reminder issued on 25 June - No acknowledgement received.
Final reminder issued on 10 July - Reminder acknowledged on 11 July.
Extension requested by council on 1 August.
Extension granted until 15 August - Report not received.
Section 7 notice issued on 15 August.
Report received on 26 August.

One Section 7 notice was issued to Cork County Council in 2008

Report requested on 28 June 2007. Request acknowledged 29 June 2007
First reminder issued on 30 July 2007. Phone call received from council.
Final reminder issued on 23 August 2007 - Acknowledged on 24 August 2007.
Section 7 notice issued on 15 January 2008.
Report received on 24 January 2008.

One Section 7 notice was issued to Galway County Council in 2008

Report requested on 27 March - No acknowledgement received.
First reminder issued on 28 April - No acknowledgement received.
Final reminder issued on 12 May - No acknowledgement received.
Section 7 notice issued on 28 May.
Report received on 5 June.

One Section 7 notice was issued to Meath County Council in 2008

Report requested on 27 March - No acknowledgement received.
First reminder issued on 28 April - No acknowledgement received.
Final reminder issued on 12 May - No acknowledgement received.
Section 7 notice issued on 28 May.
Report received on 12 June.

One Section 7 notice was issued to the HSE in 2008

Report requested on 12 Dec. 2007 - Acknowledgement received on 13 Dec.
First reminder issued on 4 Mar 2008 - Acknowledgement received on 5 Mar.
Final reminder issued on 10 April.
Section 7 notice issued on 12 August.
Report received on 18 August.

2.3 Meetings with dignitaries, officials, Oireachtas Committees etc.

Meeting with Her Excellency Ms. Cecilia MacKenna, Ambassador of Chile to Ireland
- 26th August.

Meeting with Dr. Janusz Kochanowski, Commissioner for Civil Rights Protection of
the Republic of Poland (Polish Ombudsman) - 23rd September.

Ombudsman's Information Seminar for Oireachtas members - 22nd October.

Meeting with Ms. Josephine Ahern, Director, and Ms. Catherine Kenny, Head of Policy and Research, of the Refugee Information Service - 6th November.

The Ombudsman attended the awards ceremony for Excellence in Local Government, in Dublin - 6th November.

Meeting with Mr. Aubrey McCrory, Assistant Information Commissioner - Northern Ireland - 1st December.

Presentation of the Ombudsman Report on Waiver Schemes for Refuse Collection Chargesto the Joint Oireachtas Committee on Environment, Heritage and Local Government - 2nd December.



Pictured at the Chambers Ireland 'Excellence in Local Government Awards' ceremony in Dublin on 6th November are: Minister for the Environment, Heritage and Local Government, John Gormley TD, Councillor Dara Murphy, who accepted the award trophy on behalf of Cork City Council, Chambers Ireland President David Pierce, Director of Services (Recreation, Amenities, and Culture) Valerie O'Sullivan and the Ombudsman, Emily O'Reilly.

The Office of the Ombudsman sponsored the award category - 'Outstanding Customer Service'.

2.4 Conferences at home and abroad

Address celebrating International Women's Day Conference - 7th March at Dublin City Council Civic Offices.

Address to the International Conference, "The impact of the Ombudsman" - 14/15 April - Ghent, Belgium.

Address to launch the report for the Irish School of Ecumenics - 28th April in Trinity College, Dublin.

Address to launch the Committee for Public Management Research papers on 'Public Service Values and Culture' - 30th June at Farmleigh, Dublin.

The Ombudsman chaired a session at the 10th Annual Conference and AGM ('Insights into Patient Safety') of the Irish Healthcare Risk Management Association - 17th September in Dublin Castle.



Bishop Willie Walsh speaking to Emily O'Reilly and Joe Boland, founder member, at the 40th Anniversary of Clarecare.

Address to the Annual Nursing Conference - 27th September in Navan, Co. Meath.

Address to launch the Annual Report of Bray Partnership - 29th September Bray, Co. Dublin.

Address to the Garda Síochána Ombudsman Commission - 1st October in Dublin.

Address on the occasion of the launch by An Ceann Comhairle, Mr. John O'Donoghue, TD of a Digest of Cases referred to the Ombudsman by members of the Oireachtas - 22nd October in Leinster House, Dublin

Address on the occasion of the 40th Anniversary of Clarecare - 25th November in Ennis, Co. Clare.

2.5 British and Irish Ombudsman Association (BIOA) meetings

In 2008 the Ombudsman attended the following executive meetings of the BIOA. The first three attendances were as a member of the BIOA. In May 2008, the Ombudsman was appointed Chair of the BIOA for a term of two years.

15th February - London.

2nd May - London.

9th May - BIOA Annual General Meeting - Edinburgh.

3rd July - Dublin.

23rd October - Dublin.

2.6 Public Sector Ombudsmen Network Meetings - A network of Public Sector Ombudsmen from Ireland and the United Kingdom.

In 2008 the Ombudsman attended the following meetings of the PSO:

29th February - London.

4th July - Dublin.

31st October - London.

2.7 New Polish Social and Legal Advice Centre

In September, my Office was represented at a ceremony to mark the establishment of a Social and Legal Advice Centre in Dublin by the Polish Chaplaincy in Ireland. The Archbishop of Dublin, Most Reverend Diarmuid Martin celebrated mass at the ceremony. The centre provides advice and support for the Polish community in Ireland. The centre emerged from an initiative by the Commissioner for Civil Rights Protection of the Republic of Poland, Dr Janusz Kochanowski, who is also a patron of the centre. My Office facilitates the centre by accepting complaints from it on behalf of members of the Polish community.

2.8 European Information Exchange Group

A senior member of my staff represents my Office on the European Information Exchange Group (EIEG). This is an informal group of bodies and initiatives involved in problem solving and administrative co-operation in connection with the EU's internal market, which meets from time to time to discuss how its various members can improve the service they provide to EU citizens, businesses and consumers by co-operating with each other. In addition to my Office, the EIEG comprises representatives from the:

- European Commission Office, Dublin,
- Irish SOLVIT Centre,
- National Consumer Agency,
- European Consumer Centre, Dublin,
- Citizen Signpost Service,
- Enterprise Europe Network (a network of organisations throughout the EU to help small businesses with EU issues), and the
- Financial Services Ombudsman.

The EIEG is a useful forum for its members to keep abreast of consumer-related developments at EU level as well as keeping each member of the group up to date on the work of its members for the benefit of their clients.

2.9 Civil Service Performance Verification Group

The Civil Service Performance Verification Group (CSPVG) was established under *Sustaining Progress Social Partnership Agreement 2003-2005*, to verify that satisfactory progress was being made by departments and offices in relation to the modernisation commitments contained in that agreement. The Office reported in May 2008 to the CSPVG on progress achieved in relation to the successor agreement *Towards 2016, Ten-Year Framework Social Partnership Agreement 2006-2015*. The CSPVG agreed that the progress achieved warranted payment of the pay increases due under the Agreement.

2.10 Equality

The Office's Equality Committee reports to the Management Advisory Committee on a twice-yearly basis in terms of its activities in relation to:

- i) Monitoring equality in the workplace,
- ii) Identifying and addressing equality issues arising under the provisions of the Equality Act 1998, which precludes discrimination with respect to all aspects of recruitment, selection and employment on the basis of nine grounds.

These are:

- i. gender,
 - ii. marital status,
 - iii. family status,
 - iv. age,
 - v. disability,
 - vi. race,
 - vii. religion,
 - viii. sexual orientation and
 - ix. membership of the traveller community,
-
- iii) Promoting positive actions,
 - iv) Preparing awareness days,
 - v) Building an ethos of equality in the workplace, and
 - vi) Promoting the commitment of all management and employees to equality generally.

2.11 British and Irish Ombudsman Association - Chairperson appointment

In May 2008, it was a great privilege for me to be elected Chair of the British and Irish Ombudsman Association (BIOA). The BIOA was founded in 1993 and comprises 70 Ombudsmen or similar institutions across the Republic of Ireland and the United Kingdom in both the public and private sectors. My appointment as Chair is particularly significant in that it reflects the evolving good and co-operative relationship between the two islands arising from the positive political developments over the last decade. It also recognises the contribution of not only my own Office, but of all other Irish members of the Association on the development of the Ombudsman system as an independent, accessible and economical means of dispute resolution. The main priority of my term of Office will be to further deepen and develop the influence of the BIOA in both the private and public complaint handling sectors.



2.12 Honorary Doctorate

On a more personal note, I was deeply honoured to be conferred with a Degree of Doctor of Laws, honoris causa, by the National University of Ireland, in December. The citation marking the award was read by Dr. Mary Corcoran of University College Dublin, who also referred to the many benefits the Office of the Ombudsman brings to the people of Ireland. As such, it was not only a great moment of personal celebration but a gracious affirmation of the work of my Office and my predecessors and the staff, over the last twenty-five years, since its establishment.



Emily O'Reilly, pictured with husband Stephen Ryan and children (L to R) Zoe, Holly, Ella, David and Jessica.

An Ombudsman agus na hOspidéal Poiblí

The Ombudsman and the Disability Act 2005

Office of the Ombudsman

Complaint Form

An Ombudsman agus An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí agus Comhlachtaí Gaelmhara

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

Tá an Ombudsman

- neamhchlaon
- neamhspleách
- saor ó chostas

Office of the Ombudsman

The Ombudsman and Local Authorities

Frequently Asked Questions

An Ombudsman agus An Roinn Gnóthaí Sóisialacha agus Teaghlaigh agus An Oifig Achomharc Leasa Shóisialaigh

Tá an Ombudsman

- neamhchlaon
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The Ombudsman and the Health Service Executive

The Ombudsman

- Impartial
- Independent
- A free service

Public Bodies and the Citizen

Public Redress

Getting it wrong and putting it right

The Ombudsman is

- Impartial
- Independent
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The Ombudsman's Guide to Standards of Best Practice for Public Servants

Chapter Three

Communications and Research



3.1 Investigation Reports and Media Releases

10th January - Details published on the Office website of three complaints successfully resolved, about the Department of Social and Family Affairs, the Department Agriculture, Fisheries and Food, and Castlebar Town Council.

5th June - Publication of a report of an investigation into three complaints regarding the refusal of domiciliary care allowance by the Health Service Executive (HSE).

9th July - The Ombudsman published her Annual Report for 2007.

18th August - Media release - summary case report into a complaint lodged with the Ombudsman relating to a decision by the HSE.

18th August - Details published on the Office website of four complaints successfully resolved, made to the Ombudsman about the Department of Social and Family Affairs, the HSE (two) and Sligo County Council.

20th October - Press conference in conjunction with publishing a Report of an investigation by the Ombudsman into the operation by local authorities of waiver schemes for refuse collection charges.

22nd October - Publication of a digest of twelve complaints which had been referred to the Ombudsman for examination by public representatives.

15th December - Publication of a report into the care and treatment of an elderly woman availing of respite care in St. Mary's Care Centre, Mullingar, a HSE public nursing home.

Full details of these media releases and the reports to which they refer may be viewed on the Ombudsman website.

For Media releases:

<http://www.ombudsman.gov.ie/en/PressReleases/>

For Investigation Reports: <http://www.ombudsman.gov.ie/en/Publications/InvestigationReports/>

3.2 Customer feedback

During 2008, my Office continued with the quarterly survey of complainants' perceptions of the service provided by my Office. Once again, complainants were surveyed on a broad range of issues in relation to their experience of the service which the Office had delivered in the course of the examination of their complaints. This survey continues to provide valuable feedback on the level of client satisfaction and the identification of areas of activity requiring improvement. Arising directly from feedback received, ongoing initiatives continue to address deficiencies in our service to customers. These include the need to give the clearest possible information to

“I thought that the Office of the Ombudsman coming to Clonmel was an excellent service. Even though my contact was not familiar with my area of concern they were confident and listened to our case and explained the process very thoroughly. Thank you from very satisfied customers”

The Complainant

“Excellent service provided, very satisfied”

The Complainant

“The Ombudsman was not able to help me as my complaint was not appropriate but I found the service was very good. I would be confident to use the service again if necessary”

The Complainant

“Complaint withdrawn but initial contact very satisfactory”

The Complainant

“What I did not achieve in 6 years, was achieved in a few months by the Ombudsman Office”

The Complainant

complainants at the outset of the examination of their complaints on the role of my Office, how the complaint examination process is conducted, arrangements to keep them informed of progress as the examination unfolds and the length of time the examination is likely to take to complete.

Some of the interesting findings disclosed by completed surveys are as follows:

84% of complainants were satisfied with how their initial contact was dealt with by the Office,

81% were satisfied with the way that they were dealt with by members of staff,

79% were satisfied with the way the investigation process was explained to them on first contact,

79% were satisfied with the way they were dealt with by Ombudsman staff in the course of their investigation,

75% were satisfied that they were given opportunities to explain their case,

68% were satisfied with the clarity of information, both verbal and written, given to them during the course of the investigation,

67% were satisfied with being kept advised of progress with their case, and

61% were satisfied with the clarity of reasons given in the final decision letter.

In general, the experience has been that levels of satisfaction are hugely influenced by the outcome of the complaint and whether the result was positive or not, in the view of the complainant. As the Office is in the business of raising standards of public service by public bodies, we take very seriously the quality of our own service provision and we will be working to secure year-on-year, in complaint satisfaction levels.

In order to build on the findings, I intend to roll out for 2009 a more comprehensive quarterly feedback survey which will garner information, not just on satisfaction levels, but seek to go further in getting the type of feedback that can help us, both to further improve our service and manage expectations better.

So, for example, we will be trying to get a better sense as to the opinions of our complainants, sector by sector, on;

- i) the outcome of their complaint at varying levels, ranging from “completely in their favour”, to “went completely against them”, and
- ii) the outcome they hoped for - apology, improved service, reversal of decision, financial compensation - compared with what actually happened.

In order to improve targeting of the least protected and most vulnerable people in society, who may not be aware of our services, we will be asking our customers how they found out about us. We will also seek more information about our customer base in terms of age, economic status, language, accessibility/disability issues, as well as ethnicity/cultural background. This will help us to monitor the changing customer base and adjust, on an ongoing basis, our administration/management policies to cope with the evolving needs of our customers and change in general.

3.3 Communication and co-ordination with Houses of the Oireachtas members

A key element in the roll-out of the Integrated Strategic Communication Plan for my Office was to enhance communication between the Office and Houses of the Oireachtas members in general. I also wanted to encourage more complaint referrals from Deputies, Senators and their staff on behalf of constituents who have a grievance against government departments and other public bodies which fall under my statutory remit.

The new communications plan adopted by the Office on foot of an independent consultancy report, was preceded in 2006 by a formal survey of all Houses of the



Emily O'Reilly and An Ceann Comhairle, Mr. John O'Donoghue TD pictured in Leinster House on the occasion of the Digest launch and the briefing/information seminar in October.

Oireachtas members to gauge, inter alia, the views of Deputies and Senators on levels of knowledge of, and satisfaction with, all aspects of the work of my Office. Specific questioning focused on the level of usage, or take-up of the service through referrals, the approachability and accessibility of the Office and the overall effectiveness of the Office in resolving complaints, as well as how best both institutions can work more closely together in raising the standards of public service.

The survey disclosed that Houses of the Oireachtas members were anxious to receive more information as to how best to make a complaint, easy contact points for doing so, together with details of the role of the Office and how we handle complaints. It was widely suggested that a briefing / information seminar be provided by the Ombudsman for all Houses of the Oireachtas members.

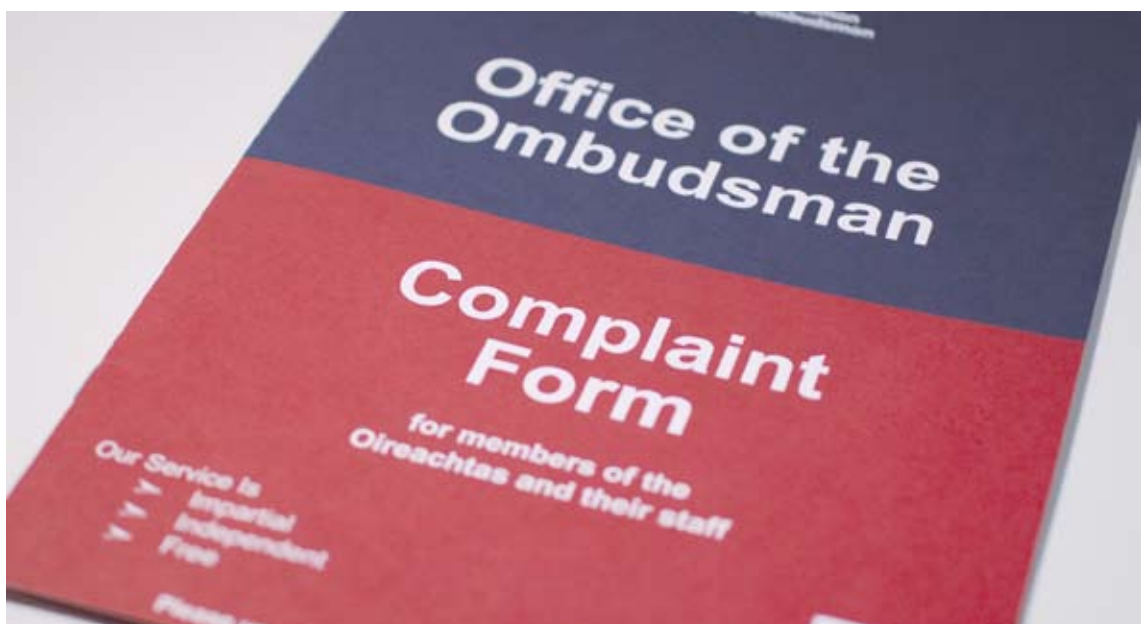
I decided to take up the suggestion of the Houses of the Oireachtas members by organising a briefing / information seminar which I held in Leinster House on 22nd October 2008.

Coinciding with the seminar, An Ceann Comhairle, Mr. John O'Donoghue TD kindly agreed to launch my publication titled, "A Digest of complaints referred to the Ombudsman by public representatives". Essentially this is a catalogue of case studies detailing both findings and outcomes with a common feature, insofar as each complaint was referred to me by a public representative.

The Digest summarises the beneficial and meaningful outcomes achieved in the case of twelve particular complaints. The cases are a representative sample and relate to everyday issues for the people/constituents involved. They include grievances about a medical card, an old age pension, a nursing home subvention, a disabled persons grant, as well as a farm grant, among others.

While Oireachtas members refer a significant number of both people and complaints to my Office, research undertaken on behalf of my Office shows that over a fifth of Dáil respondents to a 2006 survey and over a quarter of Seanad respondents did not have any interaction with the Office. The level of referrals was higher for Dáil respondents.

The seminar and digest launch were part of an initiative by my Office to extend our outreach programme to target and help the most exposed and unprotected



people in society. In order to improve communication channels between Houses of the Oireachtas members and my Office, I took the opportunity of the seminar to announce that I intended in early 2009 to set up dedicated contact points in my Office for Houses of the Oireachtas members and their support staff, as well as a dedicated complaints form, designed for use by Deputies and Senators. This was to make it easier for the members to make complaints to me. I stressed that these new arrangements were voluntary but if availed of, can help us all to do our business more efficiently.

There has always been a special relationship between the Houses of the Oireachtas and the Ombudsman as a statutory institution. Not only does the Ombudsman report annually to the Houses of the Oireachtas on cases examined but the Office also highlights for the Houses of the Oireachtas, deficiencies and inequities in existing legislation which have impacted unfairly on complainants. In this way, my Office can help the Houses of the Oireachtas to “quality proof” the legislation it passes.

3.4 Reaching out to people

3.4.1 Raising awareness

Communications is a vital part of my work as Ombudsman. This embraces publicising what the Office does for people and the service we provide through public speaking engagements and appearances: It also means alerting people and the media of investigations with significant outcomes and the beneficial changes brought about across the public service. Above all, it means communicating the message that we are here to help those people who feel that they have been treated unfairly by public bodies.

As Ombudsman, I appreciate that reaching out to such people is at the heart of our business. As well as the general population, I am conscious of the need to reach out to the most vulnerable and least protected people in the community, many of whom find the informal, user-friendly and free service that my Office provides, particularly suited to their needs. There are a variety of ways we can publicise and create awareness about our independent and impartial service, both for potential complainants and for people in the voluntary sector or non-

governmental organisations who can refer complainants to us. Opportunities to do so present through media events, our outreach programme and easily accessible and understandable information literature. To complement this, my Office undertook a number of initiatives in 2008 which are described beneath.



3.4.2 Information literature

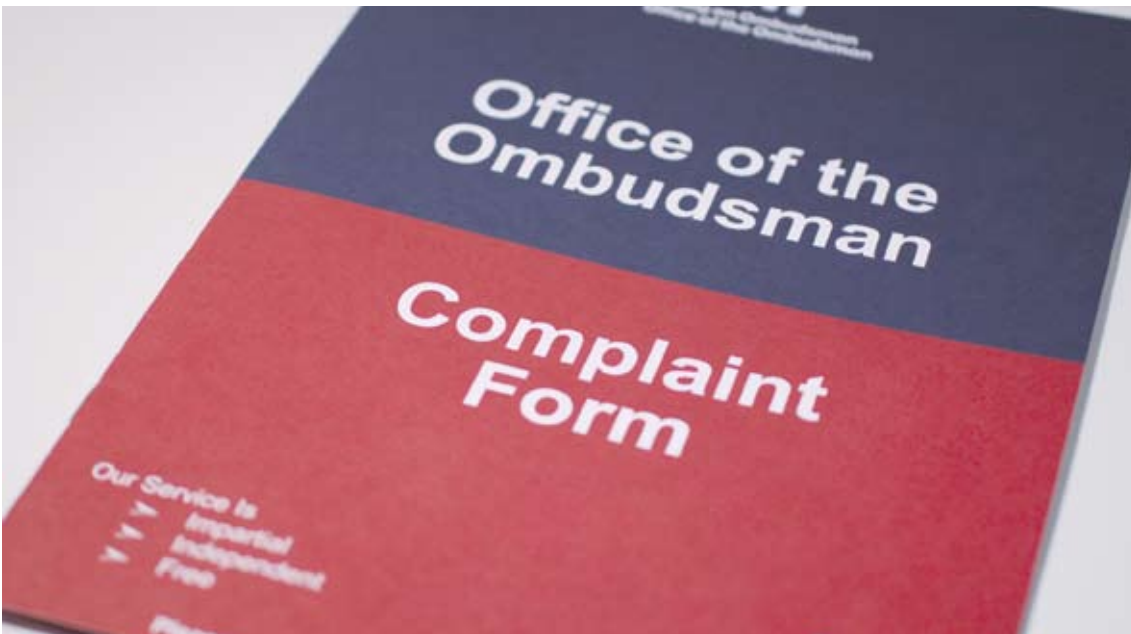
In September 2008 I published a suite of new information booklets which explain my role in relation to six specific areas of public administration. These are:

- Department of Social and Family Affairs and the Social Welfare Appeals Office,
- Local Authorities,
- HSE,
- Public Hospitals,
- Department of Justice, Equality and Law Reform and Associated Bodies, and
- The Disability Act 2005.

The booklets are available in CICs and public libraries and can also be downloaded from my Office's website - www.ombudsman.ie.

3.4.3 Complaint Form

In 2008, my Office revised its complaints forms, in both hard-copy on online formats, to make them more accessible and easier to complete. All the leaflets and forms are available in 'Plain English' and are approved by the National Adult Literacy Agency (NALA). In addition, in keeping with good practice and the provisions of the Official Languages Act, 2003, these publications are bi-lingual. The leaflets have been made available through CICs and public libraries and can also be obtained from my Office, or downloaded from the Ombudsman website - www.ombudsman.ie.



3.4.4 Website - Enhancement

Our website is becoming more and more valuable as both a communication tool and information centre and as a means to make an on-line complaint. In the year under review, a number of significant enhancements and upgrades were made to it. In April, following a tendering process, the Office commissioned a website accessibility and usability audit. Among the improvements implemented was a text re-sizing function for website users who may want to avail of larger font sizes for ease of reading.

After consultation with the National Adult literacy Agency, a revised public online complaint form was introduced to provide complainants with a more straightforward and user-accessible method of submitting relevant information. A new dedicated

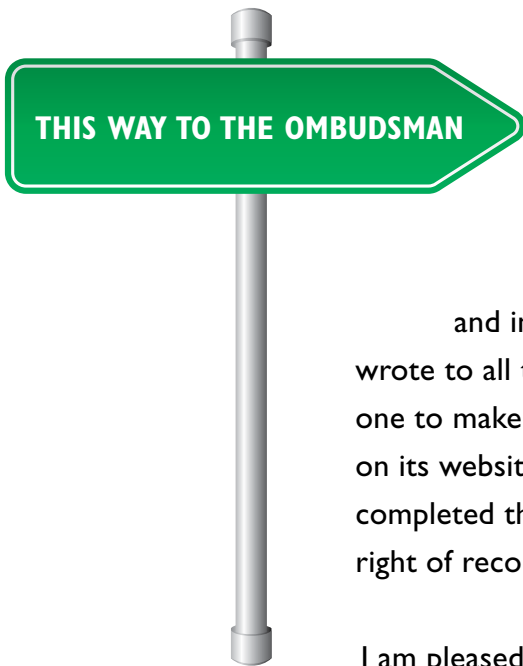
online complaint form was also introduced for use by Houses of the Oireachtas members and/or their authorised staff. Further improvements planned for 2009 will focus on simplicity and ease of user access, together with innovative solutions to improve the website efficiency as a communications tool.



Website - Signposting

In my Annual Report 2007, I made reference to the rollout of a number of new communications initiatives, the impetus for which came from The Integrated Strategic Communications Plan drawn up by my Office in 2007. One significant objective in the plan is to increase public awareness of the role of my Office.

In an age of enhanced communication technology, I feel it is vital that my powers to investigate complaints from members of the public, be clearly described and fully accessible on the website of every public body within my remit. This is a common-sense strategy in line with best administrative practice. It would be genuinely helpful to all members of the public if the websites of the departments and other public bodies concerned had a comprehensive link to the Ombudsman website, to explain in simple terms what we do and the impartial, independent and free service we provide.



With this in mind, in 2008 my Office completed a review of the websites of relevant public bodies. This disclosed a range of results varying from no website linkages to inadequate linkages and incorrect Ombudsman contact details. My Office then wrote to all the public bodies concerned and requested each one to make a clear reference to the Office of the Ombudsman on its website, and to inform dissatisfied complainants who have completed their internal complaints procedures that they have a right of recourse to my Office.

I am pleased to report an initial favourable response from most public bodies and I will return to the matter in my next report.

3.4.5 Outreach - Visits to Citizens Information Centres (CICs) and Regional Visits

In 2008, staff from my Office continued to promote the outreach services of the Ombudsman through regular monthly visits to CICs in Cork, Galway and Limerick and through a regional visit programme with visits to Tralee, Ennis, Letterkenny and Wexford during the year.

Citizens Information Centres(CICs)

Monthly visits to CICs by Ombudsman staff are a well-established part of the annual outreach programme of my Office. A Staff member spends one day per month in the CIC Offices in Galway, Limerick and Cork to record complaints from members of the public. The visits are advertised in advance on the Ombudsman website and through local media. Together with my staff, I would like to express my sincere appreciation to the CIC managers, staff and volunteers for their ongoing professional support during the visits.

Cork CIC

A total of 50 valid complaints were received through the CIC in 2008. This represents 17.5% of all new complaints received from Cork City and County in 2008.



Galway CIC

A total of 48 valid complaints were received through the CIC in 2008. This represents 23% of all new complaints received from Galway City and County in 2008.

Limerick CIC

A total of 50 valid complaints were received through the CIC in 2008. This represents 45% of all new complaints received from Limerick City and County in 2008.

Regional Visits

Regional visits differ from the CIC visits in that several staff participate in what can be either a one, or occasionally, a two-day event in a major town. My Office endeavours to choose a central location to facilitate ease of access for inquirers and complainants. Ombudsman staff are typically available from 10.00am to 7.30pm on the day, to allow people to attend outside routine working hours. The result is that as many as 90 complainants can be interviewed in a single regional visit.

Ombudsman Regional Visits in 2008

Tralee - 30th April

A total of 90 complaints were received, 73 of which were valid new complaints. This represents 49% of all new complaints received from the County Kerry area in 2008.

Ennis - 19th June

A total of 50 complaints were received, 44 of which were valid new complaints. This represents 48% of all new complaints received from the County Clare area in 2008.

Letterkenny - 18th September

A total of 48 complaints were received, 37 of which were valid new complaints. This represents 40% of all new complaints received from the County Donegal area in 2008.

Wexford - 29th October

A total of 38 complaints were received, 28 of which were valid new complaints. This represents 25% of all new complaints received from the County Wexford area in 2008.

To summarise, the total number of valid complaints received through these regular outreach visit programmes account for 11.8% of all valid complaints received by my Office in 2008, underlining the importance of bringing the service to people in their own localities.

3.4.6 Ombudsman Link Service

In previous Annual Reports I reported on the Ombudsman Link Service, which is provided through Citizens Information Centres (CICs) in certain regions of Ireland and allows members of the public easier access to the services of my Office. The Link Service assists CIC staff at the centres to identify and submit potential complaints which my Office can take up on behalf of members of the public. During 2008 my Office provided training to CIC staff in the North-Eastern, North-Leinster, Southern and South-Eastern regions and the Link Service is now available to members of the public through all CICs in those regions. We hope to extend the service throughout the entire country by the middle of 2009.

DYING PATIENT ‘LEFT UNABLE TO TALK’ AFTER DOSAGE ERROR

Woman was given three times too much of drug. Additional staff training and procedural changes have been introduced at one of the country’s top hospitals after an elderly patient was erroneously given three times the original prescribed dosage of a drug. Details of the case were revealed yesterday after the woman’s family complained to Ombudsman Emily O’Reilly about the treatment their mother received days before she died in Beaumont hospital in Dublin.

*Fergus Black
Irish Independent, 10 July 2008*

OMBUDSMAN FINDS PUBLIC SERVANTS WITH “SERIOUS LACK OF KNOWLEDGE”

Public servants have a “serious lack of knowledge” about their responsibilities to people with disabilities under the Disability Act 2005, Ombudsman Emily O’Reilly has found.

The Newsletter of People with Disabilities in Ireland

OMBUDSMAN MAKES FINDINGS AGAINST THE HSE

The HSE has welcomed the release of the 2007 report of the Ombudsman, Ms Emily O’Reilly, despite its findings against the HSE

*Priscilla Lynch and Marie Feely
Irish Medical Times, 14 July 2008*

WATCHDOG: HSE MUST PAY UP AFTER DENYING FUNDS TO SICK CHILDREN

Because of the watchdog’s report, published yesterday, the executive has paid out more than €30,000 in arrears to provide care support for two of the seriously ill children, and agreed to review the refusal of money to the third child - a boy who suffers from cerebral palsy.

*Petrina Vousden, Health Editor
Daily Mail*

THOUSANDS ON LOW INCOMES DO NOT GET BIN TAX WAIVER

Ombudsman says fee collection is chaotic. Thousands of people on low incomes are not receiving bin tax waivers because the system of refuse collection charges is a “shambles” according to an investigation by Ombudsman Emily O’Reilly.

*Carl O’Brien
The Irish Times, 21 October 2008*

The Ombudsman is particularly appreciative of a thank-you letter received from the complainant after she had been told the results of the investigation. In that letter, quoted here with her permission, the complainant said: *“Now I feel I have achieved something for her [the patient], because I do blame myself for letting her go into respite care. I often think if only I did not let her go. Please God, I will move on now.”*

In response, the Ombudsman commented, *“I was genuinely gratified that the investigation upholding the complaint, and the complainant’s satisfaction with the result in this distressing and tragic case, has helped bring some closure for her and her family.”*

Office of the Ombudsman, Media Release
15 December 2008

FAMILIES URGED TO SEEK WAIVERS FOR NURSING HOME FEES

Families of nursing home patients are being advised by the Ombudsman they are entitled to seek a waiver on charges from the Health Services Executive if they are experiencing financial hard-ship. Ombudsman Emily O’Reilly welcomed the decision of the HSE to reduce nursing home charges payable by the daughter of an elderly lady from €100 to €76 per week

Seán McCárthaigh
Irish Examiner,
19 August 2008



10 NEWS Irish Independent
Thursday 10 July 2008

Dying patient left unable to talk' after dosage error

Woman was given three times too much of drug

administration of medicines in a hospital setting. In her annual report for 2007, Ms O'Reilly said that from an examination of the prescription sheet, it was clear that on July 11, 2007, the patient was first given the drug morphine, which acts as an anti-painkiller. The patient was given three times the intended dose for one day. By the time the error had been discovered, the patient had been given three times the intended dose over a period of four days and twice the intended dose for one day. The ombudsman said she was satisfied that when the error was discovered on August 8, the hospital took appropriate action and the hospital had addressed all the points raised by her office. "It was clear to me the case highlighted an issue needed to be examined in detail with a view to preventing such an error from occurring again."

An Ombudsman agus na hOspidéal Poiblí

The Ombudsman and the Disability Act 2005

Office of the Ombudsman

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An Ombudsman agus An Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí agus Comhlachtaí Gaelmhara

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Frequently Asked Questions

Chapter Four

The Ombudsman and the Health Service Executive

The Ombudsman is

- Impartial
- Independent
- A free service

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Public Redress

Getting it wrong and putting it right

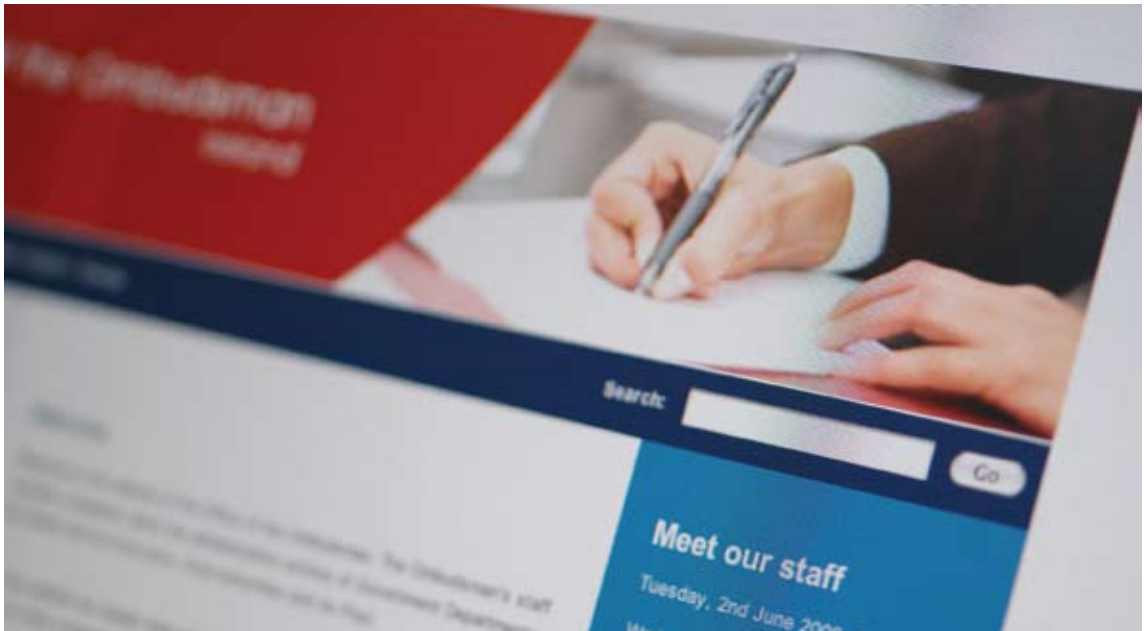
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The Ombudsman's Guide to Standards of Best Practice for Public Servants

Office of the Ombudsman

Civil Service



4.1 Civil Service - Overview

The Departments of State are as follows:

- Taoiseach
- Finance
- Agriculture, Fisheries and Food
- Arts, Sport and Tourism
- Communications, Energy and Natural Resources
- Community, Rural and Gaeltacht Affairs
- Defence
- Education and Science
- Enterprise, Trade and Employment
- Environment, Heritage and Local Government

- Foreign Affairs
- Health and Children
- Justice, Equality and Law Reform
- Social and Family Affairs *
- Transport

*Complaints against this department are included in **Chapter 6**.

In addition, there are Central Government Offices that perform key government functions, for example, the Office of the Revenue Commissioners and others that are specifically recognised by the Constitution, such as the Office of the Comptroller and Auditor General to whom are assigned specific statutory functions.

The civil service is charged with two principal tasks:

- to assist members of the government in making policy,
- to carry out policy decisions.

There are approximately 37,000 people [on a whole-time equivalent basis] employed in the civil service, in areas ranging from clerical and administrative posts to senior managerial, professional and technical posts. The work of civil servants ranges across many areas including finance, economic and social policy, education, health services, industry, transport, agriculture, fisheries and food, energy, justice and equality, legal affairs, social and community services, heritage, tourism and sport areas.

"I found the service from this office first class. I would not have got my refund without the intervention of your office. I would like to take this opportunity to thank everyone involved"
The Complainant

Teachers and members of An Garda Síochána and staff of local authorities and of the health services belong to the wider public service, rather than the civil service. Their salaries, however, are also paid from central government funds.

Individual members of the government are designated as the Ministers with sole responsibility for the administration of the various Departments of State. Each such department has a permanent staff consisting of administrative, professional, specialist and technical employees. The head civil servant of each department is titled Secretary General, who is appointed for a term of office of 7 years by the government.

4.2 Selected Cases

4.2.1 Dispute about a tax payment resolved - Revenue Commissioners refund €9,810 late tax payment interest charge to self-employed man

I received a complaint in relation to interest of €9,810 charged on late payment of tax by a self-employed man in respect of his 2005 income tax liability.

The complainant alleged that he had lodged the money by electronic means, to his bank current account, in good time for the payment to be made to the Revenue. However, due to a genuine error on the part of the complainant or his agent (the entry of an incorrect payee bank account number) the payment had not gone through at the appropriate time. He said that there was no advantage to him to delay the payment because the money was already lodged to the bank account for that sole purpose and that the Revenue failed to notify him that the payment had not been received. He contended that the Revenue was acting unreasonably and that they were penalising him for problems which had arisen in relation to previous payments and which had arisen for reasons beyond his control.

The complainant had raised the matter with the Revenue on a number of occasions. He had also requested a formal review of the decision to pursue the interest charge in question and this review, which involved an external reviewer, upheld the decision.

The Revenue's report to my Office set out the facts of the case from their perspective. They continued to justify the levying of the interest charge. The grounds were that the complainant was sent two notifications in relation to the Revenue's non-receipt of the payment, which he had not acted upon. When I requested copies of the notification letters which the Revenue said they had issued to the complainant, they were unable to supply these. However, they did provide the dates on which, they indicated, the letters had issued.

I then sought a copy of the Revenue computer records to see if there were concrete contemporaneous records to show that the letters actually issued. The Revenue responded that no such records existed, as the issuing of the letters was a manual process. The Revenue stated that the dates they quoted, on which the letters purportedly issued, were in fact, the dates on which the letters in question would have issued if the manual procedure was followed correctly.

Given that the complainant strongly contended that he had not received the letters in question, and that the Revenue could not show that the letters in question had in fact issued, I requested the Revenue to consider refunding at least a substantial proportion of the interest charged. After due consideration, the Revenue agreed to refund €8,576.81, retaining €1,233.38 on the basis that the date on which the complainant attempted to initiate the payment originally was, according to the Revenue, two weeks later than the due date. However, the complainant subsequently advised my Office that, in fact, the date on which he had initiated the payment was in accordance with the due date agreed by the Revenue with the complainant's agent. The Revenue agreed to refund the interest charged in full.

4.2.2 Revenue Commissioners' decision not to allow tax relief on two additional €13,000 voluntary pension contributions in the same year revised

I received a complaint against the Revenue in relation to tax relief on additional voluntary pension contributions (AVCs). The complainant stated that he had invested in AVCs with the intention of having the tax relief due refunded from his 2006 tax payments. However, the Revenue refunded the tax from the tax he paid in 2007, thereby preventing him from making a claim for a similar investment for the 2007 tax year. He planned to retire in August 2008.

In 2007, the complainant had invested two sums of €13,000 each in personal retirement savings accounts (PRSA) with two prominent PRSA vendors. He purchased these two AVCs with a view to having the relevant tax refunds due processed in relation to his 2006 tax. He concluded that this appeared to be possible from the information given in "**A Guide to Personal Retirement Savings Accounts**", an information guide published by the Revenue on their website. In paragraph 2.7 of the guide it states: "**For example, contributions paid by 31**

October 2003 may be claimed for the tax year 2002". The complainant pointed out that there is no final date mentioned for notifying the Revenue of AVC investments, regarding the year in which they may be claimed.

The complainant had personally delivered the two AVC certificates to the Revenue requesting that the tax relief be allocated to tax year 2006. In response, he received a PAYE Balancing Statement for 2006 but was only allowed tax relief for one of the AVCs. It subsequently emerged that at

"Very pleasant and civil, helped me minimise my problem."

The Complainant

the time the Revenue had assumed that the two certificates related to the same AVC investment. He queried this and was requested to provide his P60 form for 2007, so that the relief on the second AVC could be given against his 2007 tax paid. The Revenue also said the decision to grant relief in respect of one AVC for 2006 was an error and withdrew the relief. He was advised that, because he notified the Revenue about the two AVCs after 31st October 2007, the tax relief due must be granted in tax year 2007 because his claim was made after the relevant date to allow it to be claimed against 2006 tax.

The complainant believed that he should be given the benefit of any doubt, as the Revenue Guide to PRSAs does not include any mention of the requirement to notify the Revenue by a specific date in relation to making an AVC refund claim retrospectively against the previous year's tax. He contended that if the two AVCs were allowed against his tax paid for 2006, it would have been possible for him to make a similar tax refundable AVC investment for his 2007 tax year. Following a request for a report on the case by my Office, the Revenue reviewed the matter and agreed to allow the two AVCs to be set against the complainant's 2006 tax bill, thus freeing him to make a similar AVC related claim for the 2007 tax year.

In another welcome development, the Revenue also agreed to amend the wording of the guide to AVCs. They agreed to clarify the position in relation to the requirement to claim the appropriate relief on or before 31st October in the year following that to which the claim relates, so as to avoid any future confusion among their taxpayers and avoid the same problem recurring.

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The Ombudsman and Local Authorities

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The Ombudsman and the Health Service Executive

The Ombudsman is

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- Independent
- A free service

Public Redress

Public Bodies and the Citizen

Getting it wrong and putting it right

The Ombudsman is

- Impartial
- Independent
- A free service

The Ombudsman's Guide to Standards of Best Practice for Public Servants

Local Authorities

5.1 Local Authorities - Overview

Local government in Ireland consists of a number of local and regional authorities at three levels. There are:

- i) at county/city level: 29 county councils, 5 city councils, 5 borough councils and 75 town councils,
- ii) at regional level: eight regional authorities co-ordinate some of the county/city and sub-county activities; they play a monitoring role in relation to the use of EU structural funds,
- iii) two regional authorities, known as regional assemblies, which were established in July 1999 under new structures for regionalisation. They promote co-ordination of the provision of public services in their areas, manage new regional operational programmes in the Community Support Framework (CSF) and monitoring the general impact of all EU programmes of assistance under the CSF.

Because of the role local authorities play, the range of matters for which they are responsible and their closeness to local communities, local government has a more immediate effect on the day-to-day lives of the people than most other sectors of public administration. It is also democratically elected. Apart from Dáil Éireann and the Presidency, it is the only other institution whose members are directly elected by all of the people. Local government has therefore both a representational and an operational role, with responsibility for a range of services.

"Tops"
The Complainant

The elected council is the policy-making arm of the local authority, who act by what are termed 'reserved functions'. Reserved functions are defined by law and specified across a whole range of enactments. These comprise mainly of decisions on important matters of policy and finance (e.g. adoption of annual budget, development plan, bye-laws). The day-to-day management of the local authority, including staffing matters, is vested in a fulltime chief executive - known as the county or city manager. The manager and/or staff to whom functions are delegated, discharge what are termed 'executive functions' - in effect, these involve the day-to-day running of the authority within the policy parameters as determined by the council. Any function of a local authority that is not specified in law as a reserved function is deemed to be an executive function. The legal character of a local authority thus comprises two elements, the elected council of the authority, and the manager, with responsibility for performing local authority functions shared between them. However, legally all functions, whether performed by the elected council or by the county/city manager, are exercised on behalf of the local authority.

Responsibilities of local authorities:

- Housing,
- Planning,
- Roads,
- Water supply & sewerage,
- Development incentives & controls,
- Environmental protection, including rivers, lakes, air & noise,
- Recreation facilities and amenities,
- Libraries,
- Fire services, and
- Register of electors.



5.2 Selected Cases

5.2.1 Council compensates planning objector for error in failing to notify decision

A couple lodged an objection to a planning application and received an acknowledgement from Dún Laoghaire-Rathdown County Council. The council made a decision to grant planning permission but omitted to notify them of its decision. When they made enquiries with the council and discovered that planning permission had been granted, it was outside the statutory timeframe to make an appeal to An Bord Pleanála. The decision was made in the week before Christmas - a lapse in concentration by a staff member in what the council said was a very busy period. While the council admitted that it had omitted to notify the couple and apologised for the administrative oversight, it stated that there was nothing it could do to remedy the consequences of this failure.

We suggested a compensation amount of €1,000 and the council agreed to this amount as full and final settlement to include the objector's fee and any legal fees that might arise.

The council said also that additional manual checks had been put in place to ensure this type of error is not repeated.

5.2.2 Councils exceed their authority on parking permits for residents

The theme of my Annual Report last year was based on a single issue viz., the failure of public bodies to act correctly in accordance with the law and any other rules and

*"Thank you for your help re - County Council (flower pots). The flower planters arrived, just waiting on the base to be put in. Thanking you".
The Complainant*

regulations. I referred to the need for the decisions made on a daily basis by public servants to be based on some form of authority, statutory or otherwise. I outlined a number of cases which illustrated where individual public bodies had exercised their authority improperly or unfairly, had exceeded their authority, or, indeed, had no authority to take the action complained of.

Last year my Office dealt with two interesting complaints in this area as follows:

Cork City Council

I received several complaints against Cork City Council in relation to its refusal to grant resident parking permits to residents who lived in various apartment complexes in the city area, on the grounds that private off-street parking was available to them. The council's policy was that the Residents Parking Permit Scheme is administered in accordance with the parking bye-laws which came into operation in July 2005 and do not provide off-street parking for residents of multi-purpose developments. Having examined the relevant bye-laws, I was of the opinion that they did not support the council's policy and I asked the council to review the matter. The council accepted that there were some inconsistencies between its parking bye-laws and the policy adopted by the council, and it agreed to amend its policy to allow the issue of parking permits to apartment residents. The complainants were therefore advised to contact the council again for parking permits.

Tralee Town Council

A resident of Tralee Town Council was refused a resident parking permit on the basis that another member of the household was in receipt of a permit and the council's policy was that only one permit would issue per household.

The town council had issued several parking fines to several members of the household, including a court summons to one member of the household for non-display of a valid parking disc/ parking permit.

The council's solicitor withdrew the summons on the day of the court appearance as *"there was no reasonable prospect of success on the matter, no legal basis for the practice of restricting one permit per dwelling, and any such practice operated by Tralee Town Council is contrary to the provisions of the bye-laws"*.

The Office of the Ombudsman should have some influence of sanction, against a public servant, where it is found that through the investigation of a case, that a public servant personally misused his/her position against an individual".

The Complainant

However the council continued to restrict the grant of parking permits to one per household and continued to issue parking fines to residents for parking in the area without displaying a permit / valid parking disc.

Following discussion with my Office, the council accepted that the practice it followed was not supported by its bye-laws and undertook to change its practice. It agreed:

- i)** To compensate my complainant in relation to any legal fees incurred,
- ii)** To Issue additional permits to qualifying residents, and
- iii)** Not to issue summonses in relation to the traffic fines in this case.

The council advised that it planned to conduct a reassessment of its bye-laws and

bring forward amended and updated bye-laws for public consultation, in order to clarify a number of matters.

5.2.3 Refusal by council to pay a disabled persons grant revised - €17,202 paid

Waterford County Council refused to pay a man a disabled persons grant (DPG) for three main reasons:

- 1) As the applicants income of €37,272 was in excess of the new limit of €32,000, he did not qualify for a grant.

My Office pointed out that:

- i. The income limit was introduced on 10 March 2003. The complainant's application was lodged on 5 March 2003, before the introduction of the income limit. The council back-dated the new scheme to 1 January 2003, thereby purporting to exclude his application from eligibility,
 - ii. There is a presumption in law against giving retrospective effect to rules or legislation that will have the effect of penalising a person, and
 - iii. The decision to back-date the new scheme to a date prior to 10 March 2003 was **ultra vires** the power of the council.
- 2) The application was invalid until the tax certificate was submitted on 18 March 2003 and therefore only became a valid application after the new income limit was introduced.

My Office pointed out that:

- i. The disabled persons grants scheme provides, in relation to "tax clearance measures", that "A disabled persons grant shall not be paid unless the applicant for the grant furnishes to Waterford County Council his/her tax reference number and details of his/her tax district and a statement that, to the best of his/her knowledge, his/her tax affairs are in order", and

- ii. (ii) It seems that what is required is that the applicant's tax affairs are in order at the time when payment of the grant falls due.

3) In full knowledge of the disabilities and special requirements arising, complainants purchased a house, which was patently unsuitable.

My Office pointed out that:

- i. (There is no restriction in the scheme on a person purchasing a house, new or old, and then applying for a disabled persons grant to modify that house, and
- ii. It may not always be possible to purchase a new house that has been adapted to the needs of the disabled person.

The council reconsidered the case and decided that a grant of €17,202.90 would be paid.

5.2.4 Policy change on access to recycling facilities for landlord of rented properties

Dún Laoghaire-Rathdown County Council refused to allow a man access to a recycling facility on the grounds that the waste was 'commercial waste'. The man was taking bulky domestic waste items to a recycling facility in his private car and trailer, to facilitate tenants of his rented properties. The council directed him to another facility, some distance away, where the minimum charge was five times that of the one he was denied access to and where, he claimed, the standard of separation was less environmentally friendly.

"As a retired Civil Servant (Asst Principal) who had to deal with you on a number of occasions in my official capacity - I knew that you would resolve my problem!"
The Complainant

The reason given by the council for refusing him entry was that the licence granted for the recycling centre was for the use of residential customers only. It classed the flats as a commercial business and regarded the waste from them as 'commercial waste' rather than 'domestic waste'. However, the council told him that the tenants could use the facility themselves, if they wished.

Commercial waste is defined in Section 5 of the Waste Management Act 1996, as *"waste from premises used wholly or mainly for the purpose of a trade or business or for the purposes of sport, recreation, education or entertainment but does not include household, agricultural or industrial waste"*.

The council accepted that it was in contravention of Section 5(1) of the Waste Management Act, 1996, in not accepting waste which had been created from a domestic source and stated that this policy had been adopted because of resource limitations.

When my Office put it to the council it accepted that it had not properly informed the public about its policy - it intended to formulate a policy document to address the deficiencies highlighted by this complaint.

Pending the implementation of this policy, it stated that it was prepared to allow the complainant the use of the facility for the purpose of disposing of household waste arising from his rental properties, subject to the payment of the appropriate gate fees applicable at the time of his visit(s).

"On 3 occasions I was looking for information from the planning department of the county council and only for your help I would not have received the information I wanted."

The Complainant

My Office considered this was a favourable outcome to the complaint and it also brought about a change of policy by the council, as a result of deficiencies highlighted by this case.

5.2.5 Elderly woman allowed to apply to buy her council dwelling after being refused

Arklow Town Council refused an elderly woman's application to apply to purchase her dwelling. She was allocated tenancy of a one-bedroom house over 30 years previously. At the time she was 55 years old and lived with her young daughter. She made enquiries over the years in relation to purchasing the dwelling but was informed by the council that it operated a strict policy prohibiting the sale of one-bedroom dwellings. She became aware that the council had agreed to the sale of a similar dwelling and in 2001 wrote to the council referring to this sale and applying to purchase her dwelling. In response the council stated that, as the dwelling is a 'flatlet', it was not available for purchase under the tenant purchase scheme. Her son raised the matter again in 2006 and was informed that, although the council did agree to the sale of a similar dwelling in the past, this decision was not in keeping with normal council policy. The council stated that small dwellings were not included in its tenant purchase scheme and that it has attempted to retain smaller type dwellings within its stock in order to accommodate the housing needs of elderly people.

"Ceapaim go raibh an tseirbhís atá á chur ar fáil ag Oifig an Ombudsman go hiontach ar fád ó thuís go deireadh. Ar an iomlán bhí mé thar á bheith sásta. Go raibh maith agat".

The Complainant

Having taken up the case, my Office found the following:

- Although described by the council as a 'flatlet', the complainant's dwelling was not a flat,
- The type of dwelling occupied by the complainant was designed for occupation by both single and elderly people and had also been used to accommodate young childless couples,

It was clear that the dwelling was not specifically designed for the occupation of one or more elderly persons, and

- The tenant purchase scheme adopted by the council did not provide for the exclusion of small dwellings from the scheme.

I requested that the council review its decision and the council agreed to reconsider the matter and subsequently allowed the complainant to apply to purchase her house.

5.2.6 Planning site notices not lawful if placed on gates which are left open

A complaint was made in relation to a decision of South Tipperary County Council to approve planning permission for a large development where the site notices had been placed on gates which were regularly left open during the day. The complainant argued that site notices on gates which are left open did not comply with the planning law. One of the purposes of site notices is to provide a summary of the proposed development to local residents and passers-by to enable them to make observations to the planning authority. Planning law, in relation to site notices, provides that they must be "*legible by persons using the public road*". The complainant argued that site notices on gates which are left open did not comply with the law. My Office agreed with the complainant's view. Following our intervention, the council eventually agreed that site notices on open gates did not meet legal requirements and advised its inspectors that a planning application should be declared invalid if the site notice is placed on an open gate.

It amended its 'Guide on Planning' and, when notified of the Ombudsman's comments, the Local Government Management Services Board notified planning officials in all planning authorities, accordingly.

5.2.7 Complainant gets €2,000 essential repairs grant for roof repairs

Westmeath County Council refused a pensioner's application for an Essential Repairs Grant (ERG). The ERG is designed to assist older people to repair damage to their homes.

The council refused the application on the basis that:

- 1) Not all persons living in the dwelling were over 65 (the complainant was aged 68 at the time of the application, while his wife, who was on an invalidity pension, was then aged 62),
- 2) The applicant had carried out the work without 'prior approval' from the council, and
- 3) The repairs to his roof did not comply with building regulations.

Having examined the complaint my Office pointed out to the council that:

- 1) While the council's scheme states that all persons living with the applicant must be "at least 65 years of age", the regulations governing the scheme place no restriction on age - other local authorities refer to applicants and residents being required to be 'over 60',
- 2) There is no reference to the need for 'prior approval' on the application form, or accompanying guidance note for the ERG scheme, and
- 3) The complainant had provided independent evidence that the roof complied with the building regulations.

Following our intervention, the council reviewed its decision and awarded the complainant a grant of €2,000.

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Public Bodies and the Citizen

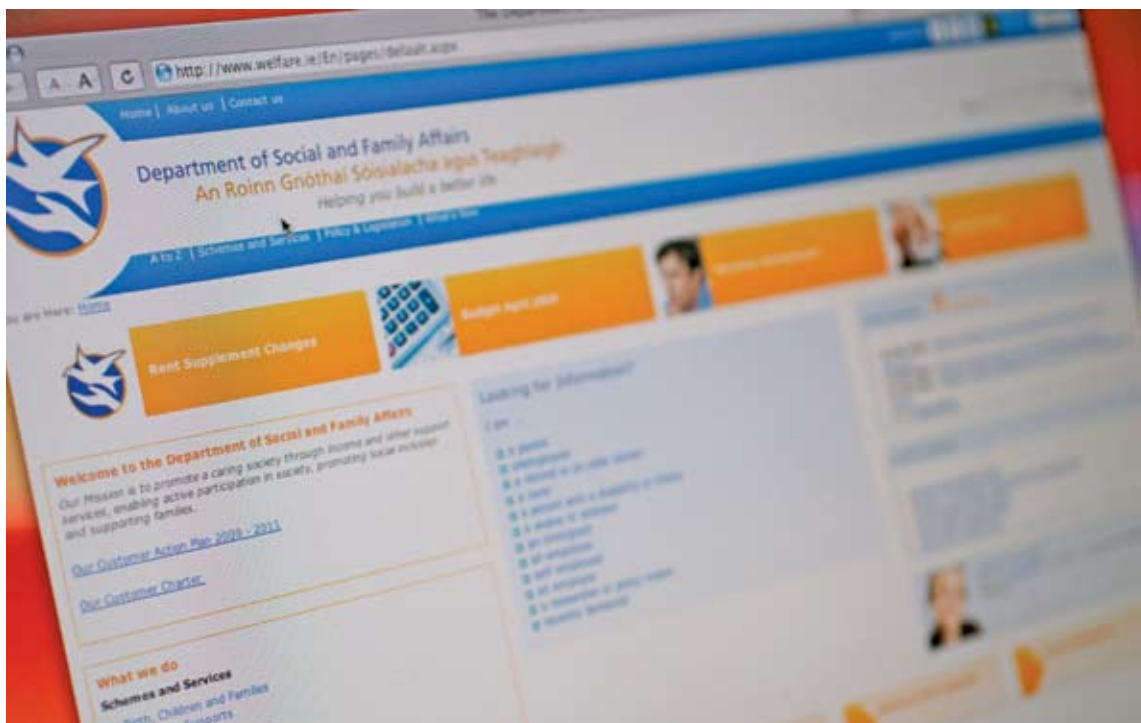
Getting it wrong and putting it right

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The Ombudsman's Guide to Standards of Best Practice for Public Servants

Social Welfare, Health and Personal Social Services



6.1 Department of Social & Family Affairs - Overview

The Department of Social and Family Affairs is responsible for the formulation and implementation of social protection and social inclusion policies which, through income and other supports, enable people to participate in society in a positive way. The department is responsible for the delivery of a range of some 50 social insurance and social assistance schemes, including provision for unemployment, illness, maternity, caring, widowhood, retirement and old age. Payments are made to over 1.3 million people each week. In addition, over 600,000 families receive a monthly child benefit payment supporting approximately 1 million children.

6.2 Selected Cases

6.2.1 Arrears of €8,600 secured for Back-to-Work Allowance scheme applicant -decision not to grant three-year allowance revised

A man contacted my Office about a decision of the Department of Social & Family Affairs to refuse his application for a Back-to-Work Allowance (BTWA). If a person is getting certain social welfare payments, the BTWA for employees can provide the person with a financial cushion to help them to return to work. Under the scheme, a person may keep a portion of their social welfare payment for 3 years without having to pay tax and pay-related social insurance (PRSI) on it.

"A couple of years back I was waiting for money back from the Social Welfare for about 18 months. I made one phone call to the Ombudsman and it was paid to me the next week".
The Complainant

It applies on a percentage basis with 75% of the weekly social welfare payment kept for the first year, 50% for the second year and 25% for the third year. Depending on qualifying income, a person may also keep important secondary benefits for the 3 years, such as a medical card, fuel allowance or differential rents.

My complainant had been in receipt of an invalidity pension, from the department, for a number of years, before making his application for a BTWA. He completed his application shortly after commencing employment and supplied a letter from his employer setting out the terms of his contract of employment. This letter stated that he was contracted to work between 18 and 30 hours per week during his probationary period. The application was refused by the department on the basis that the requirements of the scheme for employers state that they must offer work for a minimum of 20 hours work per week, the job must be lasting and sustainable, with a commitment from the employer that it will last at least one year.

The man requested a review of the decision and submitted additional information in the form of payslips and a copy of his new permanent contract with his employer. He received this contract following the completion of his probationary period.

The department reviewed the case but decided that the decision to refuse the application should stand on the basis that a minimum commitment to work 20 hours each week for one year must be offered to qualify for the scheme. It accepted that under the terms of his new contract he now met the requirements of the scheme but that it was a condition of the scheme that these should be complied with at the commencement of employment. Further representations were made on his behalf by a public representative but the decision was not revised.

In the course of my examination of the complaint I obtained the department's file. From my examination I had a concern that the complainant, and other persons applying for the BTWA, who were subject to serving a probationary period at the outset of their contract of employment, could be disadvantaged by the manner in which such periods of employment were being treated by the department.

With this in mind, I asked the complainant for information from his employer setting out the actual hours of employment he completed with them, from the date on which he commenced employment. The statement was provided and showed that he worked over 20 hours every week, with the exception of one particular week, from the date on which he started employment up to the date on which he was made permanent in his post. On the basis of this information, I wrote to the department to ascertain whether this new information provided it with sufficient latitude to revise the decision to refuse the man a BTWA.

The department examined my submission and as a result, it again reviewed the man's application and decided that he was entitled to receive the BTWA for a three-year period, from the date on which his employment was made permanent. The department said that where a claim is disallowed on the basis that it is not a sustainable job, BTWA can be allowed subsequently, if the job materialises into a permanent post. The man received arrears in excess of €8,600.

6.2.2 Playwright / local newspaper contributor gets non-contributory pension after means review of joint house ownership - arrears of €37,954 paid

A man approached my Office after the department had refused a non-contributory State pension. His income consisted of a small sum for royalties from plays and for

writing for a local newspaper. However, as he inherited the family home jointly with his brother, who continued to live in the house, this was also taken into account as means when assessing his entitlement to the payment. As a result, the department held that he was not entitled to a non-contributory State pension, as his means exceeded the statutory limit allowed. Although the complainant appealed this decision, this appeal was refused on the grounds that the house was up for sale and so he had been properly assessed with half-ownership of the property. However, at the time of making the complaint to my Office, the house remained unsold. Under social welfare regulations, a second house is assessable only as means for social welfare payments if it is not being personally used or enjoyed by the person claiming the payment and either,

- i) it is invested or is otherwise put to profitable use by the person or,
- ii) although not invested or put to profitable use, it is capable of being invested or put to profitable use.

I requested a review of the department's decision on the grounds that, as joint owners, both brothers have a legal right of residency in the family home. I reasoned that although the property was for sale, owing to the legal rights of the present occupant, his brother, the house was not capable of being put to profitable use until such time as it was sold.

I am pleased to say that the department re-examined the claim and decided, having reviewed the particular circumstances of the case that, as long as the family home remained unsold, it should not be regarded as means when assessing the complainant's entitlement to a non-contributory State pension. This resulted in the complainant being awarded the pension of €212 per week, from February 2008 and the payment of arrears in the amount of €37,954.00.

6.2.3 Contributory State pension increased by Department of Social and Family Affairs for farm worker who left school at primary level, following review of social insurance contributions - arrears of €18,000 paid

Sometimes, at first glance, a complaint appears not to have merit but on examination and with fuller information it may well turn out to be justified. Such was the case with

a complaint from a man who was unhappy that the department had awarded him the State pension (contributory) at half rate only, whereas he believed he was entitled to payment at a higher rate.

"My experience over a period of 12 months was very positive in particular being apprised on the status of my complaint through personal contact. It is a feature of the service that is commendable. Ironically my claim for disallowed credits proved irrelevant as I had in any case sufficient stamps to ensure full benefit entitlement. However it took the Office of the Ombudsman to identify and record that fact"

The Complainant

The department had awarded the pension at half rate on the basis that the man's yearly average of social insurance amounted to 13 contributions; were his yearly average at the level of 15 or more contributions then he would be entitled to a higher rate of pension. On examining his pension file, it did seem that the department was correct in its calculations. The complainant had been engaged in farming for most of his working life though he did also have some social insurance contributions as an employee. According to the department's records, he had first worked as an employee in 1957. However, there were significant gaps in his social insurance record during the period 1958 to 1967, and from 1968 to 1993 there was no record of social insurance, either paid or credited contributions. In 1993 the man began to pay self-employed social insurance and continued to do so until the year before his retirement in 2003.

The man had appealed the decision on the basis that, as he saw it, some periods of employment (including self-employment between 1988 and 1993) were not recorded by the department. However, this appeal was unsuccessful. From my Office's subsequent examination of the file, I was satisfied that none of the employments to which the man referred was insurable under social welfare legislation. In particular, I accepted the department's position that a period of self-employment from 1988 to 1993 was not insurable, as he had been paid unemployment/smallholders assistance

during this period. On the face of it, therefore, the department's position seemed to be correct. However, I decided to write to the complainant, setting out the information available, and asking if there was any additional information he could provide which would warrant further examination of his case.

In his reply, the man gave details, not only of a further period of employment but also other periods, during which he had received unemployment payments. These periods were prior to 1957, which according to the department's records, was when he first entered social insurance. The details he gave of unemployment payment amounts received, corresponded with the maximum rate of unemployment benefit payable at that time. This raised the possibility that the man had been insurably employed prior to 1957, as payment of unemployment benefit would have been dependent on his having paid a minimum number of social insurance "stamps" before making a claim. This possibility was strengthened by the knowledge that the complainant, like many of his generation, had left school at primary level but that his first recorded insurable employment was not until he had reached 20 years of age. The likelihood of his having been in employment between 16 years and 20 years, along with the specific details he had now given, warranted the making of some further enquiries. Accordingly, I asked the department to investigate the possibility that the man had been in insurable employment prior to 1957 and that social contributions should have been paid and/or credited for such time.

Following its investigation, the department concluded that the man was entitled to the award of an additional 52 social insurance contributions (between paid and credited contributions). This had the effect of raising his yearly average to 15 contributions, which meant he had an entitlement to a pension at 75% of the full rate from the date on which he reached 66 years of age. The man received over €18,000 in arrears as a result of my Office's intervention.

6.2.4 Citizens of other EU countries in Ireland claiming child benefit, and the need for the Department of Social and Family Affairs to check with the country of origin as to whether child benefit is already payable - delays in getting responses

In December 2008 my officials met with officials from the department to discuss

my concerns in relation to the volume of complaints I had received in the previous two years or so, about long delays in processing EU child benefit claims. These delays arose mainly because of a sudden very large rise in the number of EU child benefit claims being made and the need for the department to put in place appropriate procedures for obtaining information from the authorities in other EU states. Entitlement to child benefit is governed by EU social security law and the administration of that law is quite confusing and can be slow. I must acknowledge the fact that significant delays in processing these applications have existed and continue to exist. However, arising out of the meeting with the department's officials, I also have to acknowledge that there are valid reasons as to why these delays originally occurred, resulting in a considerable backlog of cases, and also that the department has made, and is continuing to make, significant progress in its efforts to eliminate the remaining backlog of cases. In this regard, I was advised that, under the department's current plan for dealing with EU child benefit cases, it envisages that the existing backlog will be eliminated by the end of June 2009 and it has provided data to demonstrate how this is to be achieved.

In light of the foregoing, I have decided that the most appropriate course of action in relation to these cases, is for my Office to monitor progress under the department's plan for clearing the backlog. In this regard, I felt that, so long as the department remains on target to achieve its goal of clearing the backlog by end June 2009, it should not be necessary for my Office to involve itself further in this particular matter. In addition, I also decided that, if I receive any new complaints about delays in processing EU child benefit claims, which the department subsequently certify as falling within its plan, I will not proceed any further with the examination of such complaints and I will advise the complainants accordingly. This is subject to the date of the claim falling within the general backlog period, that it will be processed in sequence and that there are no unforeseen problems. I will, of course, continue to examine complaints about child benefit claims which do not fall within the department's plan of action. I will continue to monitor the department's progress under its plan for dealing with these cases and, to assist me in this, the department has furnished me with a base-line figure for the number of cases in the backlog at 31 December 2008, as well as projected end-of-month figures for each month in the period January to June 2009. I have also arranged for the department to provide my Office with progress reports every two months

setting out the number of claims remaining in the backlog on those dates and also providing a commentary on any gains, or slippage, during the period in question.

6.2.5 Carer for aunt and uncle gets full allowance (€322.10) weekly following Department review - arrears of €12,000 paid.

This case demonstrates the value of my powers to access the files of public bodies. A woman applied for carer's benefit in respect of her claim that she was providing full-time care and attention to her aunt and uncle (carees). She was awarded payment with effect from 3 May 2007 by the department in respect of her uncle, who was involved in a serious road accident and had broken his neck. However, she was refused payment in respect of her aunt, who was certified by her GP as having medical problems from birth. This refusal of benefit followed the examination of medical evidence provided by the woman and submitted by the department's deciding officer to its medical adviser. He determined, based on the medical evidence provided, that the caree was "not approved" under the terms and conditions of the scheme. The woman appealed the disallowance of carer's benefit to the independent Social Welfare Appeals Office in September 2007. An oral hearing of the appeal was convened and the woman was afforded the opportunity to provide additional information in relation to her aunt's situation. Having heard all the evidence the appeals officer determined that in his opinion the caree's circumstances did not require continual supervision and frequent assistance with personal needs. The appeal was therefore disallowed.

The woman complained to my Office and I examined both the department's and the Social Welfare Appeals Office's files. Following that examination, it emerged that there was additional medical evidence submitted to the department by the woman which had not been referred by the deciding officer to the department's medical adviser. Additionally, it was not referred to by the deciding officer, when preparing a submission on the case to the Social Welfare Appeals Office.

The evidence suggested that the caree's condition was more severe than the original medical evidence used to determine the caree's eligibility under the carer's benefit scheme. I asked the department to carry out a review of its decision to take account of the additional medical evidence and it was referred to the medical adviser. He

subsequently concluded that this evidence was sufficient to approve the caree as suitable under the terms and conditions of the carer's benefit scheme. Payment of carer's benefit was then approved and the woman was awarded payment for the second caree. This resulted in her entitlement being increased from €214.70 per week (one caree) to €322.10 (for two carees). Her claim was backdated to the date of application and she received arrears totalling nearly €12,000, which included payment of a respite care grant for 2007 and 2008.

6.2.6 Decision to halve State pension (contributory) revised - arrears of €39,538 paid

A man approached my Office, as his pension was decreased when his wife received a State pension (contributory) - (SPC) in her own right. He had been receiving a personal half-rate SPC plus a qualified adult (QA) increase for his wife. He wrote to the Pension Services Office (PSO) several times in the matter. However the matter was never clarified fully. When his wife qualified for a SPC in her own right, the QA payment on his pension was stopped and he received a personal half rate pension from then on.

The half rate SPC was awarded to the man based on his social insurance record from 1953 up to the time he reached 66 years of age.

This man had been self-employed and his insurance record showed self-employed contributions from 1989/90. Under social welfare legislation, a self-employed contributor can have his/her entitlement to a SPC determined from 6 April 1988 (the date on which compulsory insurance was introduced for people who are self-employed), up to the year prior to their retirement. They must, however, have an average of 48 or more contributions paid per year.

From correspondence he had sent into my Office it was evident that my complainant had an outstanding self-employed social insurance liability for the 1988/89 contribution year. In his correspondence with the department, the man asked if it would still be open for him to pay the outstanding liability. In its reply the PSO never stated whether it would or would not be open to him to pay this liability.

This Office wrote to both the self-employed section of the department in Waterford and the PSO in Sligo on the matter. It was found that it would be still open for him to pay the outstanding liability and if paid, his pension entitlement would be re-examined. The man paid off his outstanding liability. Once the PSO re-examined his entitlement it was found that he was entitled to a maximum rate SPC of €223.30 per week and arrears amounting to €39,538.01.

6.3 Health Service Executive (HSE) - Overview



The HSE was established in January 2005 as the single body responsible for meeting Ireland's health and social care needs. The HSE provides thousands of services to young and old, in hospitals, health facilities and in communities across the country. These services range from public health nurses treating older people in the community, to caring for children with challenging behaviour; from educating people on how to live healthier lives to performing highly complex surgery; from planning for major emergencies to controlling the spread of infectious diseases.

The largest employer in the State, the HSE employs more than 65,000 staff in direct employment, and a further 35,000 staff are employed by voluntary hospitals

and bodies funded by the HSE. The budget of almost €12 billion is the largest of any public sector organisation. At some stage every year, everybody in Ireland will use one or more of the services provided by the staff of the HSE. They are of vital importance to the entire population.

6.4 Selected Cases

6.4.1 UK social security pension/Irish occupational pension holder has automatic entitlement to medical card under EU Regulations confirmed - HSE revises decision refusing medical card

A woman approached my Office after she had been refused a medical card on the grounds that her income was in excess of the guidelines. Her appeal was also refused on the same grounds. She was in receipt of a social security pension from the United Kingdom of stg £0.24 per month and an occupational pension from Ireland, which was not subject to social insurance.

Under EU legislation persons who have a social security pension from another EU member State and an occupational pension from Ireland (including civil service or public service pensions) are automatically entitled to a medical card without having to satisfy a means test, provided they are not getting an Irish social welfare payment or are not subject to social insurance.

In response to my enquiries about her eligibility, the HSE said that she did not qualify automatically under EU regulations due to the fact that:

- i) she was not UK pension dependent, and
- ii) the bulk of her income comes by way of payment through a public service pension with a tax liability to the State.

I referred the HSE to a case study contained in their medical card / general practitioner visit card national assessment guidelines of March 2007 which was also available on their website. In this case study, the applicant for a medical card was in receipt of a United Kingdom social security pension of £1,000 per annum, a HSE pension of €40,000 per annum and had savings of €200,000. The question posed in

this case study was whether that person was entitled to a medical card under EU legislation. The answer was that the person was entitled to a medical card because he had a social security pension from another EU member State and his other income and savings did not include a contributory social security payment from the Department of Social and Family Affairs.

Furthermore, his additional income was not liable for social insurance. As there was no reference in either this case study or the legislation to the necessity of being dependent on the social security pension from the other member State, I requested that the HSE review its decision to refuse my complainant a medical card. I am pleased to say that, in response, the HSE accepted that she did have an automatic entitlement under EU regulations and a medical card was awarded.

6.4.2 Community care home resident has in-patient service charge of €96.60 weekly reduced to nil - refund of €8,381 made and 14 similar cases identified in a Health Service Executive review, involving repayments of €160,160.00.

I was approached by a man who was being charged €96.60 per week by the HSE, in respect of in-patient service charges for his wife, while she was a resident in a community care home. It appears that, in arriving at the charge, the HSE deemed that the patient's personal income was the qualified adult payment of €138.50 per week, which was being paid to her husband as part of his state contributory pension. A person qualifies for a state contributory pension based on his/her PRSI record. Whether a person qualifies for a payment depends on him/her having a certain number of PRSI contributions. If a person has a spouse, s/he may, subject to some conditions, receive an increase in her/his pension payment. This is known as a qualified adult payment.

Charges for public nursing homes are governed by Article 3 of the Health (Charges for In-Patient Services) Regulations, 2005 (S.I. No. 276 of 2005). These Regulations provide that the HSE may levy a charge at a weekly rate of,

- i) €120, or
- ii) the weekly income of that person, less €35, whichever is the lesser, for provision of in-patient services.

When I took up the matter with the HSE, it acknowledged that the in-patient charge is levied against the person receiving the service and can only be based on the income of that person. I dealt with this matter in my 2006 and 2007 Annual Reports.

In this particular case, my complainant was in receipt of a qualified adult payment as part of his state contributory pension, in respect of his wife. The HSE acknowledged that this payment could not be considered as the patient's income. It was her husband's income.

Accordingly, it was deemed that the patient was not in receipt of any income of her own. As a result, the HSE decided that the in-patient charge for my complainant's wife should be reduced to nil from the implementation date of the regulations, namely from 14 July 2005. This resulted in a refund of €8,381.91 being made to my complainant. This repayment was made up of the original charges of €7,843.20 plus an adjustment of €538.71 based on the consumer price index.

While I welcomed the HSE's decision in this case, I was concerned that there might be cases similar to that of my complainants. Accordingly, I asked the HSE to review all other clients who were currently being assessed for in-patient charges in a similar way to my complainant, namely spouses of individuals in receipt of a qualified adult payment.

The HSE expects to complete its review shortly. In the meantime, a further 14 cases have been identified as part of this review, involving repayments of €160,160.00, inclusive of CPI adjustments. Most of these repayments have since been made to patients.

6.4.3 Health Service Executive decision not to grant a nursing home subvention revised - weekly allowance of €238.20 granted and arrears of €16,980.26 paid

A man complained to my Office that an application for nursing home subvention (NHS) in respect of his 85 year-old mother, had been wrongly refused by the HSE South. The man had made the application for NHS in December 2006. At that time there were no national guidelines for the scheme, but 'local arrangements' were

in place in each HSE region. Prior to making the application, the man had received information about the NHS scheme from the HSE South and, according to the 'local arrangements' in place in that area, the principal residence of an applicant would not be assessed for means purposes if a medical assessment had deemed the applicant to suffer from dementia or alzheimer's disease - the man's mother had been so medically assessed. However, by the time a decision was made on the application in March 2007, new national guidelines for the standardised implementation of the nursing home subvention scheme had been introduced and the application was considered under these. The effect of this was that the man's mother did not qualify for NHS, on the basis of "income/imputed income from principal residence", because the new guidelines did not provide for the exemption of the principal residence of people suffering from dementia or alzheimer's disease.

"It took a long time for my case to be resolved, but this was not the fault of the Ombudsman office, whose staff were excellent".
The Complainant

When I first took up this matter with the HSE, I was advised that the HSE South was obliged to follow the procedures introduced at national level with effect from 1 January 2007, and that this applied to all applications and that any local agreements implemented by the former Southern Health Board in that area were no longer valid from that date. However, when I reviewed the 2007

national guidelines, I noted that the very first provision contained therein stated that "Nothing in these Guidelines shall operate in a way that ... worsens an applicants overall position in 2007 by comparison to 2006". It appeared to me that, in this case, the woman was "an applicant" in 2006. The only rules or guidelines that existed prior to the introduction of the national guidelines were the "local" ones, under which the value of her home would not have been assessed. It was clear therefore that her position was considerably worsened because the 2007 guidelines were applied or operated in her case. Following correspondence between my Office and the HSE South, it accepted the argument for not applying the 2007 guidelines in this case and, consequently, the woman was awarded a NHS at a weekly rate €238.20, and arrears of €16,980.26 were also paid from the date of application in December 2006.

I was concerned that other people who, like this woman, applied for NHS prior to 2007, could have been adversely affected if their applications were considered under the new National Guidelines, rather than any “local arrangements” that were in place at the time their applications were made. Therefore I asked the HSE to undertake a review of the matter and to let me have a report. I have recently been informed by the HSE that, following an extensive national review of its files, it had identified a small number of cases with similar circumstances to those I had outlined. I was also advised that, in all of the cases identified, arrears had either been paid already, or arrangements were being made to pay any arrears that may be due.

6.4.4 Three severely disabled children have HSE decisions not to grant domiciliary care allowance (DCA) revised - arrears/compensation €78,000 paid and weekly allowances of €299.60 granted

In May 2008 I concluded an investigation into three complaints I had received regarding the refusal of DCA by the HSE. DCA is a monthly allowance administered by the HSE. It may be paid in respect of children from birth to the age of 16 who have a severe disability requiring continual or continuous care and attention which is substantially in excess of that normally required by a child of the same age.

In the first case, a girl who suffers from sickle cell disease (SCD) had been refused DCA on the grounds that she did not require care and attention considerably in excess of that normally required by a child of her age. However, the girl’s older sister, who also has SCD, had been granted DCA on the basis of identical medical evidence to that provided in respect of the younger sister. I found that the decision to refuse DCA in this case was improperly discriminatory and contrary to fair or sound administration and recommended that DCA be awarded with effect from the original date of application (i.e. 5 August, 2005). I also recommended that the amount of the arrears be adjusted to compensate for loss of purchasing power.

In the second case, a boy suffering from attention deficit hyperactivity disorder (ADHD) was refused DCA because the HSE considered that his condition was a behavioural disorder, and not a disability. It is the experience of my Office, from the examination of complaints relating to DCA, that a large number of parents of children with ADHD, in all parts of the country, apply for, and in many cases are

awarded, DCA. Because DCA has been awarded in respect of other children with ADHD in other community care areas, due to their particular medical circumstances, it had to be accepted that the HSE does consider ADHD to be a disability. I found that the decision to refuse DCA in this case, taking into consideration the medical evidence available, was improperly discriminatory and contrary to fair or sound administration. I recommended that DCA be awarded with effect from the original date of application (i.e. 7 April 2004). I also recommended that the amount of the arrears be adjusted to compensate for loss of purchasing power.

The third case related to a boy who suffers from cerebral palsy. The first application for DCA had been refused in 1995 and a second, made in 2001, was also refused. I considered that the decision in respect of the boy's entitlement, did not take into account all of the relevant medical and other evidence and that the manner in which this case was handled was contrary to fair or sound administration. I recommended that the case be reviewed by a Senior Area Medical Officer of the HSE who had not previously been involved in the case, taking into account all of the evidence available from clinicians who had treated the boy and from teachers in his school.

In addition to the recommendations that are specific to the three cases, I also recommended that the HSE undertake a review of DCA applications in respect of children diagnosed with ADHD, in the community care area involved, to determine the extent to which similar applications may have been refused. Because I had also found that there is a lack of consistency in the administration of the DCA scheme throughout the HSE nationally, I recommended that the HSE provide me with a detailed report setting out the measures it proposed to take in order to bring about consistency and understanding in the interpretation, among Senior Area Medical Officers nation-wide, of the DCA scheme.

The HSE subsequently informed me that in two of the cases in which I had recommended the award of DCA, arrears plus compensation for loss of purchasing

*"Thanks again for quick,
precise and complex
action"*

The Complainant

power amounting to €15,125.05 and €22,014.04 respectively have been paid, in addition to ongoing monthly payments of €299.60 each. In the third case, the review carried out by a Senior Area Medical Officer who was not previously involved in the case, concluded that the boy was entitled to DCA, and arrears backdated to the original date of application in 1995, together with compensation for loss of purchasing power, amounting to €41,575.52 in total, was paid.

The HSE also furnished a report which contained statistics relating to 108 DCA applications involving children with ADHD that had been made in the previous 10 years in the particular community care area. According to the statistics, 31% of applications were approved at the initial application stage and, of those whose applications were refused at that stage, 47% appealed. Of those who appealed, 66% succeeded in having the original decision overturned. Out of the 108 applications made, 53% were awarded DCA, either at the initial application stage, or after appealing. These figures indicate that while a majority of applications had been initially refused and that a majority of appeals were successful, there does not appear to have been a blanket policy of refusing applications for DCA on the basis of an ADHD diagnosis.

In relation to the final recommendation relating to consistency and understanding in the interpretation of the DCA scheme, the HSE had advised me that plans were at an advanced stage for the transfer of responsibility for the administration of the DCA scheme to the Department of Social and Family Affairs during 2009. In view of the imminent transfer of these responsibilities, I accepted that no useful purpose would be served in the HSE examining ways to standardise processing and payment procedures throughout the HSE.

Since April 2009, the Department of Social and Family Affairs has assumed responsibility for new DCA applications; from 1 September 2009, it will become responsible for all DCA cases.

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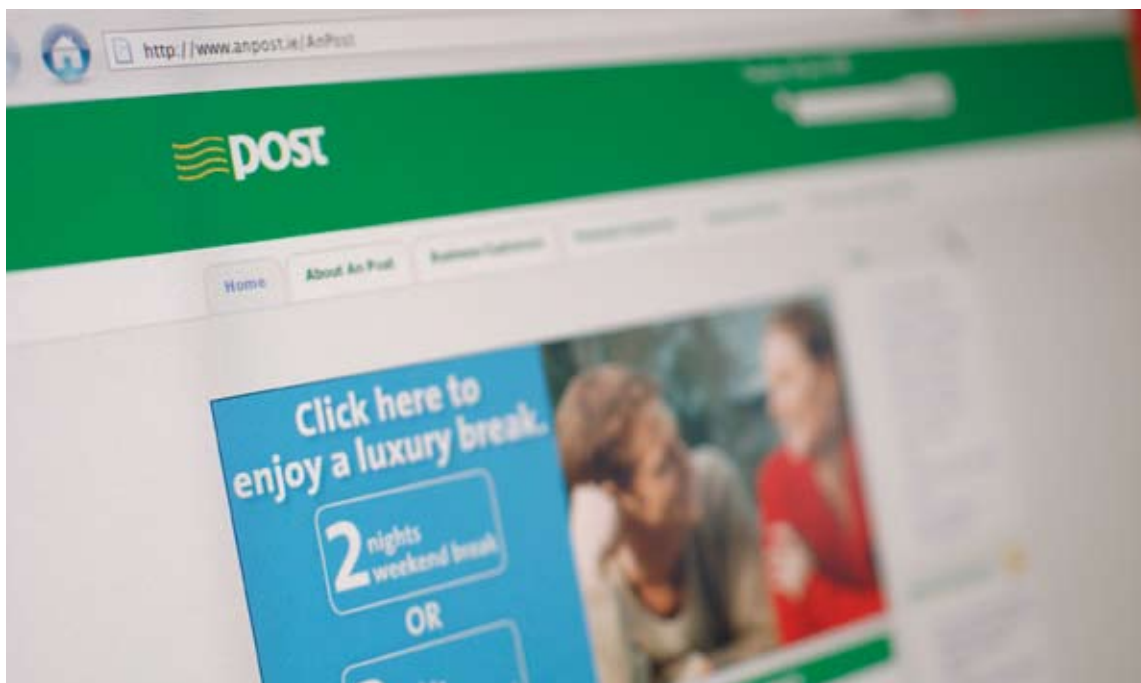
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The Ombudsman's Guide to Standards of Best Practice for Public Servants

Chapter Seven

An Post



7.1 An Post - Overview

A State-owned company since 1984, An Post operates the national postal service and an extensive network of post offices and agency outlets. An Post employs more than 9,800 people, with over 1,200 more involved in contract post offices. It handles over 3 million items of mail each day, which are delivered throughout the country, from Monday to Friday, to households and businesses, with a target next-day delivery rate of 94%. It manages the national mail distribution network and promotes greater use of the mail in general. An Post oversees the development of national, international and direct mail services to meet the needs of business and personal customers alike and, with its state-of-the-art processing and tracking systems, can customise services to meet every business requirement. It is responsible for the design and production of Irish postage stamps. An Post provides a network of 1,200

post offices, 170 postal agencies and 4,000 retail outlets, catering for more than 2m customers weekly. It provides payment services to clients of the Department of Social and Family Affairs (DSFA) and operates savings and investments products on behalf of the National Treasury Management Agency (NTMA). In addition, post offices offer Postal Money Orders, Western Union Money Transfer, BillPay, banking, Passport Express, mobile phone top-up and gift vouchers.

7.2 Selected Case

7.2.1 Wallet delivered to wrong Las Vegas hotel - An Post make goodwill payment for loss

I received a complaint from a man who forgot his wallet when going on holidays to the United States. His son-in-law sent the wallet to his hotel via courier post. However the item never arrived. The value declared at the time of postage was €200. When the complainant returned from holidays he lodged a complaint with the customer services department of An Post. The case was incorrectly reviewed on the basis that there was a delay on the delivery of the courier post item, rather than non-delivery of the item. He received an apology from An Post and a cheque for €26, a refund of the postage fee paid.

I pursued the case on behalf of the complainant in order to establish the basis for An Post's contention that the item had been delivered. In the absence of proof of delivery, I requested details of the searches undertaken to locate the wallet.

On receipt of my letter, An Post re-opened the case and arranged for further investigations to take place. The track and trace database in Ireland and in the United States Postal Services confirmed that the courier post item was delivered in Las Vegas NV 89193. Further investigations revealed that, while the item had been addressed correctly, it had been delivered to the wrong hotel. An Post sent an email to both hotels explaining the situation, providing full details including date and time of delivery along with the name of the person who signed for the item. Regrettably, no response was received from either hotel.

Subsequently, An Post discussed compensation with the complainant who explained that there was \$200 and €50 in his wallet at the time of posting. While cash is not insured under the courier post service, An Post offered €280 as an exceptional ex gratia payment as a gesture of goodwill. The complainant accepted this as appropriate redress for the upset and inconvenience caused.

While the loss and recompense involved was modest, the complainant was upset and inconvenienced and he was very happy to accept the gesture by An Post.

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Chapter Eight

Public Bodies covered by the Disability Act 2005



8.1 Disability Act 2005 - Overview

The Disability Act 2005 imposed significant obligations on public bodies to improve the quality of life of people with disabilities. The Disability Act gives the Ombudsman new powers to investigate complaints about compliance by public bodies and others with Part 3 of the Act. This Part deals with accessibility of public buildings, services and information.

The Equal Status Acts 2000 to 2004 outlaw discrimination by public and private sector organisations when providing goods and services to which the public, generally, have access. The Acts outlaw discrimination on nine distinct grounds, one of which is disability.

8.2 Disability Act 2005 - Comment on low level of complaints

Since the enactment of the Disability Act 2005, my jurisdiction has included the examination of complaints about the failure of public bodies to comply with the accessibility requirements specified in Part 3 of that Act. However, before a person brings such a complaint to my Office, they must first ask the public body concerned to investigate the matter. To facilitate the making of such complaints to a public body, Section 39 of the Disability Act requires the heads of all public bodies to “... **draw up procedures in relation to the making and investigation of complaints and such other matters relating to complaints as he or she considers appropriate and shall cause the procedures to be published**”.

“the number of complaints to my Office about alleged non-compliance with Part 3 has been very low”

Since the Disability Act came into force the number of complaints to my Office about alleged non-compliance with Part 3 has been very low. What I have also noticed is that most of these complaints are what I categorise as ‘premature complaints’ - in other words, the person has not first asked the public body to investigate the matter. In these cases, when I advise the person that they must do this, they invariably tell me that there is no information available to let them know how to make complaints to the public body concerned. In addition, many individuals tell me that because of their disabilities, they would require assistance to make a complaint but that no such assistance appears to be available from the public bodies concerned. In this regard, section 26 of the Disability Act requires each head of a public body to “... **authorise**

“it seems to me unhelpful that a public body would appoint an access officer but not inform its clients of this”

at least one of his or her officers ... to provide or arrange for and co-ordinate the provision of assistance and guidance to persons with disabilities in accessing its services”. These officers are referred to in the Disability Act as “Access Officers”. I have always taken the view that a complaints procedure is an integral part of the services provided by a public body and therefore it is

"there would appear to be a serious lack of knowledge among the staff of some public bodies about what is required of them under the Disability Act"

my view that access officers should be available to **"... provide or arrange for and co-ordinate the provision of assistance and guidance to persons with disabilities ..."**, wishing to make a formal complaint to that public body.

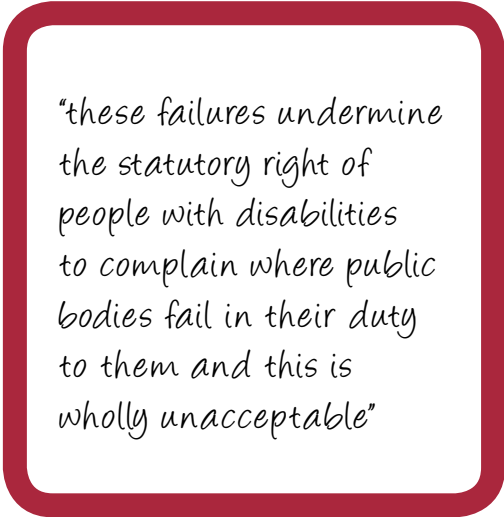
In light of this feedback, my Office undertook a survey of the internet sites of 105 public bodies which represented a cross-section of government departments, local authorities, State and semi-State bodies and Ombudsman Offices. The intent of the survey was to establish the extent to which

information about access officers is available and also whether the bodies had "published" the procedures for making complaints under the Disability Act on their websites. While this was effectively a snapshot in time, I was very concerned with the findings.

While there is no specific requirement under the Disability Act to publish information about access officers, it seems to me unhelpful that a public body would appoint an access officer but not inform its clients of this, or how to go about contacting him or her. Of the 105 websites surveyed, only 20 (19%) contained information about access officers and for many of these, ease of access to the information proved difficult. Only five (4.8%) of the websites surveyed contained information about how to make a complaint specifically in relation to the failure of the body to comply with Part 3 of the Disability Act.

My Office has contacted certain public bodies to clarify matters in relation to specific complaints that I had received about their failure to comply with the Disability Act. Arising out of these contacts, there would appear to be a serious lack of knowledge among the staff of some public bodies about what is required of them under the Disability Act. It also appears that many of them are not aware that the National Disability Authority has produced a code of practice to help public bodies to achieve compliance with the Disability Act or that, if a public body is in compliance with this code of practice, it is deemed to be in compliance with the relevant provisions of the Disability Act.

My role under the Disability Act is to examine complaints. However, I feel that I must also highlight the failure by some public bodies to put arrangements in place which are required by law and also the apparent lack of understanding, within some public bodies, of what is required of them to achieve compliance with the Disability Act. These failures, I feel, must seriously hinder very vulnerable people in their efforts to avail of services to which they are legally entitled. Ultimately, these failures undermine the statutory right of people with disabilities to complain where public bodies fail in their duty to them. This is wholly unacceptable.



“these failures undermine the statutory right of people with disabilities to complain where public bodies fail in their duty to them and this is wholly unacceptable”

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- Independent
- A free service

The Ombudsman's Guide to Standards of Best Practice for Public Servants

Annex A

Table 1: Overview of 2008 complaints	
Total complaints carried forward from 2007	954
Total complaints within remit - received in 2008	2,787
Total on hand for 2008	3,741
Total complaints completed in 2008	2,701
Total complaints carried forward to 2009	1,040
Total complaints outside remit - received in 2008	1,154
Total all complaints received in 2008	3,941
Total all enquiries received in 2008	9,498

Table 2: Numerical and percentage breakdown by sector of complaints within remit		
Civil Service	1086	39.0%
Local Authorities	838	30.1%
Health Service Executive	764	27.4%
An Post	93	3.3%
Disability Act 2005	6	0.2%
Total	2787	

Table 3: Numerical and percentage breakdown of complaints completed by outcome

Not upheld	821	30.4%
Assistance provided	708	26.2%
Discontinued	622	23.0%
Complaint resolved	442	16.4%
Withdrawn	71	2.6%
Partially resolved	37	1.4%
Total	2701	

Table 4: 3-year comparison of complaints received within remit

2008 *	2781
2007 *	2575
2006	2245

*Figure does not include complaints received under the Disability Act 2005. See Table 2 for details



	CS	LA	HSE	An Post
2008	1086	838	764	93
2007	1066	860	571	78
2006	888	845	398	114

Table 5: 10-year trend of complaints received within remit

2008	2787
2007	2575
2006	2245
2005	2243
2004	2064
2003	2213
2002	2326
2001	2539
2000	2136
1999	2685

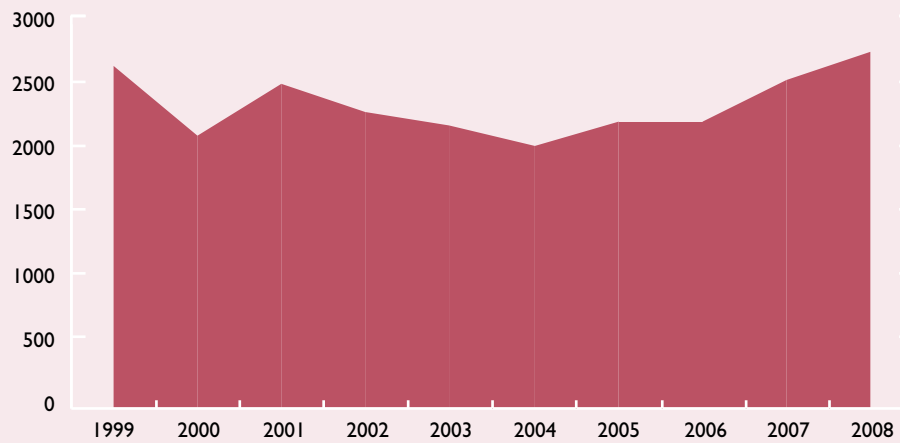


Table 6: Numerical breakdown of complaints received by county

Carlow	33
Cavan	34
Clare	91
Cork	283
Donegal	92
Dublin	686
Galway	202
Kerry	149
Kildare	105
Kilkenny	38
Laois	47
Leitrim	17
Limerick	110
Longford	20
Louth	43
Mayo	74
Meath	94
Monaghan	34
Offaly	37
Roscommon	36
Sligo	30
Tipperary	111
Waterford	81
Westmeath	43
Wexford	113
Wicklow	69
Outside Republic	115
Total	2787

Table 7: Numerical and percentage breakdown of types of complaint received outside remit

Private companies	414	35.9%
Public bodies outside remit	261	22.6%
Banking/Insurance	230	19.9%
Courts / An Garda Síochána	96	8.3%
Miscellaneous	88	7.6%
Terms and conditions of employment	65	5.6%
Total	1154	

Table 8: Civil Service Numerical breakdown by government department of complaints received	Brought forward from 2007	Received in 2008	On hand for 2008
Social and Family Affairs - see 8(a)	148	559	707
Justice, Equality and Law Reform - see 8(b)	28	126	154
Revenue Commissioners - see 8(c)	15	129	144
Agriculture, Fisheries and Food - see 8(d)	19	109	128
Education and Science - see 8(e)	19	57	76
Environment, Heritage and Local Government - see 8(f)	5	35	40
Health and Children - see 8(g)	10	14	24
Enterprise, Trade and Employment - see 8(h)	1	9	10
Foreign Affairs - see 8(i)	0	8	8
Communications, Energy and Natural Resources - see 8(j)	3	3	6
Transport - see 8(k)	1	3	4
Others	5	34	39
Total	254	1086	1340

Table 8(a): Department of Social and Family Affairs
Numerical and percentage breakdown of types of complaint

Child benefit	175	31.3%
Old age & retirement pensions	109	19.5%
Back-to-work, education allowance	78	14.0%
Disability, invalidity and maternity payments	57	10.2%
Miscellaneous	44	7.9%
Carer's allowance	24	4.3%
Widows and one-parent family payment	17	3.0%
No reply to correspondence	14	2.5%
Fuel allowance and free schemes	12	2.1%
Pay-related social insurance	10	1.8%
Occupational injury benefit	10	1.8%
Family income supplement	4	0.7%
Treatment benefits	3	0.5%
Unemployment payments	2	0.4%
Total	559	

Table 8(b): Department of Justice, Equality & Law Reform
Numerical and percentage breakdown of types of complaint

Administration of visa or asylum applications	99	78.6%
Miscellaneous	9	7.1%
No reply to correspondence	8	6.3%
Delay	7	5.6%
Quality of service	2	1.6%
Provision of service	1	0.8%
Total	126	

**Table 8(c): Office of the Revenue Commissioners
Numerical and percentage breakdown of types of complaint**

Income tax	76	58.9%
Miscellaneous	18	14.0%
Vehicle registration tax	12	9.3%
Delay, no reply to correspondence	11	8.5%
Value added tax, inheritance, Capital gains tax	6	4.6%
Stamp duty	4	3.1%
Customs and excise	2	1.6%
Total	129	

**Table 8(d): Department of Agriculture, Fisheries and Food
Numerical and percentage breakdown of types of complaint**

Single farm payment	30	27.5%
Rural environment protection scheme (REPS)	24	22.0%
Farm development grants	16	14.7%
Miscellaneous	16	14.7%
No reply to correspondence	8	7.3%
Early retirement scheme	4	3.7%
Forest premium scheme	4	3.7%
Area aid	3	2.8%
Milk quota	2	1.8%
Area based allowance	1	0.9%
Livestock grants	1	0.9%
Total	109	

Table 8(e): Department of Education and Science**Numerical and percentage breakdown of types of complaint**

Higher education grants & fees	17	29.8%
Delay, failure to reply to correspondence	12	21.1%
Special education	10	17.5%
Miscellaneous	8	14.0%
Examinations	6	10.5%
National office for victims of abuse (NOVA)	3	5.3%
School transport	1	1.8%
Total	57	

Table 8(f): Department of the Environment, Heritage and Local Government.**Numerical and percentage breakdown of types of complaint**

Miscellaneous	14	40.0%
Motor tax, driving licence, driving test	12	34.2%
No reply to correspondence	8	22.9%
Housing loans and grants	1	2.9%
Total	35	

Table 8(g): Department of Health and Children**Numerical and percentage breakdown of types of complaint**

Miscellaneous	7	50.0%
No reply to correspondence	4	28.6%
General Registrar's Office	3	21.4%
Total	14	

**Table 8(h): Department of Enterprise, Trade and Employment
Numerical and percentage breakdown of types of complaint**

Miscellaneous	8	88.9%
No reply to correspondence	1	11.1%
Total	9	

**Table 8(i): Department of Foreign Affairs
Numerical and percentage breakdown of types of complaint**

Miscellaneous	4	50.0%
Passport application	3	37.5%
No reply to correspondence	1	12.5%
Total	8	

**Table 8(j): Department of Communications, Energy and Natural Resources
Numerical and percentage breakdown of types of complaint**

Sea fishing & aquaculture licensing	1	33.3%
No reply to correspondence	1	33.3%
Miscellaneous	1	33.3%
Total	3	

**Table 8(k): Department of Transport
Numerical and percentage breakdown of types of complaint**

Miscellaneous	2	66.7%
No reply to correspondence	1	33.3%
Total	3	

Table 9: Civil Service**Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Social and Family Affairs	107	10	163	57	7	167	511
Justice, Equality and Law Reform	4	0	96	25	11	2	138
Revenue Commissioners	21	0	25	39	5	33	123
Agriculture, Fisheries and Food	10	1	12	26	4	52	105
Education and Science	4	0	18	22	1	22	67
Environment, Heritage and Local Government	3	0	3	15	0	8	29
Health and Children	6	0	5	1	1	4	17
Enterprise, Trade and Employment	0	0	4	3	1	1	9
Foreign Affairs	0	0	5	2	0	0	7
Communications, Energy and Natural Resources	0	0	1	1	1	0	3
Transport	0	0	3	0	0	1	4
Others	7	0	6	8	1	8	30
Total	162	11	341	199	32	298	1043

Table 10: Local Authorities Numerical breakdown by local authority of complaints received	Brought forward from 2007	Received in 2008	On hand for 2008
Carlow	6	13	19
Cavan	4	9	13
Clare	11	36	47
Cork City Council *	16	29	45
Cork County *	33	43	76
Donegal	16	38	54
Dublin City Council *	36	68	104
Dún Laoghaire-Rathdown	33	42	75
Fingal	17	21	38
Galway City Council *	18	25	43
Galway County *	21	52	73
Kerry *	25	56	81
Kildare	12	34	46
Kilkenny	7	15	22
Laois *	21	20	41
Leitrim	4	5	9
Limerick City Council *	8	11	19
Limerick County *	12	21	33
Longford	3	10	13
Louth	13	15	28
Mayo	45	29	74
Meath	22	32	54
Monaghan	1	5	6

Table 10: Local Authorities Numerical breakdown by local authority of complaints received (cont)	Brought forward from 2007	Received in 2008	On hand for 2008
North Tipperary *	15	17	32
Offaly	12	16	28
Roscommon	7	16	23
Sligo	4	6	10
South Dublin	11	26	37
South Tipperary *	27	27	54
Waterford City Council *	14	6	20
Waterford County *	6	9	15
Westmeath	11	13	24
Wexford	11	40	51
Wicklow	9	33	42
Total	511	838	1349

Complaints received against borough councils, and town councils are included in the county figures.

*Monthly CIC visits or regional visits were made to these counties in 2008 and this is likely to have affected the number of complaints received.

**Table 10(a): Local Authorities
Numerical breakdown of types of complaint received**

Housing		297
	Allocations & transfers	155
	Loans & grants	29
	Repairs	59
	Sales	30
	Rents	24
Planning		202
	Enforcement	128
	Administration	74
Delay/Failure to reply to correspondence		103
Roads and traffic		99
Miscellaneous		41
Service charges		25
Waste disposal		24
Water supply		16
Sewerage and drainage		12
Motor tax & Drivers licence		4
Rates		4
Acquisition of land/rights		4
Parks/Open space		4
Quality of service		2
Provision of service		1
Total		838

Table 11: Local Authorities - Numerical breakdown of complaints completed by outcome

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Carlow	3	0	3	1	0	2	9
Cavan	2	0	0	4	0	0	6
Clare	1	1	1	7	2	8	20
Cork City Council	7	1	6	10	0	10	34
Cork County	15	0	8	14	0	17	54
Donegal	5	1	8	19	2	4	39
Dublin City Council	19	1	9	32	1	7	69
Dún Laoghaire-Rathdown	11	0	9	10	1	10	41
Fingal	4	0	5	9	1	8	27
Galway City Council	7	1	5	12	0	6	31
Galway County	9	1	12	17	1	6	46
Kerry	9	0	12	16	3	19	59
Kildare	4	0	6	6	3	1	20
Kilkenny	6	0	2	7	1	1	17
Laois	6	0	3	11	0	6	26
Leitrim	0	0	0	1	2	4	7
Limerick City Council	1	0	2	2	0	9	14
Limerick County	3	1	2	5	2	8	21
Longford	1	0	1	2	0	2	6
Louth	3	0	8	4	0	3	18
Mayo	9	0	19	9	2	14	53
Meath	6	2	5	6	2	8	29
Monaghan	0	0	0	1	0	0	1
North Tipperary	5	1	7	2	0	6	21
Offaly	4	1	4	5	0	8	22

Table 11: Local Authorities - Numerical breakdown of complaints completed by outcome (cont)

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Roscommon	3	0	0	6	0	3	12
Sligo	2	0	3	1	0	3	9
South Dublin	8	0	3	5	0	7	23
South Tipperary	10	3	14	3	1	4	35
Waterford City Council	3	0	5	3	0	4	15
Waterford County	3	0	3	4	0	3	13
Westmeath	4	0	5	2	1	4	16
Wexford	9	1	6	14	1	5	36
Wicklow	12	1	3	9	0	4	29
Total	194	16	179	259	26	204	878

Complaints received against borough corporations, urban district councils and town commissioners are included in the county figures.

HSE administrative areas			
Dublin Mid-Leinster	South	West	Dublin North East
Dublin Midlands Hospitals Group	South Eastern Hospitals Group	Mid-Western Hospitals Group	Dublin North Hospitals Group
Adelaide & Meath & National Children's Hospital, Tallaght	Lourdes Orthopaedic Hospital, Kilcreene, Kilkenny	Mid-Western Regional Hospital, Dooradoyle	Beaumont Hospital
Coombe Women & Infants University Hospital	South Tipperary General Hospital, Clonmel	Mid-Western Regional Hospital, Ennis	Cappagh National Orthopaedic Hospital
Midland Regional Hospital, Mullingar	St. Luke's General Hospital, Kilkenny	Mid-Western Regional Hospital, Nenagh	Children's University Hospital, Temple Street
Midland Regional Hospital, Portlaoise	Waterford Regional Hospital	Mid-Western Regional Maternity Hospital, Limerick	Connolly Hospital, Blanchardstown
Midland Regional Hospital, Tullamore	Wexford General Hospital	Mid-Western Regional Orthopaedic Hospital, Croom, Co Limerick	Mater Misericordiae Hospital
Naas General Hospital		St John's Hospital Limerick	Rotunda Hospital
Our Lady's Hospital for Sick Children, Crumlin			
Dublin South Hospitals Group	Southern Hospitals Group	West and North West Hospitals Group	North Eastern Hospitals Group
National Maternity Hospital, Holles Street	Bantry General Hospital	Letterkenny General Hospital	Cavan General Hospital
Royal Victoria Eye & Ear Hospital	Cork University Hospital	Mayo General Hospital, Castlebar	Louth County Hospital, Dundalk
St Colmcille's Hospital, Loughlinstown, Co. Dublin	Erinville Hospital, Cork Kerry General Hospital	Merlin Park Regional Hospital, Galway	Monaghan General Hospital
St. James's Hospital	Mallow General Hospital	Our Lady's Hospital, Manorhamilton	Our Lady of Lourdes Hospital, Drogheda
St. Luke's Hospital	Mercy University Hospital, Cork	Portiuncula Hospital, Ballinasloe	Our Lady's Hospital, Navan
St. Michaels Hospital, Dún Laoghaire	South Infirmary-Victoria University Hospital, Cork	Roscommon County Hospital	
St. Vincent's University Hospital, Elm Park	St. Mary's Orthopaedic Hospital, Gurrabraher, Cork	Sligo General Hospital	
		University College Hospital, Galway	

Table 12: Hospitals: Numerical breakdown of complaints received by administrative area	Brought forward from 2007	Received in 2008	On hand for 2008
Dublin South Hospitals Group	6	13	19
West and North Western Hospitals Group	2	15	17
Dublin North East Hospitals Group	6	13	19
South Eastern Hospitals Group	5	13	18
Mid-Western Hospitals Group	2	10	12
Southern Hospitals Group	5	12	17
Dublin and Mid-Leinster Hospitals Group	2	8	10
North Eastern Hospitals Group	1	10	11
Total	29	94	123

Table 12(a): Hospitals: Numerical breakdown of types of complaint received	
Hospital services	67
Hospital charges	9
Delay/Failure to reply to correspondence	7
Miscellaneous	7
Hospital services - psychiatric	4
Total	94

**Table 13: Hospitals:
Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Dublin South Hospitals Group	2	0	9	4	0	1	16
West & North Western Hospitals Group	0	0	3	8	0	2	13
Dublin North East Hospitals Group	2	0	6	6	0	1	15
South Eastern Hospitals Group	1	1	6	5	0	2	15
Mid-Western Hospitals Group	1	0	2	6	0	1	10
Southern Hospitals Group	1	0	4	6	0	2	13
Dublin & Mid-Leinster Hospitals Group	0	0	1	4	0	0	5
North Eastern Hospitals Group	0	0	3	2	0	4	9
Total	7	1	34	41	0	13	96

**Table 14: *Non-Hospitals:
Numerical breakdown of complaints received by administrative area
* see footnote on page 115**

	Brought forward from 2007	Received in 2008	On hand for 2008
Dublin Mid-Leinster	54	165	219
Dublin North East	31	118	149
West	28	103	131
South	36	155	191
Total	149	541	690

Table 15: Health Act 2004*: Numerical breakdown of complaints received	Brought forward from 2007	Received in 2008	On hand for 2008
Complaints relating to health repayment scheme	6	125	131
Complaints under section 39 of the Health Act 2004 bodies*	1	0	1
Complaints under section 38 of the Health Act 2004 bodies*	1	4	5
Total	8	129	137

*These complaints relate to health or personal social services provided by a service provider who has entered into an arrangement with the HSE, or who has received assistance from the HSE for that purpose.

Table 16: Disability Act 2005: Numerical breakdown of complaints received	Brought forward from 2007	Received in 2008	On hand for 2008
Disability Act complaints	0	6	6

Table 17: Non-Hospitals, Health Act 2004 & Disability Act 2005
Numerical breakdown of types of complaint received

Supplementary welfare allowance (SWA)		143
Exceptional needs payment	54	
Miscellaneous	40	
Back-to-school - clothing/footwear allowance	25	
Rent and mortgage allowances	24	
Health services (general)		100
Medical card	98	
Drugs, medicines and appliances	2	
Hospital services		103
Nursing homes/long stay	101	
Miscellaneous	2	
Health repayment scheme		125
Miscellaneous		59
Cash payments (other than SWA)		58
Delay/Failure to reply to correspondence		20
Childcare/Social work services		19
Services for the elderly - Housing aid		17
Health services		14
Hospital services - psychiatric		7
Hospital charges		5
Provision of service		3
Dental service		3
Total		676

*The term 'non-hospitals' refers to types of complaints that are associated with services administered by or on behalf of the HSE. For example: supplementary welfare allowance, medical card entitlement or nursing home subvention.

**Table 18: Non-Hospitals:
Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Dublin Mid-Leinster	16	5	26	30	1	86	164
Dublin North East	11	1	16	14	2	60	104
West	12	0	18	12	3	51	96
South	18	1	39	17	3	65	143
Total	57	7	99	73	9	262	507

*The term 'non-hospitals' refers to types of complaints that are associated with services administered by or on behalf of the HSE. For example: supplementary welfare allowance, medical card entitlement or nursing home subvention.

**Table 19: Health Act 2004:
Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Complaints relating to Health repayment scheme	8	2	21	16	1	32	80
* Complaints under Section 39 of the Health Act 2004 bodies	1	0	0	0	0	0	1
* Complaints under Section 38 of the Health Act 2004 bodies	1	0	2	2	0	0	5
Total	10	2	23	18	1	32	86

**Table 20: Disability Act 2005:
Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
Disability Act Complaints	0	0	2	3	0	1	6
Total	0	0	2	3	0	1	6

**Table 21: An Post
Numerical breakdown of complaints received**

	Brought forward from 2007	Received in 2008	On hand for 2008
An Post	3	93	96
Total	3	93	96

**Table 22: An Post:
Numerical breakdown of complaints completed by outcome**

	Resolved	Partially resolved	Assistance provided	Discontinued	Withdrawn	Not upheld	Total completed
An Post	12	0	30	29	3	11	85
Total	12	0	30	29	3	11	85

Annex B

Staff of the Office of the Ombudsman



Pat Whelan
Director General

Corporate Services



Liam Kelly
Shared Services Manager

Head of Corporate Services Unit (CSU)

Stephen Rafferty

CSU - Finance Section

Stephanie O'Connell

Raymond Butler

Karen Duff

Alan Perkins

CSU - Training & Development Unit

Fiona McCarney

Elizabeth Martin

CSU - Human Resources

Mary Byrne

Gary Kelly

Kathleen Smyth

Laura Stephens

Private Secretary

Catherine Rousset

Services Officers

Paul Burdis

Noel Monaghan

Communications & Research



David Glynn
Head of Communications & Research

Edmund McDaid
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Mary Pepper

IT Unit

Eoin Keaveny
Damien Egan
Paul Howe
Helena Molyneaux

Local Authority Section



Maureen Behan
Senior Investigator

Roisin Connolly
Tony Hayden
David Nutley
Anne O'Reilly
David Ryan
Bernard Traynor
James Hayes
Evelyn Hernon
Barry Meskill
Michael Bell
Chris Cogan
Rachel Duffy
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Siobhan O'Connor
Jean Sullivan

Social Welfare/Health Section



Fintan Butler
Senior Investigator



Bernadette McNally
Senior Investigator

Derek Charles
Emer Doyle
Patsy Fitzsimons
Matt Merrigan
Aoife Nic Réamoinn
Willie O'Doherty
Brendan O'Neill
Donal O'Sullivan
Geraldine Kelly
Paul Mallen
Lee Lundberg
Elaine Brady
Kellie Finnegan
Iris Kilbey
Brian McKeon
Kieran O'Neill
Sarah van der Mescht

Civil Service Section



Tom Morgan
Senior Investigator

Anne Boland
Rachel Dunn
Maurice Kiely
Aoibheann Ní Shúilleabháin
Richie Philpott
Brian Murphy
Sheila McCarthy
Elizabeth Culhane
Máire Ní Fhiacháin
Deborah Smyth

Annex C

List of Reports on systemic issues published by the Office of the Ombudsman in 2008 and in previous years.

Complaint in Relation to the Care and Treatment of a Patient in St Mary's Care Centre, Mullingar, Co. Westmeath - December 2008

A Digest of Complaints Referred to the Ombudsman by Public Representatives - October 2008

Waste Waiver Schemes Administered by Local Authorities - October 2008

Three complaints about the refusal of the Health Service Executive to pay Domiciliary Care Allowance - June 2008

Complaint Against the General Register Office - October 2007

Complaint Against Clare County Council Concerning its Handling of Planning Applications for Development at Doonbeg Golf Course - August 2007

Complaint Handling in Kildare County Council - June 2007

Complaint About an Application to Foster Three Sibling Children - June 2007

Complaints Against the Public Health Service - May 2006

Care of a Patient at Sligo General Hospital - July 2005

Redress for Taxpayers - November 2002

Tax Relief for Passengers with Disabilities - August 2001

Payment of Nursing Home Subventions by Health Boards - January 2001

Local Authority Housing Loans - Overpayments - June 2000

Lost Pension Arrears - June 1999

Provision of School Transport for a Child with Disabilities - February 1998

Non-Payment of Arrears of Contributory Pensions - March 1997

Annex D

About the Ombudsman

Who is the Ombudsman?

The Ombudsman is Emily O'Reilly.

The Office of the Ombudsman investigates complaints from people who feel they have been unfairly treated by certain public bodies. Our role is laid down in law by the Ombudsman Act 1980.

To investigate a complaint, we have the power to demand any information, document or file from a public body and require any official to give us information.

Our service is impartial, independent and free.

What public bodies can I complain about?

You **can** complain to us about:

- Government departments,
- local authorities,
- the Health Service Executive (HSE),
- agencies, such as charities and voluntary bodies, that deliver health and social services on behalf of the HSE,
- An Post, and
- all public bodies covered by the Disability Act 2005.

What public bodies can I not complain about?

You **cannot** complain to the Ombudsman about:

- the courts,
- An Garda Síochána,
- the Employment Appeals Tribunal or Labour Court,
- prisons,
- the defence forces,
- the Director of Consumer Affairs, or
- the Adoption Board.

What complaints can I make to the Ombudsman?

You **can** complain to us about a public body, if it:

- delays providing services,
- refuses to award a benefit or service,
- fails to provide a promised service,
- fails to follow approved procedures,
- causes communication difficulties,
- makes unfair decisions,
- gives misleading advice,
- is rude, or
- fails to correct mistakes.

Under the Ombudsman Act we examine all issues involving ‘maladministration’, which includes any action that:

- is taken without proper authority,
- is taken on irrelevant grounds,
- results from negligence or carelessness,
- is based on incorrect or incomplete information,
- discriminates improperly,
- is based on administrative practice that is not acceptable, or
- goes against fair or sound administration.

What can I not complain about?

You **cannot** make a complaint if:

- you have begun legal action relating to it,
- you have a right of appeal to the courts or to an independent appeal body, such as An Bord Pleanála,
- the action you complain about relates to national security,
- it relates to recruitment or terms and conditions of employment,
- it relates to the operation of the law on foreign nationals or naturalisation,
- it relates to the running of the prisons,
- it relates to the ‘reserved functions’ of local authorities, such as those carried out by elected representatives,
- it relates to the clinical judgement of doctors, or

- it relates to private companies or individuals or private practitioners such as dentists, opticians and pharmacists.

Who can complain?

Anyone can make a complaint. You can complain on your own behalf or for someone else if they ask you to. You can make a complaint as an individual or as a public representative, business or organisation.

How much does it cost to make a complaint and have it investigated?

Nothing, the service is free.

When should I complain?

Before you complain to us, you must try and solve your problem with the public body concerned. If they have an appeals process, please use this first. If this does not resolve the problem and you feel that the public body has not treated you fairly, then contact us.

Make your complaint as soon as possible. You should complain within 12 months of:

- the decision or action taken by the public body, or
- the date of the decision of their complaints or appeals process.

When you make a complaint, try to give us as much information as possible, including copies of any letters or e-mails and reference numbers.

How will the Office of the Ombudsman deal with my complaint?

We will first make sure that we can deal with your complaint. Then we may ask the public body concerned to send us a report. If we need to, we may examine their files and records and question officials. It can take time to gather the information that we need.

We will then decide whether:

- your complaint is valid, and
- you have suffered due to the action or decision of the public body.

If we decide that you have suffered, and the public body has not taken steps to put this right, we may recommend that it does so. We may ask the body to:

- review what it has done,
- change its decision and/or,
- offer you:
 - an explanation,
 - an apology, and/or
 - financial compensation.

In most cases, we handle the complaint in an informal way. We may discuss the problem directly with the public body or examine the relevant files. In more complex cases, we may need to carry out a detailed investigation.

How long will it take for the Ombudsman to deal with my complaint?

It is not possible to say exactly how long it will take. The time it takes us to reach a decision will vary from case to case, depending on how complicated it is. For example, it can take longer if we need to meet with officials from the public body concerned.

We will keep in touch with you to let you know what we are doing with your complaint and do our best to resolve it as quickly as possible.

Annex E

How we manage complaints

The Ombudsman Act 1980, provides that a complaint can be processed by my Office by means of a preliminary examination or an investigation. The vast bulk of complaints are dealt with by way of a preliminary examination, whereby it is possible to conclude cases, in a consensual manner, with the co-operation of the public bodies. I may decide to open an investigation in a particular case, if I see fit. I do so for any number of reasons but, most commonly, I decide to do so if I consider the case may have some merit but the public body simply does not accept this and no progress towards a resolution is in sight. I am also more likely to open an investigation if I feel there are broad systemic issues involved in the case, leading to potential wider benefits. It is only on completion of an investigation that I can make formal recommendations to a public body to resolve a complaint. If the response of the public body to any such recommendations is not, in my view, satisfactory I can lay a special report on the matter before the Houses of the Oireachtas, if I see fit. By their nature investigations demand more time and resources compared to preliminary examinations not only because they lead to the production of a detailed written report, but also due to the need to ensure that those who may be adversely criticised in the report are accorded their rights in full, with regard to fair procedures and the principles of natural justice. I normally decide to publish reports of investigations which involve matters of a systemic nature, and especially so where it might serve to improve public administration and service standards generally.



Annex F

How to contact the Office of the Ombudsman

How do I complain?

By phone:

LoCall: 1890 22 30 30

Tel: 01 639 5600

Fax: 01 639 5674

Online:

Email: ombudsman@ombudsman.gov.ie

Online complaint form: www.ombudsman.ie

In writing:

Office of the Ombudsman

18 Lower Leeson Street

Dublin 2

In person, at the office:

9.15am - 5.30pm (Mon - Thurs)

9.15am - 5.15pm (Friday only)

If you have a disability and need help to use our services, please ask for our Access Officer.

For outreach services, check our website.

Our purpose is to help raise public service standards. Individuals, businesses or organisations who feel they have been unfairly treated can make complaints to the Ombudsman. Our service is free. We aim to ensure that people are treated with dignity, respect and sensitivity when dealing with the public service. We will make every effort to deal with your complaint properly, fairly and impartially.

