

“ fairness ”

“ impartial & independent ”

“ complaint resolution ”

“ free service ”

“ redress ”



Oifig an Ombudsman  
Office of the Ombudsman

Annual Report 2010

## Ombudsman – Annual Report 2010

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Oifig an Ombudsman  
Office of the Ombudsman

**Annual Report 2010**

## Contents

### Report to both Houses of the Oireachtas

#### Chapter 1: Foreword and Introduction from the Ombudsman

1.1	Soaring numbers of complaints	11
1.2	Ombudsman (Amendment) Bill	12
1.3	Reform of government - the role of the Office of the Ombudsman	12
1.4	Reform starts at home - root and branch overhaul of complaint handling procedures	14
1.5	Spotlighting interesting complaints	16

#### Chapter 2: The Ombudsman's Business Review of 2010

2.1	Who Cares? Report - commentary	19
2.2	Complaints management	21
2.3	Disability - making our office more accessible	22
2.4	Notices issued to public bodies under Section 7 of the Ombudsman Act, 1980 - demanding information	24
2.5	Ombudsman meetings with dignitaries, officials, etc.	26
2.6	Conferences at home and abroad	27
2.7	British and Irish Ombudsman Association (BIOA) meetings	30
2.8	Public Sector Ombudsmen (PSO) network meetings - network of public sector Ombudsmen from Ireland and the United Kingdom	30
2.9	Health Service Ombudsmen Meetings - network of Health Service Ombudsmen and senior officials from Ireland and the United Kingdom	31
2.10	Other statutory functions of the Ombudsman	31
2.11	Annual energy efficiency report 2010	31

#### Chapter 3: Communications and Research

3.1	Investigation Reports and media releases	35
3.2	Outreach - visits to Citizens Information Centres (CICs), regional visits, and other outreach events undertaken in 2010	37
3.3	Website signposting	40

## Chapter 4: Social Services and Public Healthcare

### Section - Selected Cases

#### 4.1 Department of Social Protection

4.1.1	Department's decision on social welfare allowances reversed – arrears of €10,785 paid	43
4.1.2	€3,348 child benefit arrears paid by Department to Meath mother of disabled child	45
4.1.3	Decision of Department of Social Protection to refuse an application for full backdating of a disablement pension for a Garda injured on duty reversed – arrears of €11,178 paid	45
4.1.4	Separated wife gets decision refusing application for a one parent family payment reversed - €16,708 arrears paid	48
4.1.5	Department reverses decision to refuse child benefit on habitual residence condition grounds – arrears of €1,316 paid	50

#### 4.2 Health Service Executive

4.2.1	HSE refusal to backdate payment of domiciliary care allowance to mother of child with long-term illness reversed – arrears of €24,476 paid	51
4.2.2	Complaint about discharge procedures at St.Vincent's Hospital concerning a chronically ill homeless man (now deceased) from Bangladesh	52
4.2.3	HSE refuses timely dental treatment for Meath man with a medical card	55
4.2.4	Complaint by widow about care and treatment of her deceased husband by Beaumont Hospital – Ombudsman praises new procedures and information arrangements and welcomes hospital's apology to complainant	57
4.2.5	<i>Ex gratia</i> payment of €780 made by HSE to elderly couple who had medical cards wrongly withdrawn	60
4.2.6	HSE decision on mortgage interest supplement reversed – discretion clause used to pay for 12 months	60
4.2.7	Ombudsman congratulates HSE on its handling of the special care needs of a severely disabled young mother	62
4.2.8	Elderly patient at a hospital in the HSE South area advised to move to private nursing home after a leg amputation - €6,814 Nursing Home Subvention eventually paid by HSE toward costs following my finding that he was poorly advised	63
4.2.9	HSE refunds €8,000 in nursing home charges	65

## Chapter 5: Local Authorities Section – Selected Cases

5.1	Wicklow County Council refunds part of booking deposit to affordable housing scheme buyer. No such thing as “contingency fee”	67
5.2	Limerick County Council reverses decision not to grant waiver for refuse collection charges – couple discriminated against because they had a child	68
5.3	Complaint about second property €200 annual charge – how to measure 2km distance from principal residence	69
5.4	Couple should not be forced to live with parents – housing application accepted	70

## Chapter 6: Civil Service Section – Selected Case

6.1	<i>Ex gratia</i> payment of €22,073 made by former Department of Justice and Law Reform to Garda widow – emergency tax charged on pension for eight years	73
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## Annex: Statistics

Overview	77
Civil Service	80
Local Authorities	86
HSE	91
An Post	99

## List of Tables

### Overview

Table 1	Overview of 2010 complaints	77
Table 2	Numerical and percentage breakdown by sector of complaints within remit	77
Table 3	Numerical and percentage breakdown of complaints completed by outcome	78
Table 4	3-year comparison of complaints received within remit	78
Table 5	10-year trend of complaints received within remit	78
Table 6	Numerical breakdown of complaints received by county	79
Table 7	Numerical and percentage breakdown of types of complaint received outside remit	80

### Civil Service

Table 8	Numerical breakdown of complaints received by Government Departments, Revenue Commissioners and Land Registry	80
Tables 8(a)-8(l)	Numerical and percentage breakdown of types of complaint about Government Departments, Revenue Commissioners and Land Registry	81-84
Table 9	Numerical breakdown of complaints completed by outcome	84

### Local Authorities

Table 10	Numerical breakdown by local authority of complaints received	86
Table 11	Numerical breakdown of types of complaint received	87
Table 12	Numerical breakdown of complaints completed by outcome	88

### HSE

Table 13	Health Sector complaints - received in 2010 by area	90
Table 14	Health and social care complaints - received in 2010 by complaint category	91
Table 15	Other Health Sector complaints - received in 2010 by complaint category	93
Table 16	Health Sector complaints - closed in 2010 by area	94
Table 17	Health and social care cases - closed in 2010 by complaint category	95
Table 18	Other Health Sector complaints - closed in 2010 by complaint category	96
Table 19	Complaints under the Disability Act 2005 - received in 2010	97
Table 20	Complaints under the Disability Act 2005 - closed in 2010	98

### An Post

Table 21	Numerical breakdown of complaints received	98
Table 22	Numerical breakdown of complaints completed by outcome	98



## Report to both Houses of the Oireachtas

I hereby submit my eighth Annual Report to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act 1980. This is the 27th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

A handwritten signature in black ink that reads "Emily O'Reilly". The signature is fluid and cursive, with a long horizontal flourish at the bottom.

**Emily O'Reilly**

Ombudsman

June 2011





**Pat Whelan**  
Director General

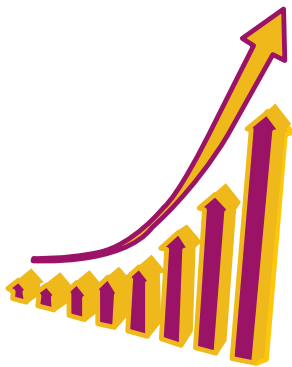
On 2 February last I sent a paper to all political parties and Oireachtas members entitled “Developing and Optimising the Role of the Ombudsman”

The Programme for a National Government, published in March last, took into account some of the suggestions in my document. Of particular note were the comments about extending the remit of the Ombudsman to all publicly funded bodies and the establishment of a new Oireachtas Committee - the Investigations, Oversight and Petitions Committee.

## Chapter 01

## Chapter I: Foreword and Introduction from the Ombudsman

### I.1 Soaring numbers of complaints



The highlight of 2010 is the large increase in the number of complaints made to me. The increased workload came as no surprise as it follows the pattern of recent years. In 2010 my Office received 3,727 valid complaints and 9,390 enquiries. This represents an increase of 30% in valid complaints received in 2010 over 2009. There was a slight reduction of 5% in enquiries, where we assisted, by redirecting people whose problem was outside of my jurisdiction, to the appropriate authority or mediation service. Given that 2009 was itself a

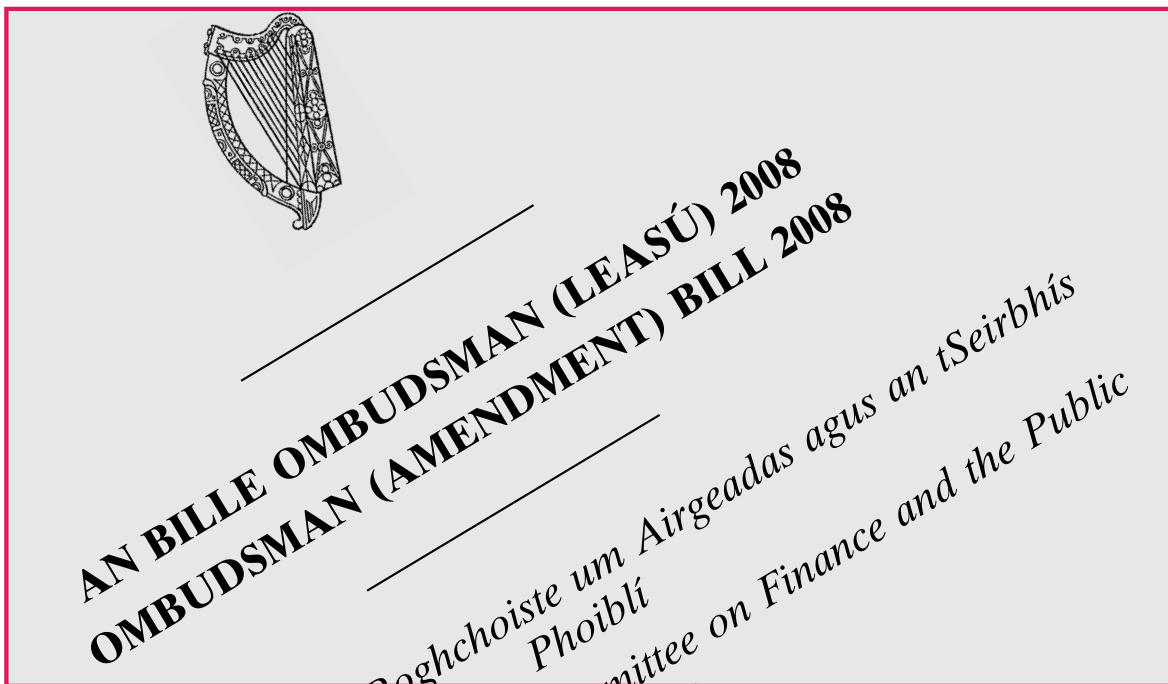
record year, the surge in the complaint numbers made in 2010 was both exceptional and challenging.

The fact that so many people felt the need to avail of the services of the Ombudsman by reaching out for our help, underlines the difficulty people continue to have in dealing with public bodies and the increasingly bureaucratic and complex administration of public policy and administrative actions. Not surprisingly, the brunt of the increase was experienced in the health and social services areas. But when people appeal to me to challenge a decision by a public body or to criticise it for acting poorly or failing to act appropriately, they deserve and receive an objective and impartial examination of their case.

If I find wrong-doing or maladministration, then I will uphold their complaint and recommend an appropriate remedy. If public bodies learn from their mistakes or poor judgement and put in place policies or new management guidance or adjusted systems so as to prevent a recurrence, that is genuine public service reform at work.

## 1.2 Ombudsman (Amendment) Bill

In my previous Annual Report, I mentioned that an Ombudsman (Amendment) Bill was before the Houses of the Oireachtas. Among other things, the Bill provided for an extension of my Office's remit to some ninety-five additional public bodies in the non-commercial State sector and the third level education sector. To my great disappointment, the Bill was not passed prior to the dissolution of the previous Dáil. The Bill was first mooted as far back as 1997 and the ongoing failure to deliver on this important extension to my Office's remit is, at the very least, an embarrassment to all concerned. That being said, I am heartened to note that the New Programme for a National Government (see below) includes a commitment to extend the remit of the Ombudsman to all publicly funded bodies.



## 1.3 Reform of government - the role of the Office of the Ombudsman

On 2 February last I sent a paper to all political parties and Oireachtas members entitled "Developing and Optimising the Role of the Ombudsman". This explained how I believed that the Ombudsman could play a fuller role in supporting the checks and balances required for good government. I detailed four specific proposals, which I felt would allow my Office to maximise its contribution to government reform and rebalance the relationship between the Ombudsman and the government so as to

further increase public confidence in the effective working of the Institution of the Ombudsman.

The proposals are:

- Constitutional status for the Office of the Ombudsman,
- An improved reporting relationship with the Oireachtas,
- Extension of the Ombudsman remit to include the prisons and all issues relating to immigration, refugees, asylum seekers and naturalisation, and
- More transparent procedures for Ombudsman appointment.

Most of the changes I have put forward for consideration will need new legislation, and little or no additional expenditure. In fact the changes proposed are likely to result in savings in other areas.

The Programme for a National Government, published in March last, took into account some of the suggestions in my document. Of particular note were the comments about extending the remit of the Ombudsman to all publicly funded bodies and the establishment of a new Oireachtas Committee - the Investigations, Oversight and Petitions Committee.

I have already made some suggestions to the Department of Finance relating to the practicalities of implementing the proposals to broaden my Office's remit. I am hopeful that early progress can be made in delivering on this commitment which I see as an essential component of the public service reform programme.

The Programme for Government, new Oireachtas Committee:

**We propose an Investigations, Oversight and Petitions Committee of the Oireachtas. It would be a powerful committee, constructed on the lines of the Public Accounts Committee, bi-partisan in structure and chaired by a senior member of the opposition.**

**The Committee would be the formal channel of consultation and collaboration between the Oireachtas and the Ombudsman, responsible for receiving and debating her annual and special reports and for ensuring that her criticisms and recommendations are acted upon. For that purpose, she would attend as a regular witness before the committee.**

**The Committee would receive parliamentary petitions from individuals and groups in the community seeking the redress of grievances connected with the public services of the State and with the public administration generally. Its functions would be to act as a "clearing house", directing complaints to those bodies most competent to act on them: the Ombudsman, the Data Protection Commissioner, the Local Government Auditor, the Oireachtas committee that has oversight of the relevant Department, and so on.**

I hope to have ongoing constructive engagement with the government and the relevant Ministers and their officials in relation to the Programme for Government as it affects my Office and, indeed, on our wider proposals for developing the Ombudsman role.



Irish Times, 21 May, 2010



Irish Examiner, 10 March, 2010

#### **1.4 Reform starts at home - root and branch overhaul of complaint handling procedures**

During 2010, the Office of the Ombudsman underwent a significant structural and process transformation - perhaps the most radical change management project since the Office was established in 1984.

The Office's Strategic Plan 2010-2012 identified improved and speedier complaint handling as central to the future success of the Office. It was drafted against the backdrop of Exchequer resource constraints, the requirements of the Public Service Agreement 2010-2014, the significant increase in the number of complaints to the Office and the proposed extension of the Ombudsman's remit.

One of the key objectives of the Strategic Plan is to ensure that the Office's structure, systems and processes properly support an organisation that is fit for purpose and delivers its services fairly, efficiently and effectively to its customers.

With this in mind, and with external assistance, the Office assessed its existing organisational structure and business processes and identified changes needed to ensure:

- optimal organisational arrangements, including structures, reporting relationships and responsibilities and resource requirements,
- optimal business processes,
- optimal management arrangements, including work practice agility and responsiveness to complainants and other clients, and
- optimal use of information technology to improve organisational and administrative efficiency.

This assessment got underway in October 2010 and the new structure and processes went “live” on 1 March, this year.

Fundamentally, the new structure and process signify a move away from what, heretofore, were specialised complaint handling units dedicated to particular sectors (e.g. government departments, local authorities, social welfare and health etc.). In its place we have put a more fluid model where these divisions have been removed and the organisation simplified to optimise complaint throughput; to increase flexibility and to allow rapid deployment of staff resources to deal with rising demand in any particular unit.

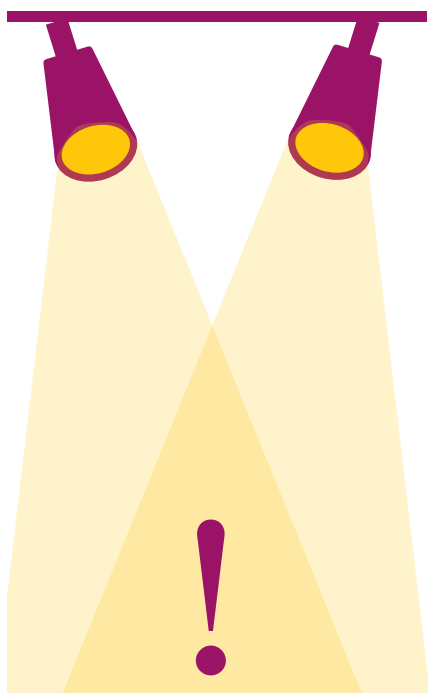
The Office now comprises three process units, enquiries, assessment and examinations. These units deal with all types of complaints, regardless of the public body complained of, and each unit’s primary purpose is to resolve each enquiry or complaint as early in the process as possible. A fourth unit, the investigations unit, deals with the more complex complaints which cannot be resolved informally. It also handles systemic investigations which address alleged patterns of bad practice which may be common to groups of complaints, or indeed, a number of public bodies. It is anticipated that, over time, the new arrangements will reduce considerably the amount of time and resources allocated to each complaint and, in turn, deliver quicker and more responsive complaint outcomes to our clients.

In addition, and bearing in mind the need to effect improved efficiencies across the public sector as a whole, the Office has asked for the assistance of all public bodies under its remit in providing relevant files and information to the Office within shorter time frames. The assistance of public bodies to date in this respect has been most welcome.

I wholeheartedly commend my management team and my staff for the “can-do” approach they adopted to designing and implementing the revised structure and

processes in such a short space of time. To their credit, they displayed great willingness to embrace very significant change and to work to bring about further improvements in the service we deliver to our clients.

## 1.5 Spotlighting interesting complaints



We continue to adapt to changed economic and social circumstances in our efforts to give the best possible service to an increasing number of complainants, within existing resources.


It is a long-standing practice for Ombudsman's Offices to spotlight in their Annual Reports cases of interest to the general public which resulted in good outcomes for complainants or led to systemic change in the manner in which public bodies deliver their services to the public.

While the detail of some cases can be heartbreaking to read, nevertheless, it is important to highlight instances where people have been treated unfairly or with a lack of dignity or respect – above all, so that lessons are learned.

For my 2010 Report I have selected 19 case studies, each of which may have meaning for people with similar problems and experiences. All of them, I would hope, clearly demonstrate the advantage of oversight and intervention by my Office.







In 2010 my Office received 3,727 valid complaints and 9,390 enquiries. This represents a rise of 30% in the number of valid complaints in 2010 over 2009 and a slight decrease of 5% in enquiries.

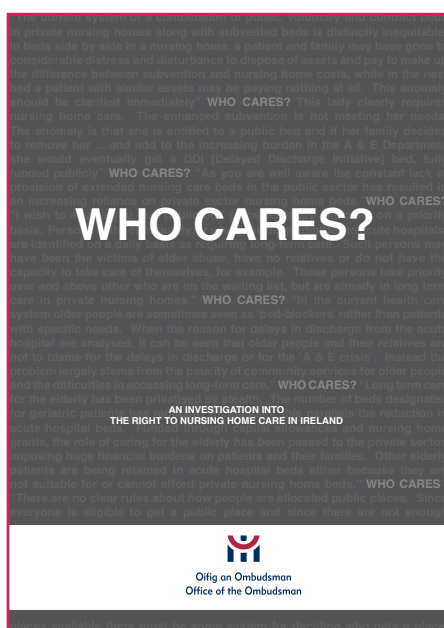
It is evident from the Annual Report statistics related to 2010, that a growing number of people are experiencing difficulties with particular aspects of public services. In particular, of note were issues about unemployment and benefits.



## Chapter 02

## Chapter 2: The Ombudsman’s Business Review of 2010

### 2.1 Who Cares? Report - Commentary



In November 2010 I laid before the Dáil and Seanad a report titled **'WHO CARES? - An Investigation into the right to nursing home care in Ireland.**

My Investigation Report was based on 1,200 complaints received by my Office over 25 years regarding the right to long-term nursing home care for older people. The consistent theme in these complaints is the failure of the then health boards (now the HSE) to provide for older people in public nursing homes, despite there being a legal right to be provided with such care, with the result that many had to avail of expensive private nursing home care. A related complaint theme is that such financial help, as was available towards the cost of private nursing home care, was inadequate.

My report looked at the rights of older people and the obligations of the then health boards in this care. The report also dealt with the role of the then Department of Health and Children which has been promising for many years to develop a new legislative framework for health service entitlement. Despite the Health Act 1970 providing in plain and unambiguous terms that a health board shall make in-patient services, including nursing home care, available, the Department has in recent years argued that this does not confer a right to in-patient services; it argues that while people may be “eligible” for this service, they are not “entitled” to it. I believe that this distinction has no validity and that people are entitled to be provided with in-patient (including nursing home) services.



Limerick Leader-County Edition,  
November 27, 2010



Irish Times, November 10, 2010

I concluded my investigation with a finding that the health boards failed to fulfil their obligations to older people under the Health Act 1970 and that this failure came about with the full knowledge and agreement of the Department. In light of the unprecedented financial and economic difficulties facing the country, I did not make a specific recommendation arising from this finding. However, I considered what might be done to assist those people who have suffered significant financial hardship in meeting nursing home costs and made a number of proposals including that the State acknowledge its failures in this area and that some thought be given to providing financial assistance to those who suffered such hardship.

## 2.2 Complaints management

In 2010 my Office received 3,727 valid complaints and 9,390 enquiries. This represents a rise of 30% in the number of valid complaints in 2010 over 2009 and a slight decrease of 5% in enquiries.

Complaints relating to:

- Civil Service - accounted for 45% of all complaints received
- Local Authorities - accounted for 26.3% of all complaints received
- HSE - accounted for 27% of all complaints received
- An Post - accounted for 1.6% of all complaints received

It is evident from the Annual Report statistics related to 2010, that a growing number of people are experiencing difficulties with particular aspects of public services. In particular, of note were issues about unemployment and benefits.

For example, the total number of valid complaints received in my Office in 2010 which related to the matters concerning the Department of Social Protection was 1,181. This compares to 772 complaints received in 2009 and represents an increase of 53% in 2010 over 2009. In comparing these figures more closely, I note that in 2009 the total number of complaints received in my Office concerning "Jobseeker's Allowance" was 115. However in 2010 the number of complaints received had soared to 272, an increase of 136%.

Similarly, the number of complaints relating to 'Illness Benefit' in 2009 was 38, compared to 63 complaints received in 2010, an increase of 66%.

Again, in 2010 the relatively low number of complaints received under the Disability Act 2005 is worth noting.

In my foreword, I alluded to the fact that 2010 was a record year for the receipt of complaints to my Office. As ever, the staff of my Office met this considerable challenge head-on and I am gratified by the professionalism and commitment shown by my staff in what has been for everyone a most demanding and difficult year.



### **2.3 Disability - making our office more accessible**

More than ever, we are all conscious of the accessibility requirements of people with disabilities and those with other mobility issues, and the need for public offices to facilitate those requirements.

My Office, in central Dublin, presented particular difficulties in terms of good accessibility. Its entrance on Lower Leeson Street is a Georgian façade, with a narrow footpath and a bus corridor directly outside the door. Having secured planning permission we were ready to start on the upgrade in 2010 and I am pleased that the Office of Public Works (OPW) also made the necessary funding available.

While we did have access facilities in place, we were not satisfied that they were good enough for a public office, or that they met best practice standards. The upgrade also means that everyone, including people with disabilities, will be able to use the front door and not have to be facilitated through a side entrance.

We were also mindful of the requirements under the Building Regulations that the public area of all public buildings be accessible to persons with disabilities. Under the Disability Act 2005 public offices must meet these standards by 31 December 2015. In co-operation with the OPW a suitable design was identified, which would ensure that both the front of our headquarters and the reception area would be accessible to visitors and staff alike.



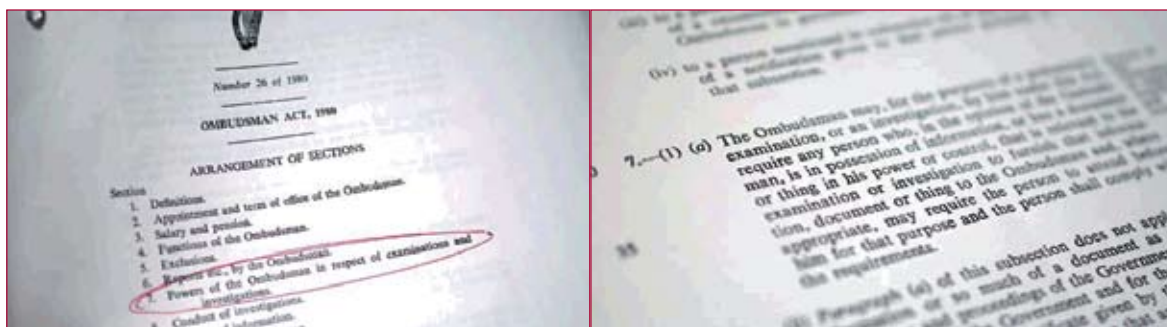
In recent years, various accessibility refinements have been carried out in the Office. For example, doors were automated to assist persons with ambulatory difficulties and induction loops were installed in the reception area and lower ground floor conference room.

The most recent works completed in 2010 involved:

- Installation of a ramp, from street level, fitted to the exterior of the building to enable people with mobility issues or wheelchair users to access the building via the front door;
- Moving and installing additional intercoms at the gate leading up to the ramp and at the front door for assistance purposes;
- Replacing the existing front steps with broader steps while also increasing the area of the top step to facilitate the rotation of a wheelchair and raising the surface of the step to match the threshold level of the front door;
- Placement of colour contrasted step nosing on both internal and external steps;
- Installation of an automated device to the front door, which now opens with light pressure, and
- Placement of a platform lift and handrail in the reception area.

The expertise offered by the staff of the OPW was critical in progressing the project and achieving the desired result, in a collaborative work effort with my Office. We very much appreciate their specialist assistance and guidance throughout this major modification programme.

## 2.4 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. The annual pattern of such notices over a ten-year period is as follows:

Year	Number of Section 7 notices issued
<b>2010</b>	<b>8</b>
2009	8
2008	7
2007	18
2006	18
2005	31
2004	6
2003	12
2002	16
2001	19

### One Section 7 notice was issued to HSE Dublin West in 2010.

- Report requested on the 21<sup>st</sup> January 2010 - correspondence not acknowledged.
- First reminder issued on the 19<sup>th</sup> February 2010 - correspondence acknowledged on the 24<sup>th</sup> February 2010.
- Final reminder issued on the 15<sup>th</sup> March 2010 - correspondence acknowledged on the 19<sup>th</sup> March 2010.
- Section 7 notice issued on the 12<sup>th</sup> May 2010.
- Report received on the 19<sup>th</sup> May 2010.



**One Section 7 notice was issued to HSE Dublin Mid-Leinster in 2010.**

- Report requested on the 2<sup>nd</sup> December 2009 - correspondence acknowledged on the 8<sup>th</sup> December 2009.
- First reminder issued on the 16<sup>th</sup> December 2009 - correspondence acknowledged on the 13<sup>th</sup> January 2010.
- Final reminder issued on the 11<sup>th</sup> January 2010 - correspondence acknowledged on the 13<sup>th</sup> March 2010.
- Section 7 notice issued on the 12<sup>th</sup> May 2010.
- Report received on the 19<sup>th</sup> May 2010.

**One Section 7 notice was issued to HSE Dublin South-East in 2010.**

- Report requested on the 22<sup>nd</sup> September 2009 - correspondence acknowledged on the 24<sup>th</sup> September 2009.
- First reminder issued on the 8<sup>th</sup> October 2009 - correspondence acknowledged on the 9<sup>th</sup> October 2009.
- Final reminder issued on the 19<sup>th</sup> October 2009 - correspondence acknowledged on the 21<sup>st</sup> October 2009.
- Section 7 notice issued on the 16<sup>th</sup> March 2010.
- Report received on the 24<sup>th</sup> March 2010.

**Two Section 7 notices were issued to HSE North-East in 2010.**

**HSE Dublin North-East (i)**

- Report requested on the 22<sup>nd</sup> December 2009 - correspondence acknowledged on the 23<sup>rd</sup> December 2009.
- First reminder issued on the 20<sup>th</sup> January 2010 - correspondence acknowledged on the 28<sup>th</sup> January 2010.
- Final reminder issued on the 23<sup>rd</sup> March 2010 - correspondence not acknowledged.
- Extension requested on the 29<sup>th</sup> March 2010 - extension granted to the 18<sup>th</sup> June 2010.
- Section 7 notice issued on the 21<sup>st</sup> June 2010.
- Report received on the 2<sup>nd</sup> July 2010.

**HSE Dublin North-East (ii)**

- Report requested on the 31<sup>st</sup> May 2010 - correspondence not acknowledged.
- First reminder issued on the 30<sup>th</sup> June 2010 - correspondence acknowledged on the 7<sup>th</sup> July 2010.
- Final reminder issued on the 14<sup>th</sup> October 2010 - correspondence not acknowledged.
- Section 7 notice issued on the 18<sup>th</sup> November 2010.
- Report received on the 30<sup>th</sup> November 2010.

### **Three Section 7 notices were issued to Galway County Council in 2010**

#### **Galway County Council (i)**

- Report requested on the 5<sup>th</sup> October 2009 - correspondence acknowledged on the 15<sup>th</sup> October 2009.
- First reminder issued on the 30<sup>th</sup> October 2009 - correspondence not acknowledged.
- Final reminder issued on the 22<sup>nd</sup> December 2009 - correspondence not acknowledged.
- Pre-Section 7 letter issued on the 27<sup>th</sup> January 2010 - correspondence acknowledged on the 2<sup>nd</sup> February 2010.
- Section 7 notice issued on the 11<sup>th</sup> February 2010.
- Report received on the 24<sup>th</sup> February 2010.

#### **Galway County Council (ii)**

- Report requested on 16<sup>th</sup> March 2010 - correspondence not acknowledged.
- First reminder issued on the 12<sup>th</sup> April 2010 - correspondence not acknowledged.
- Pre-Section 7 letter issued on the 5<sup>th</sup> May 2010 - correspondence not acknowledged.
- Section 7 notice issued on the 24<sup>th</sup> May 2010.
- Report received on the 31<sup>st</sup> May 2010.

#### **Galway County Council (iii)**

- Report requested on the 13<sup>th</sup> April 2010 - correspondence acknowledged on the 20<sup>th</sup> April 2010.
- First reminder issued on the 14<sup>th</sup> May 2010 - correspondence acknowledged on the 24<sup>th</sup> May 2010.
- Final reminder issued on the 31<sup>st</sup> May 2010 - correspondence not acknowledged.
- Pre-Section 7 letter issued on the 23<sup>rd</sup> June 2010 - correspondence not acknowledged.
- Section 7 notice issued on the 9<sup>th</sup> July 2010.
- Report received on the 23<sup>rd</sup> July 2010.

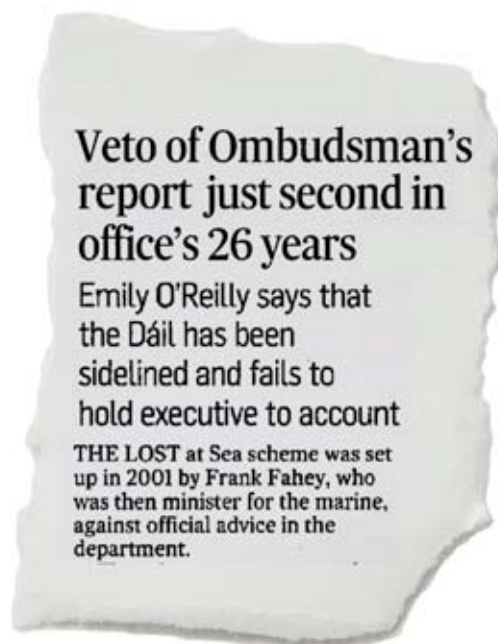
I was pleased that the number of notices issued in the period under review remained at a moderate level, although the need for my Office to issue any such notices should always be exceptional.

## **2.5 Ombudsman meetings with dignitaries, officials, etc.**

Meeting with Senator Jerry Buttimer - 28<sup>th</sup> January.

Meetings with cross-party representatives of Dáil Éireann regarding the Ombudsman's Special Investigation Report, 'Lost at Sea' - 2<sup>nd</sup> February.

Meeting with the Joint Oireachtas Committee on Agriculture, Fisheries and Food, following the submission to the Oireachtas by the Ombudsman of her Special Investigation Report – ‘Lost at Sea’ - 21<sup>st</sup> April.



Irish Times, March 10, 2010

Meeting with Mr. Giorgi Tugushi, Public Defender of Georgia - 23<sup>rd</sup> June.

Meeting with Ms. Salome Mbugua, Director of AkiDwA (National Network of African and Migrant Women in Ireland) - 6<sup>th</sup> July.

Meeting with Mr. Cathal Magee, Chief Executive Officer, Health Service Executive - 14<sup>th</sup> October.

Meeting with Dr Frank Dolphin, Chairman of the Health Service Executive - 27<sup>th</sup> October.

## 2.6 Conferences at home and abroad

The Ombudsman gave an address marking the 1st Anniversary of the Social and Legal Advice Centre - Polish Chaplaincy - 21st January, in Dublin.

The Ombudsman participated in a conference entitled "Human Rights Universal Principles and Regional Guarantees", organised by the French Republic's Médiateur, in collaboration with Pantheon Assas University in Paris and the John Hopkins University

## Ombudsman – Annual Report 2010

in Washington DC - 1st February, in Paris, France.

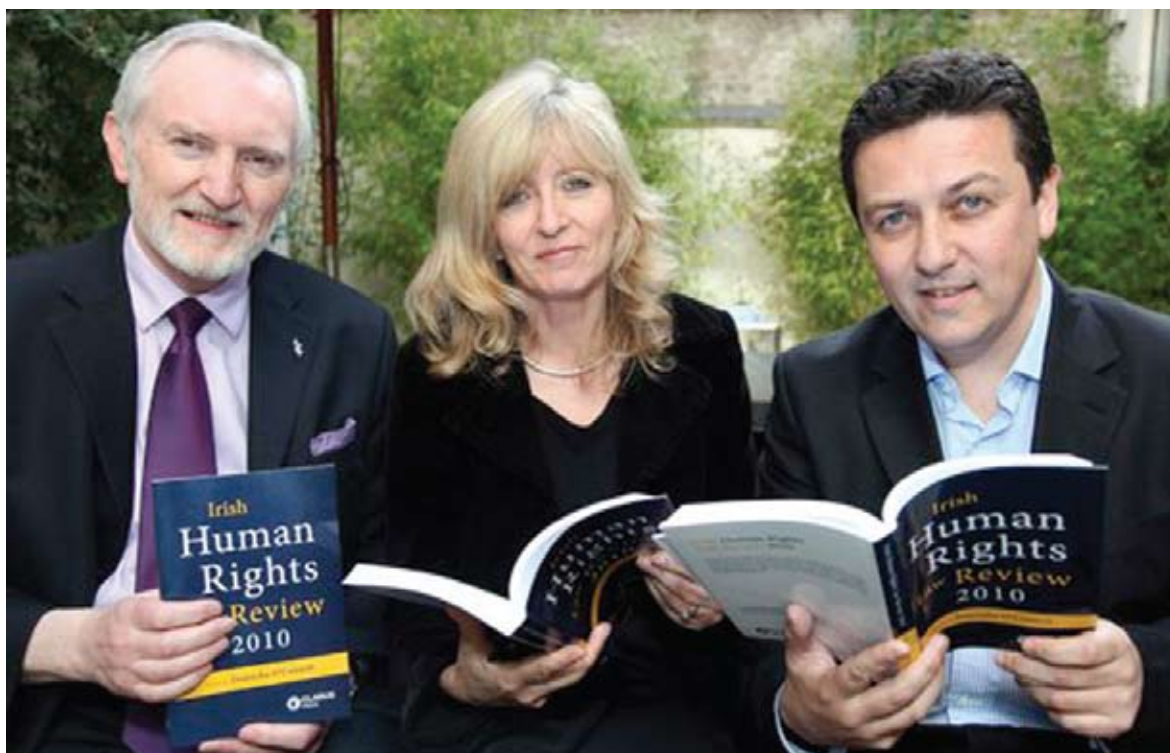
The Ombudsman gave an address, "In the Public Interest: Lessons from the Ombudsman's Experience", at the Institute of Public Administration, Good Governance Forum - 9th March, in Dublin.

The Ombudsman gave an address, "Challenge and Change in the Irish Public Service", a Public Affairs Ireland conference on 'Morale, motivation, transformation and service delivery in the public sector in 2010' - 24<sup>th</sup> March, in Dublin.

The Ombudsman gave an address at the launch of an Ombudsman information DVD and website presentation by Mr. John Moloney, TD, former Minister of State at the then Department of Health and Children, with responsibility for Mental Health and Disability - 30<sup>th</sup> March, National Disability Authority headquarters, in Dublin.

The Ombudsman chaired the annual British and Irish Ombudsman Association meeting - 13<sup>th</sup> & 14<sup>th</sup> May, in Cardiff, Wales.

The Ombudsman gave an address, "End of Life Care: From the Margins to the Mainstream", at the launch of the new quality standards for end-of-life care in hospitals, at the Irish Hospice Foundation, Friendly Hospitals Programme's Conference - 19<sup>th</sup> May, in Clontarf Castle, Dublin.



L-R: Michael Farrell, Emily O'Reilly, Donncha O'Connell. Photo: Derek Speirs.

Pictured at the event in Dublin on Thursday 20 May 2010, hosted by the Public Interest Law Alliance (PILA), a project of FLAC, when the Ombudsman, Emily O'Reilly, launched a new scholarly review, Irish Human Rights Law Review (IHRLR), to be published on an annual basis by Clarus Press.

The Ombudsman addressed a conference organised by the Civil Service Women Managers' Network - 20<sup>th</sup> May, in Dublin.

The Ombudsman gave an address on "Accountability", at the launch of the Amnesty International Annual Report 2009 - 27<sup>th</sup> May, in Dublin.

Launch of the Ombudsman Annual Report 2009 - 1<sup>st</sup> July, in Dublin.

The Ombudsman gave an address, "The Republic I want to see", at the 30<sup>th</sup> Annual MacGill Summer School & Arts Week - 20<sup>th</sup> July, in Glenties, Co. Donegal.

The Ombudsman gave an address, "Adverse Events in the Irish Healthcare System", at the School of Nursing and Midwifery and St. Luke's Hospital's one-day Seminar on "Leadership and Management in Healthcare" - 23<sup>rd</sup> September, in Trinity College, Dublin.

The Ombudsman attended the European Conference of the International Ombudsman Institute, hosted by the Ombudsman for Catalonia - 5<sup>th</sup> & 6<sup>th</sup> October, in Barcelona, Spain.

The Ombudsman gave an address, "The evidence of good care - Enhancing the patient care experience and outcome through quality", at the Adelaide & Meath & National Children's Hospital Annual Nursing Conference - 7<sup>th</sup> October, in Dublin.

The Ombudsman attended a meeting organised by the European Ombudsman and the Danish Ombudsman - 11<sup>th</sup> & 12<sup>th</sup> October, in Copenhagen, Denmark.

The Ombudsman gave an address, at a National Nursing & Midwifery Networking Event - 10<sup>th</sup> November, in Tullamore, Co. Offaly.

The Ombudsman attended a ceremony of awards of Certificate in Irish language, literature and history at the Irish Cultural Centre - 26<sup>th</sup> November, in Paris, France.

## 2.7 British and Irish Ombudsman Association (BIOA) meetings



In 2010, the Ombudsman attended the following BIOA meetings:

11<sup>th</sup> February, executive committee meeting, Dublin

15<sup>th</sup> April, executive committee meeting, Dublin

14<sup>th</sup> May, BIOA annual meeting, Cardiff, Wales

## 2.8 Public Sector Ombudsmen (PSO) Network Meetings – Ireland and the United Kingdom.

In 2010, the Ombudsman attended the following meetings of the PSO Network:

12<sup>th</sup> March, Public Sector Ombudsman meeting, Cardiff, Wales

23<sup>rd</sup> July, Public Sector Ombudsman meeting, London, England

5<sup>th</sup> Nov, Public Sector Ombudsman meeting, Dublin



## 2.9 Health Service Ombudsmen Meetings – from Ireland and the United Kingdom.

In 2010, the Ombudsman attended the following meetings of Health Service Ombudsmen:

26<sup>th</sup> March, London, England

29<sup>th</sup> Sept, Belfast, N. Ireland

## 2.10 Other statutory functions of the Ombudsman

Throughout the year the Ombudsman also attended meetings in her role as an *ex officio* member of the following bodies:

Standards in Public Office Commission, and

Commission for Public Service Appointments.

## 2.11 Annual Energy Efficiency Report 2010

**DIRECTIVE 2006/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 5 April 2006  
on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC  
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

In December 2009, the then Minister for Communications, Energy and Natural Resources, gave effect to Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006, and made the 'European Communities (Energy End-use Efficiency and Energy Services) Regulations 2009 (S.I. 542 of 2009)'. The Regulations require public sector organisations to report annually from January 2011 on their energy usage and actions taken to reduce consumption.

In 2010, the Office of Public Works (OPW) issued a tender on behalf of OPW-managed facilities (including the Office of the Ombudsman) for energy providers. On foot of the tender the Office of the Ombudsman switched gas and electricity suppliers in an attempt to reduce costs.

The successful tenderer has been nominated by the OPW to implement an energy conservation initiative across OPW-managed facilities. The aim of the initiative is to reduce energy usage by 20%.

The OPW will monitor utility bills to ensure the initiative achieves the required savings.

The energy conservation initiative consists of four stages.

- **Planning:** An audit of office energy systems ('building energy audit'), using a generic building plan. An after-hours audit to determine energy consumption during non-working hours will also be undertaken.
- **Operation:** Increase staff awareness of energy consumption and the methods of reduction. A general presentation will be made to all Ombudsman staff regarding how the Office will progress energy reduction. It is intended to launch an advertising campaign to highlight energy consumption and monthly reports will be delivered to all staff. The Office is also considering an awards scheme to encourage staff participation.
- **Communication:** The initiative includes regular meetings (every six weeks) with an appointed energy officer to consider issues which may arise and assess the ongoing monitoring of the Ombudsman office premises, located at 18 Lower Leeson Street, Dublin 2. This monitoring is provided by remote access. The gas and electricity feeds for the Office building are linked to a central computer which will record weekly and monthly energy consumption. Profiles of these recordings will be shown to an appointed energy officer in the Office.
- **Review:** To ensure continual improvement, this will be recognised at this time as a saving of 20% in CO<sub>2</sub> emissions, thus reducing the Office's energy bills.

Figures relating to the overview of energy usage in 2010 by the Office of the Ombudsman are as follows:


Electricity 143.30 MWH

Fossil Fuel (Gas) 71.33 MWH

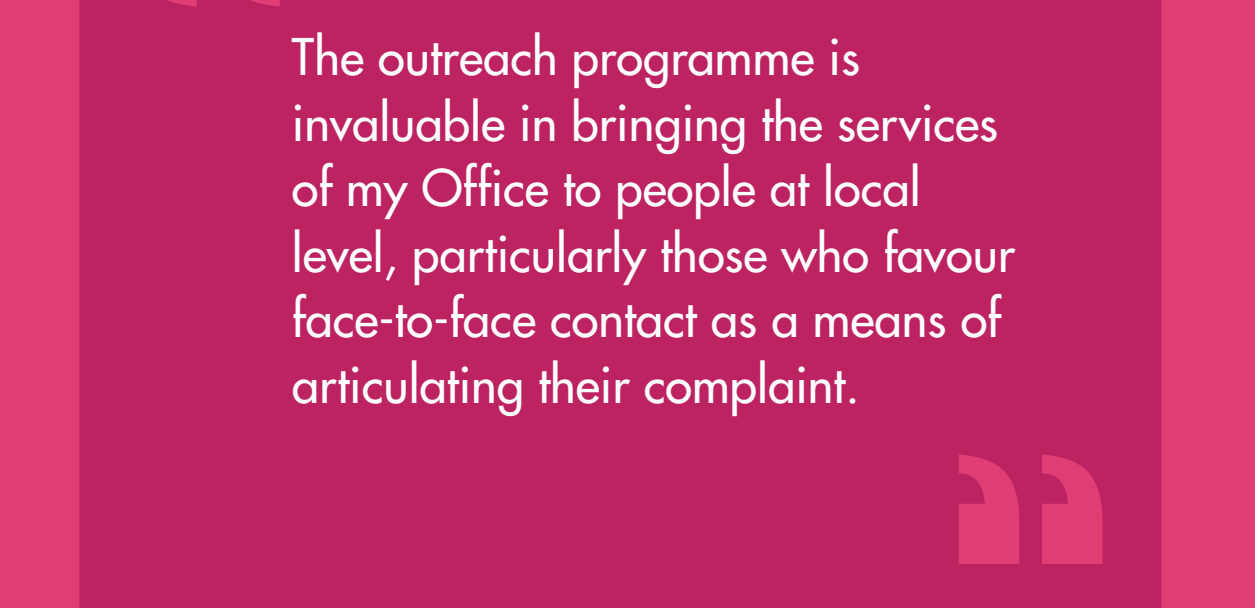
Further details about the scheme can be found on the website of Sustainable Energy Authority of Ireland at; [http://www.seai.ie/Your\\_Business/Public\\_Sector/drivers.html](http://www.seai.ie/Your_Business/Public_Sector/drivers.html)







The outreach programme is invaluable in bringing the services of my Office to people at local level, particularly those who favour face-to-face contact as a means of articulating their complaint.



## Chapter 03

## Chapter 3: Communications and Research

### 3.1 Investigation Reports and media releases

3<sup>rd</sup> February - The Ombudsman issued a media release to welcome the decision to hold a Dáil debate on the Special Report of her investigation into a complaint about the Lost at Sea Scheme.

9<sup>th</sup> March - The Ombudsman issued a media release concerning an address she gave at the Institute of Public Administration/Chartered Institute of Public Finance and Accounting Conference on “Good Governance: Values and Culture or Rules and Regulations”,



6<sup>th</sup> April - The Ombudsman published an Investigation Report into a complaint from a complainant from County Mayo against the Health Service Executive (HSE) and Mayo General Hospital.



22<sup>nd</sup> April - The Ombudsman published an Investigation Report about the imposition and collection of in-patient charges and the HSE.



1<sup>st</sup> July - The Ombudsman published and submitted her Annual Report 2009 to each House of the Oireachtas. The Ombudsman also issued a media release and held a press conference, following the publication of her Annual Report.



15<sup>th</sup> July - The Ombudsman published and submitted a Special Investigation Report titled, “Gagging the Ombudsman - aftermath of an Investigation by the Ombudsman of the Health Service Executive”, to each House of the Oireachtas. The Ombudsman also issued a media release, following the publication of the Special Investigation Report.



20<sup>th</sup> July - The Ombudsman published an Investigation Report on a complaint about planning enforcement made against Meath County Council. The Ombudsman also issued a media release, following the publication of the Investigation Report.

17<sup>th</sup> September - The Ombudsman issued a media release welcoming the HSE initiative to promote its customer service programme, “Your Service Your Say”.



28<sup>th</sup> September - The Ombudsman published three Investigation Reports into complaints she successfully settled involving the HSE, HSE West and the Department of Social and Family Affairs. The Ombudsman also issued a media release, following the publication of the reports.

15<sup>th</sup> October - The Ombudsman issued a media release in which she stated her position relating to queries from the media concerning reports that the Oireachtas Committee on Agriculture, Fisheries and Food had voted to reject her recommendation in the Lost at Sea Special Report

21<sup>st</sup> October - The Ombudsman issued a media release in which she expressed her disappointment at the outcome of the deliberations of the Oireachtas Committee on Agriculture, Fisheries and Food on the Lost at Sea Special Report.

9<sup>th</sup> November - The Ombudsman published and submitted a Special Investigation Report titled, “Who Cares?” - An Investigation into the Right to Nursing Home Care in Ireland, to each House of the Oireachtas. The Ombudsman also issued a media release, following the publication of the Special Report.

17<sup>th</sup> November - The Ombudsman issued a media release in which she clarified issues raised in a Dáil debate on her Special Investigation Report, ‘Who Cares?’ The media release also contained the Ombudsman’s response to criticisms by the then Minister for Health and Children both of the conduct of the Ombudsman’s investigation and of the content of the report.



13<sup>th</sup> December - The Ombudsman published an Investigation Report about a complaint against Limerick Regional Hospital concerning the care of a 61-year-old man. The Ombudsman also issued a media release, following the publication of the Investigation Report.

### **3.2 Outreach - Visits to Citizens Information Centres (CICs), regional visits, and other outreach events undertaken in 2010.**

In my Annual Report 2009, I mentioned that in 2010 the Office would initiate a review of our outreach programme with the focus on the optimum deployment of resources and value for money. A key aim of the review was to increase the capacity of the programme in bringing our service to members of the public in an effective, efficient and accessible manner. The review was very successful in achieving this aim. Figures below show increases in visitors and valid complaints in 2010 over 2009, in both CICs and regional visits.

The number of visitors to all the events in our outreach programme increased, notwithstanding, at times, the unpredictable weather which contributed to difficult travelling conditions for staff and visitors. As in any year, the range of complaint issues was varied. However, the number of social welfare related complaints taken at CICs increased by 107% over the 2009 figure. This is possibly connected to the rise in demand for social welfare services generally.

The outreach programme is invaluable in bringing the services of my Office to people at local level, particularly those who favour face-to-face contact as a means of articulating their complaint.

## Citizens Information Centres



Since the early '90s staff from the Office of the Ombudsman have been visiting Citizens Information Centres (C.I.C) to take complaints from members of the public. The first CIC to offer monthly Ombudsman services was Cork in 1992. Monthly CIC visits to Limerick and Galway commenced in 1993 and 1996 respectively. The monthly visits to Cork, Limerick and Galway continue to be as popular as ever with the residents of those areas.

In fact, the figures relating to the CIC visits over the past five years show that the level of demand has increased significantly in that time. For example, figures for 2006 and 2010 show the increase in valid complaints received in Cork CIC are up 200% over the period. Similarly, over this five-year interval, complaints in Limerick have increased by 144% and in Galway the increase is 204%. Statistics can be interpreted in many ways but there is no doubt that demand for the services of my Office through CIC visits has increased over the years and throughout 2010 there was no sign of a levelling-off in demand.

While the publication of my Annual Report gives me an opportunity to report on trends such as these, it also offers me the opportunity to thank all my staff (some of whom made the regular monthly journey from Dublin to a CIC in adverse winter weather conditions) to ensure that none of our monthly visits was interrupted or cancelled in 2010. I want to thank my staff for their professionalism and commitment to the CIC service in 2010. I also want to acknowledge the continuing strong support offered to my staff by the managers, staff and volunteers at the CICs in Cork, Limerick and Galway.

### **Cork CIC in 2010**

A total of 105 valid complaints were received through the CIC in 2010. This represents 23% of all new complaints received from Cork in 2010. In addition, the total number of complaints received through the CIC in Cork in 2010 increased by 81% over the 2009 figure.

### **Limerick CIC in 2010**

A total of 110 valid complaints were received through the CIC in 2010. This represents 45% of all new complaints received from Limerick in 2010. This total is up 12% from the 2009 total.

### **Galway CIC in 2010**

A total of 76 valid complaints were received through the CIC in 2010. This represents 37% of all new complaints received from Galway in 2010. The total number of complaints received via the CIC in Galway in 2010 increased by 69% over the 2009 figure.

### **Regional Visits in 2010**

In 2010 staff from my Office visited Cavan town, Castlebar and Kilkenny. In 2009 there was a disappointingly low number of visitors at the regional visits. However, my Office responded to the feedback from visitors in 2009 as to how we could broaden the reach of the visits and increase the number of people attending. I am glad to report a significant improvement in numbers of visitors for 2010. It is an indication of the success of these regional visits that the total numbers of complaints received from the one-day visits to Cavan and Castlebar in 2010 are greater than the total number of complaints received from those counties in all of 2009.

### **Ombudsman Regional Visits in 2010**

#### **Cavan – 16<sup>th</sup> September**

A total of 45 visitors attended the Cavan regional visit, which resulted in 34 valid new complaints to my Office. This represents 56% of all new complaints received from the County Cavan area in 2010.

#### **Castlebar – 30<sup>th</sup> September**

A total of 92 visitors attended the Castlebar regional visit, which resulted in 56 valid new complaints to my Office. This represents 47% of all new complaints received from the County Mayo area in 2010.

### Kilkenny – 14<sup>th</sup> October

A total of 41 visitors attended the Kilkenny regional visit, which resulted in 29 valid new complaints to my Office. This represents 45% of all new complaints received from the County Kilkenny area in 2010.

### Adult Education and Learning Exhibition 2010

The Adult Education and Learning Exhibition is organised by the Cork Adult Education Council and is held every year in Cork City. Staff from my Office participate in this very busy and successful three-day event, which primarily affords those attending an opportunity to receive advice and details on a range of adult education matters. Ombudsman staff maintain an information stand for the duration of the exhibition and are available to offer advice and assistance on the services of the Office to interested members of the public.

I would like to thank my staff for their participation in our outreach programmes during 2010. As ever, staff continue to represent the Office in a courteous, disciplined and professional manner.

### 3.3 Website signposting



“In support of our public awareness programme, it would be genuinely helpful to all members of the public if the websites of the departments and other public bodies within our remit had a proper link to the Ombudsman website.”

In both my 2008 and 2009 Annual Reports I mentioned that my Office had implemented an Integrated Strategic Communications Plan, a critical objective of which is to increase public awareness of the role of my Office and bring our service to as many people as possible.

In 2008, my Office completed a review of the websites of the relevant public bodies and found that some had no website linkages, inadequate linkages and/or incorrect Ombudsman contact details. Since then my Office had written on four separate occasions to those public bodies concerned and requested each one to make a clear




reference to the Office of the Ombudsman on its website. Included in the letters was a suggested website text, providing information and contact details about my Office.

The response to these letters from the majority of the public bodies was very positive and I am pleased to note that most public bodies have included a link to the Ombudsman website and up-to-date information and contact details. However, I am disappointed that having requested public bodies to provide their customers with a more detailed explanation of my Office's complaint resolution services, a number have not yet updated their websites.

The list of public bodies which do not show any information about the Office of the Ombudsman or continue to provide inaccurate or incomplete information can be viewed on the Ombudsman website at [www.ombudsman.ie/](http://www.ombudsman.ie/)

Given the drive towards public service reform, it is enlightening that a simple request to provide contact details for the Ombudsman's Office on a website is met with disinterest and lack of co-operation on the part of some public bodies. It also illustrates in concrete terms the difficulties members of the public may well have in their dealings with such public bodies, possibly leaving them with no option but to complain to my Office.

Feedback from Ombudsman complainants who participate in our customer surveys, suggest that a growing number of people are accessing the services of my Office through the internet. It is evident then that an important aspect of modern communications is the provision of up-to-date and accurate information, which not only informs the public about the services offered by public bodies but also about how to complain when things seem to have gone wrong.



The work of the Ombudsman centres on investigating individual complaints fairly and impartially, helping people and raising standards of public service.



## Chapter 04

## Chapter 4: Social Services and Public Healthcare Section - Selected Cases

### 4.1 Department of Social Protection



#### 4.1.1 Department's decision on social welfare allowances reversed – arrears of €10,785 paid

##### Background

A woman contacted my Office concerning a decision by the Department of Social Protection to assess the net yearly capital value of her husband's commercial property (which was for sale) as means in calculating their entitlement to jobseeker's allowance and qualified adult allowance. As the property was lying idle, her husband stayed there a few days a week for security reasons. The department therefore disregarded

the residential section of his property as his principal residence but assessed the commercial section of the property.

### **Investigation**

Her appeal against the department's decision was disallowed in March 2009. The appeals officer held that the commercial property had been offered for sale but that under social welfare legislation the capital value of property owned but not personally used or enjoyed is assessable as means, whether it is put to profitable use or not.

I submitted that this position would appear to be at odds with the governing legislation and, in particular, article 141 of Statutory Instrument (S.I.) 142/2007 which provides that, in the case of certain social assistance payments, means must be disregarded for up to 2 years in the case of any property which has been offered for sale and not just in the case of a claimant's home. In this case, the property has been on the market since December 2006.

### **Outcome**

In light of this, the Social Welfare Appeals Office reviewed its decision and found that an error in law had been made in relation to article 141 of S.I. 142/2007. It therefore revised the original decision and excluded the capital value of the property for the appropriate period. Arrears in the amount of €10,784.80 were issued shortly after.

The department subsequently informed my Office that the law has been changed in this regard from the end of April 2010 (S.I. 157 of 2010). This change allows only for the exclusion of capital value of a person's home from the assessment of means for social assistance purposes for a period of two years from the date on which it is offered for sale.

#### **4.1.2 €3,348 child benefit arrears paid by Department to Meath mother of disabled child**

##### **Background**

A woman from County Meath contacted me about arrears of child benefit which she believed she was entitled to receive in respect of her daughter for the period 1982 to 1994. The child had lived with her mother for the first 5 years of her life and child benefit had been paid to the mother during that time. However, after the girl, who was disabled, was admitted to residential care, no further child benefit payments were made.

##### **Investigation**

When I contacted the Department of Social Protection about this case it confirmed that the woman had not received child benefit for her daughter from at least 1984. It advised that, in order to establish if there was any entitlement to child benefit during the period in question, it required confirmation that the woman was contributing towards the cost of her daughter's maintenance while she was in residential care.

My Office sent the department copies of documentation that the woman had provided to me which showed that while her daughter was in residential care, she was required to support her by providing clothes, shoes and toiletries on a continuous basis.

##### **Outcome**

The department subsequently carried out further investigations, including contacting the woman directly, following which it decided that she had been entitled to receive child benefit for the period January 1982 to February 1994, when her daughter reached age 18. In total, the woman received arrears amounting to €3,347.92.

#### **4.1.3 Decision of Department of Social Protection to refuse an application for full backdating of a disablement pension for a Garda injured on duty reversed – arrears of €11,178 paid**

##### **Background**

An ex-Garda Síochána complained to me about his claim to the Department of Social Protection and subsequent appeal, for the backdating of his disablement pension claim to the date of an occupational accident in 1992, which had been refused.

A disablement pension may be paid to a person who has been injured at work or who has contracted a prescribed occupational disease. Payment is made either

by way of a lump sum or regular payment, depending on the assessed degree of disability. In most cases, when a person has an occupational accident, they are entitled to claim Occupational Injuries Benefit (OIB) which is paid for up to 26 weeks. After that, if the person has sustained any loss of physical or mental abilities because of the occupational accident, they can claim disablement pension.

In the case of members of An Garda Síochána, they are not entitled to receive payment of OIB, but they do receive a declaration that an occupational accident had occurred, and they are entitled to claim disablement pension after 26 weeks.

In this case, the Garda had an occupational accident in the course of his duties in September 1992. At that time he submitted a claim for OIB, although he was not entitled to receive payment, and he was given a written declaration, dated April 1993, confirming that he had had an occupational accident.

This declaration also advised him that if his injury resulted in any loss of physical or mental faculty, he might be entitled to disablement pension. When he contacted my Office, the complainant said that he had made enquiries to the department about his entitlement to a disablement pension after he received the declaration in 1993 but he had thought no more about it as he was still suffering from the serious injury he had sustained in the accident.

In 2006, he submitted a new claim for disablement pension, in respect of the accident in September 1992. He was awarded a pension for life, based on an assessed degree of disability of 19%. He subsequently made an appeal to the Social Welfare Appeals Office for the backdating of his disablement pension to the time of his accident. This appeal was disallowed.

### **Investigation**

As part of my examination of the complaint, I reviewed the department's files relating to both the OIB claim and the disablement pension claim. The disablement pension claim file did not contain any documentation which pre-dated the 2006 claim. This file, which had been referred to the appeals officer for consideration, contained a submission from the disablement benefit section of the department, which stated that there was no record of any previous application for disablement pension received.

The records relating to the complainant's appeal, which took place in 2009, showed that the appeals officer had focused on two issues. The first was on the question of whether it was reasonable for the man to assume from the declaration he had received in 1993 that disablement pension would be paid automatically following OIB

where such entitlement existed. The second was whether it was reasonable that a period of 14 years should elapse before the appellant followed up on the progress of his disablement pension claim.

On the first issue, the appeals officer gave the complainant the benefit of the doubt, in that, from the wording of the declaration, he may have assumed an automatic follow-up.

However, on the second issue, the appeals officer considered it unreasonable that he had waited a further 14 years before making enquiries as to the progress of such a claim. The appeals officer upheld the Department's earlier decision not to pay disablement pension retrospectively.

When I examined the OIB claim file I noted that it contained a letter dated March 1993 (exactly 6 months after the date of the accident), addressed to the department, signed by an Assistant Garda Commissioner and date stamped by An Garda Síochána, which supported the Garda's contention that he did attempt to apply for disablement pension at that time. This appeared to contradict the statement in the department's submission to the appeals officer that there was no record of any previous application for disablement pension.

### **Outcome**

I wrote to the appeals officer, drawing his attention to the letter from the Assistant Garda Commissioner contained in the OIB file and asked if the appeal decision might have been different had he been aware of it at the time he considered the appeal. In his reply, the appeals officer told me that, having reviewed the appeal in light of the new evidence I had brought to his attention (this new 'evidence' had been in the possession of the Department since 1993, but had not been sent to the appeals officer), he decided to revise his earlier decision. He allowed retrospective payment of disablement pension with effect from March 1993 (six months after the date of his accident).

The complainant was paid arrears of pension from then until December 2006 (from when the pension had already been paid) amounting to €9,143.45 and, in addition, he received a further payment of €2,035.53 as compensation for the loss of purchasing power on the retrospective pension entitlement.



Irish Examiner, September 29, 2010

#### **4.1.4 Separated wife gets decision refusing application for a one parent family payment reversed - €16,708 arrears paid**

##### **Background**

A woman from Dublin contacted my Office to complain that her claim for one parent family payment (OPFP) had been refused by the Department of Social Protection. OPFP is a payment for men and women who are bringing children up without the support of a partner:

To receive this payment a person must meet certain conditions and must satisfy a means test. They must also have attempted to get maintenance from the child's other parent (father or mother). In this case, the applicant had claimed OPFP in July 2008, after she and her husband separated. Her claim was refused on the grounds that she had failed to disclose her means, and that decision was subsequently upheld on appeal to the Social Welfare Appeals Office.

##### **Investigation**

In the course of the examination of this complaint, my Office examined the department's file on the claim which contained all of the information upon which



its decision was based. Records revealed that the contention that the woman had failed to disclose her means was largely based on the fact that during a particular period, over €3,500 had been paid into three separate loan accounts, whereas bank statements she had submitted to the department indicated that she could only have had €3,000 approximately available to her. Therefore, because it appeared that she had spent more than she could have had, the department came to the conclusion that she had income from another source which she did not disclose and her claim was refused.

The information on the department's file revealed that the three loan accounts in question were held in the joint names of the woman and her husband. During the course of the examination of the complaint, I noted from information held on the file relating to her OPFP claim, that her husband was, at the same time, in receipt of a means-tested payment from the department, and his means had been assessed as 'nil'. Therefore, I decided to examine the department's file relating to his claim to see how the payments into their jointly held accounts had been treated in the assessment of his means. The information in this file showed that, of the €3,500 that had been paid in to the loan accounts, €2,740 had been paid from a bank account in his sole name.

It appeared to me that, based on this information, which was already in the possession of the department, its conclusion that the woman appeared to have spent more than she could have had during the period in question, needed to be reviewed.

### **Outcome**

I wrote to the Appeals Officer who had upheld the original decision to refuse the woman's claim and asked him to review his decision in light of the information contained in both claim files.

The Appeals Officer subsequently wrote to me to say that, having examined the relevant bank statement on the husband's file, he agreed that the majority of the monies paid into the loan accounts had been made from his bank account. Accordingly, he revised his earlier decision and assessed the woman's weekly means, derived from part-time work and a small amount of maintenance, at €41.75 from July 2008 and €51.75 from July 2009.

As a result of this revised decision the woman was awarded OPFP with effect from the date of her application in July 2008 and she received arrears amounting to €16,708.80.

#### **4.1.5 Department reverses decision to refuse child benefit on habitual residence condition grounds – arrears of €1,316 paid**

##### **Background**

A young woman's legal representative approached my Office in relation to a decision of the Department of Social Protection to refuse his client's application for child benefit.

The woman had applied for child benefit for herself while she was living in self-catering accommodation for unaccompanied minor asylum seekers. However, her application had been refused on the grounds that she had not satisfied the habitual residence condition.

To qualify for a social assistance payment a person must be habitually resident in Ireland. The habitual residence condition was introduced on 1 May 2004. The woman's application was stamped as received by the department on 4 May 2004, which was the next working day.

##### **Investigation**

I asked the department to review its decision on the basis that the deadline for the commencement of the habitual residence condition may have been applied too rigidly when processing applications for child benefit which were marked as received within days of 1 May 2004.

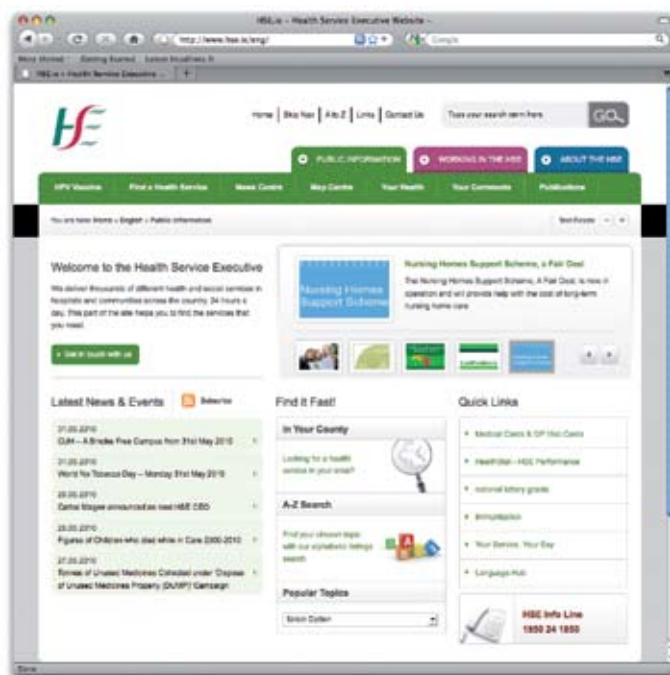
I also pointed out to the department that the woman was living in self-catering accommodation. She would therefore have been entitled to apply for child benefit in her own right, as head of her household, for the period she remained in such accommodation.

##### **Outcome**

Following its review, the department awarded her child benefit from the month following her arrival in Ireland to March 2005 when she turned 18 and left self-catering accommodation.

This resulted in the issuing of arrears for this period in the amount of €1,316.00.

## 4.2 Health Service Executive



### 4.2.1 HSE refusal to backdate payment of domiciliary care allowance to mother of child with long-term illness reversed – arrears of €24,476 paid

#### Background

A Citizens Information Centre (CIC) approached my Office on behalf of a woman about the decision of the Health Service Executive (HSE) to refuse to backdate the payment of domiciliary care allowance (DCA) to the date of the diagnosis of her child's medical condition in May 2000.

#### Investigation

In its initial response to me, the HSE said that its appeals officer refused to backdate the payment because a policy decision had been made to grant payment of DCA from the date of the application for the allowance or, in exceptional circumstances, from a date six months prior to that. It explained that this policy was set out in a circular, dated 31 October 2008, issued by the then Department of Health and Children.

However, I was aware that the department circular had been updated on 24 April 2009. This updated circular made provision for the backdating of the allowance (without any time limit) on a number of grounds including good cause, lack of knowledge, incorrect advice, incapacity, *force majeure* and financial hardship.

In addition, on examining the HSE's file, I noted that the senior medical officer recommended, on appeal, that the DCA payment be backdated to May 2000. However, the appeals officer, contrary to the senior medical officer's recommendation, (and guided by the earlier department circular) advised my complainant that the DCA could only be paid from 6 months prior to the date of application, namely, from July 2007.

My examination of the HSE's file found that the appeals officer's decision was not supported by any critical analysis of the issues. In addition, there was no record of the decision-making criteria which the officer used in formulating his decision to overrule the recommendation of the senior medical officer. Also, there was no documented reason to identify why he had overturned the medical advice to backdate the payment to the date of diagnosis.

Having reviewed the sequence of events in this case, I was not persuaded that the appeals officer had presented any compelling reasons to support his decision to overrule the medical opinion. In addition, it was clear to me that at no time since her son's diagnosis in May 2000 did anyone from the HSE ever inform my complainant that she might be entitled to a DCA, even though her son was issued with a long term illness card by the HSE in 2001. As Ombudsman, I have always stressed the principle that the HSE has a duty, where it is professionally involved in the assessment and management of children with a disability, to impart information about allowances for people with a disability in good time to the parents of such children.

### **Outcome**

I therefore asked the HSE to review its decision. In response, the HSE granted the DCA from May 2000, the date of diagnosis of the child's condition. This resulted in the payment of arrears of €24,476 being made to my complainant.

I also asked the HSE to review all other similar decisions made by the appeals officer. In response the HSE confirmed that one other appeal fell under the scope of this review and arrears of €2,406.20 were paid to another person.

### **4.2.2 Complaint about discharge procedures at St. Vincent's Hospital concerning a chronically ill homeless man (now deceased) from Bangladesh**

#### **Background**

I received a complaint from Cairde (a community development organisation working to reduce health inequalities among minority ethnic communities) on behalf of the family of a man from Bangladesh who had lived in Ireland for seven years prior to his death in 2008. The man, aged 45 years, was homeless and suffered from serious health

problems including diabetes, TB, heart disease, and chronic hepatitis B with cirrhosis of the liver. He had been attending the Liver Transplant Unit at St Vincent's Hospital, Dublin where it had been determined that he was unfit for a liver transplant. He had been admitted to St Vincent's Hospital on two occasions during 2008. On the second occasion he was discharged by taxi to the Asylum Seekers Unit in Upper Gardiner Street, where he was given some money to source accommodation for himself, as they had none readily available.

The complaint was that he should not have been discharged in this manner as he had difficulty walking and was unable to take care of himself or to physically seek accommodation for himself. Following his discharge from hospital, he slept on the floor of a friend's house. He was admitted to another Dublin hospital the next day where he died three weeks later from his deteriorating chronic medical condition.

### **Investigation**

My staff met with the medical, nursing and social work team in St Vincent's Hospital to explore the issues raised in this case. The hospital said that the man had failed to attend appointments and that his condition could have been managed successfully had he complied with advice given to him in terms of taking his medication, restricting his diet and attending the clinics regularly.

Cairde held the view that he was not made aware fully of his condition or may not have understood what he had been told, because of his poor understanding of the English language. The hospital said that they had spoken on several occasions to the man about the seriousness of his condition and had involved other medical staff and a nurse who spoke his language.

These critical conversations had not been documented however, so I could not establish what the man had been told or whether he had understood the information given to him.

It is important for hospital staff to provide clear and unambiguous information to patients about their prognosis and treatment. In this regard, I raised the issue with the hospital of providing interpreters and it acknowledged that it should have recorded in the patient's chart the occasions when an interpreter was used on the ward. It assured me that staff members were now briefed about the need to document such conversations. It also said that it had, since this complaint, introduced and developed a language interpretation policy to ensure effective communication with patients of non-English-speaking backgrounds or with hearing disabilities.

In terms of patient compliance, the hospital responded that greater emphasis, through staff training, was now being placed on good communication and clarification of patient need, diagnosis, treatment and prognosis.

As mentioned earlier, on his discharge, the man had been sent by taxi from St Vincent's Hospital to the Asylum Seekers Unit in Upper Gardiner Street, Dublin. I was concerned about the discharge arrangements for this homeless man whom, I felt, would have been particularly vulnerable given his chronic medical condition and the fact that his immediate family lived in Bangladesh.

### **Outcome**

I asked St Vincent's Hospital to review the discharge arrangements and examine why the possibility of a nursing home or convalescent care had not been considered at the time.

The social work team said that it worked hard to ensure that patients were discharged to suitable facilities and it told me that it had met with the community welfare services, on foot of this complaint, to establish what accommodation was available for homeless people who may need access to medical services.

The hospital accepted that the protocol for discharging vulnerable patients, whether young or old and irrespective of their communication abilities, needed to be re-evaluated in light of this man's experience.

It said that it had identified a number of opportunities for learning as a result of this complaint and that it was committed to implementing improvements through better use of interpreters for non-English-speaking patients, greater use of advocacy services and a new evaluation of the discharge protocols for all vulnerable patients irrespective of their age and communication ability.



Irish Times March 25, 2010

### **4.2.3 HSE refuses timely dental treatment for Meath man with a medical card**

#### **Background**

A man from County Meath who holds a medical card complained to me that the Health Service Executive (HSE) refused to provide him with timely dental treatment which his dentist said was necessary.

In 2010 the level of treatment available to medical card holders under the Dental Treatment Services Scheme (DTSS) was reduced by the HSE as a result of a decision taken in Budget 2010. Consequently, the man was told that the HSE would only cover the cost of two of the fillings he required despite being told by his dentist that he needed four fillings. Additional fillings are allowed under the DTSS only in approved emergency circumstances. Following an assessment by the HSE the man was told that he did not meet the HSE's criteria for emergency treatment.

The reason provided by the HSE for placing limitations on the availability of dental treatment under the DTSS is the result of its decision to prioritise emergency dental care for medical card holders within limited resources. The objective of the decision, according to the HSE, is to best protect the interests of the public within the available budget at a time of severe strain on public finances.

### Investigation

The case hinged on the interpretation of the relevant legislation relating to the provision of dental services to eligible persons, i.e. Section 67 of the Health Act, 1970. I put it to the HSE that it was failing in its statutory duty to provide this man with necessary dental treatment. The HSE considers that the Act does not prescribe the level of services it must provide. I disagree with the HSE's interpretation and believe that the HSE has a statutory obligation to provide this man, and others who are eligible, with necessary dental treatment.

The man became eligible to avail of further treatment in 2011 when his annual entitlement started again. However, the full dental treatment he required was not available when needed by him and the DTSS continues to provide limited treatment to medical card holders.

This case has similarities with my recent Special investigation into the right to nursing home care "Who Cares?", where the then Department of Health and Children took the view that the extent of the services it must legally provide is subject to the availability of resources. The case again highlights the difficulties caused by the uncertainty surrounding the interpretation of the Health Act, 1970. While I acknowledge the economic downturn and the difficulty it presents for budgeting and delivery of services by the public sector, my key concern is that the law should be clear.

### Outcome

Where resources to meet statutory requirements are not available, I believe that the approach should be to recognise the difficulty and to seek to have the law amended to reflect practice and the reality. Regrettably, the HSE and the then Department of Health and Children did not share my view. I believe the type of circumstances presented in this case will continue to emerge until we get the necessary legislative clarity; otherwise valuable public resources will continue to be expended in disputing the provisions of the law as it stands. This case is a sad reflection on a system where a person with decaying teeth who has no resources to fund private treatment, has to put up with decaying teeth until his annual entitlements recommence.



## HSE told to pay €57,000 for nursing home delay

A DELAY of eight years in finding an elderly woman a public bed in a nursing home was mainly down to careless staff at the Health Service Executive (HSE), the Ombudsman ruled yesterday.

Metro Herald, September 29, 2010

## Gag claim by Ombudsman

OMBUDSMAN Emily O'Reilly has accused the HSE of trying to gag her office following her investigation into complaints over guardians' fees in 2008.

Irish Daily Star, July 16, 2010

### 4.2.4 Complaint by widow about care and treatment of her deceased husband by Beaumont Hospital – Ombudsman praises new procedures and information arrangements and welcomes hospital's apology to complainant

"I was pleased with the positive response of Beaumont Hospital and its administration and medical staff, the Irish Hospice Foundation and the HSE."

#### Background

I received a complaint from a woman whose husband died unexpectedly at Beaumont Hospital, Dublin having been diagnosed and treated for cancer (multiple myeloma) in 2008. She complained about a range of care and treatment issues all of which were addressed by my Office with hospital staff.

However, a number of key issues remained unresolved to her satisfaction, namely, the lack of support for the family following the man's death, together with the manner in which the family themselves had to ask for a priest to be called to administer the last rites following his death. She also had concerns about the fact that no hospital post-mortem was offered or conducted to establish the cause of his sudden death.

The woman said that no information was given to her about a “hospital post-mortem”, in the event that the coroner did not consider a “coroner’s post-mortem” to be necessary.

### Investigation

My staff met with representatives from Beaumont Hospital to discuss these issues. The hospital agreed to review the issues involved and to bring them to the attention of the appropriate committees and staff within the hospital.

The hospital accepted that the complaint had highlighted weaknesses within its administration and particularly in relation to the quality of standards around end-of-life care. The hospital said that at the time of the man’s death, the ward was extremely busy with other seriously ill patients, and that nursing staff, while aware of the protocol for caring for deceased patients, were delayed in contacting the priest on-call as they were attending to the needs of another patient.

The priest on-call had ultimately been contacted and administered the last rites, but I considered that this should have happened automatically when the family made the request rather than being left to them to pursue.

### Outcome

The hospital apologised to the family for the considerable distress and upset caused to them, which I very much welcome. The hospital told me that, in conjunction with the hospice friendly hospital programme, it was continuously striving to improve the quality of services for patients and their families and to make end-of-life care central to the work of the hospital. It acknowledged that on-going training was required for hospital staff so that they are aware of the need to deal with relatives at the time of death with compassion and empathy.

Since the man’s death, the hospital’s hospice friendly hospital death and bereavement committee have circulated information leaflets for bereaved families which provides helpful information and contact numbers. One of the reasons I am publicising this case is because I believe it is crucial that all staff within the acute hospital sector are fully trained and comply with best practice standards with end-of-life care.

In relation to the post-mortem, I was told that although the man’s death was sudden, it had occurred after a prolonged and terminal illness and did not fit the criteria for a “coroner’s post-mortem”. However, in a letter to the complainant, the medical consultant involved apologised for the fact that a “hospital post-mortem” had not been requested in respect of her late husband as it would have helped to establish the reason why his cardiac function deteriorated so quickly.

The hospital accepted that communication should have taken place with the family, at that time, regarding the option of a hospital post-mortem. Beaumont Hospital undertook to review and amend the current guidelines for medical doctors following the death of a patient to include guidelines for speaking to families in relation to the options for a house post-mortem.

I felt however, as did the complainant, that written information should be available for recently bereaved families who might wish to request a hospital post-mortem. I subsequently contacted the Irish Hospice Foundation about the lack of accessibility for families to information about post-mortems. I was delighted that the Foundation, through its hospice friendly hospital programme, agreed to incorporate reference to the issue of advising relatives of their options in its information booklet on post-mortems. I was also pleased that, following contact with the Health Service Executive (HSE), it also agreed to include information on this topic in information literature which will be circulated nationwide.



Limerick Leader, December 18, 2010

I was pleased with the positive response of Beaumont Hospital and its administration and medical staff, the Irish Hospice Foundation and the HSE.

#### **4.2.5 Ex gratia payment of €780 made by HSE to elderly couple who had medical cards wrongly withdrawn**

##### **Background**

A man from County Limerick approached my Office in relation to a decision of the Health Service Executive (HSE) to withdraw both his and his wife's medical cards. The couple had previously held an automatic entitlement to a medical card as they were over 70 years of age. However, following a change in law which withdrew this automatic entitlement, the couple were asked to complete a declaration if their gross income was in excess of the income limit of €1,400 per week.

Notwithstanding the fact that the couple advised the HSE that, although their previous year's income was in excess of this limit, their current income was below the limit, their medical cards were withdrawn. There was no evidence of a financial assessment having been carried out to support the HSE decision.

##### **Investigation**

According to Section 7 of the Health Act 2008 and the medical card national assessment guidelines for persons aged 70 years and over, eligibility for a medical card for existing medical card holders aged 70 years or over will continue, unless they notify the HSE that their gross income is in excess of the relevant income limits. The couple did not notify the HSE that their gross joint income was in excess of the income limits, but instead stated that their income for the current year would be well below the income limit.

While the HSE subsequently re-issued medical cards to the couple, I took the view that the decision to remove their eligibility for a medical card in the first place appeared to have been taken on irrelevant grounds and contrary to both the governing legislation and the HSE's own guidelines on the issue.

##### **Outcome**

In response, the HSE agreed to make an *ex gratia* payment of €780 to the couple in order to recompense them for any medical expenses incurred by them which would have been covered by a medical card during the period that they were without the cards.

#### **4.2.6 HSE decision on mortgage interest supplement reversed – discretion clause used to pay for 12 months**

##### **Background**

A public representative approached my Office on behalf of a woman who had been refused mortgage interest supplement by the Health Service Executive (HSE). The refusal

was on the basis that the amount which could be approved (taking account of her financial circumstances) was €44.87 per week which would not address the amount of interest payable.

The HSE referred to article 10(2)(a) of Statutory Instrument 412 of 2007 as the legislative basis for this decision and submitted that the interest payable in this case exceeded the amount that the HSE considered reasonable to meet the residential and other needs of the family.

### **Investigation**

I submitted that, according to the relevant legislative provisions and the accompanying guidelines issued by the then Department of Social and Family Affairs in September 2009, it is clear that claims for mortgage interest supplement should not be refused solely on the basis that the amount of interest exceeds the appropriate maximum rent limit.

In such cases, regard should be had to the family circumstances/composition, the average cost of purchase of accommodation appropriate to the family circumstances at the time of purchase of the residence in question and the amount of interest currently chargeable.

I also submitted that article 10(3)(a) of Statutory Instrument 412 of 2007 provides for an element of discretion to award mortgage interest supplement for a period of 12 months even where the amount of mortgage interest payable exceeds such amount as the HSE considers reasonable.

I looked at the accompanying guidelines outlining the circumstances where a decision is made that the amount of interest payable exceeds such amount as is reasonable to meet the claimant's residential needs (as in this case). I found that consideration must always be given, before a final decision is made on the claim, as to whether the discretion provided for under Article 10(3)(a) should be exercised. From my examination, it did not appear that such consideration was given in this particular case.

### **Outcome**

In response, the HSE agreed to review its decision in this case and subsequently approved payment of a mortgage interest supplement for a 12 month period from the date of application.

#### **4.2.7 Ombudsman congratulates HSE on its handling of the special care needs of a severely disabled young mother**

##### **Background**

A young mother, who has a severe physical disability and is immobile as a result of a car accident, accessed the services of my Office through our outreach programme, when my Office held a provincial open day to facilitate non-Dublin based complainants.

Along with her former partner, she was co-parenting her son who was then four years old. The Health Service Executive (HSE) had been hugely supportive of the family and a care package was in place. However, her complaint was about the provision of a personal assistant and the failure of the personal assistant service to provide for her parenting needs.

Through its personal support service, the HSE funds personal assistants for adults who need help with the activities of daily living, whether at home, at work, or socially. Assistance could be in diverse areas such as assistance with travel or with personal care. The HSE has contracts of service with organisations, usually within the voluntary sector, who provide and train the personal assistants. While the person in receipt of assistance directs the service provided to them, the voluntary organisation is paid by the HSE and provides all relevant formal training.

##### **Investigation**

The complainant told my Office that the personal assistant service being provided to her at the time of her complaint (September 2009), did not provide for the most important aspect of her daily living: the parenting of her son. The service involved said it was an adult service and could not work with her son. Whereas it assisted with driving the complainant to do shopping and other tasks, the personal assistant would not drive her to collect her young son from school. The reason was that on legal advice, the service said it was not insured to do so.

In September 2009, it was agreed that the HSE would contract another voluntary group to provide 8 hours parenting support, including assisting her to collect her son from primary school which he had just started. In November 2009, this service had not commenced as the voluntary organisation did not have suitably trained staff to drive her car and operate the equipment for her wheelchair.

##### **Outcome**

My Office put it to the HSE that the voluntary services identified did not appear to have the capacity to meet the complainant's particular needs, and that her parenting

role was an essential part of her daily living activities, which had to be provided for. The HSE responded very positively. A service provider already working in the healthcare area, who could provide for all of the woman's needs, including activities involving her son, was identified and contracted to work with her.

While there was a delay with regard to the provision of a personal assistance service which could assist the woman in her parenting role, the HSE dealt with the issues as they emerged and when the local voluntary organisations did not have the capacity to deliver they made an appropriate alternative arrangement. Because of this, I found no grounds on which to uphold a complaint against the HSE under the Ombudsman Act 1980, and I congratulated the HSE on its flexible approach in dealing with this complex case.

#### **4.2.8 Elderly patient at a hospital in the HSE South area advised to move to private nursing home after a leg amputation - €6,814 Nursing Home Subvention eventually paid by HSE toward costs following my finding that he was poorly advised**

##### **Background**

I received a complaint from a patient advocacy organisation on behalf of an elderly man who had been admitted to a general hospital within the HSE South area, where he underwent surgery to have his left leg amputated below the knee.

Three weeks later, while recuperating in hospital, he was advised that he would have to be discharged, as there were no public beds available for him in a public nursing home. He was told that he would have to go into a private nursing home pending the availability of a place for him in the National Rehabilitation Hospital, Dún Laoghaire. He was assured by the staff that he would have to stay in the private nursing home for six weeks only. On this basis he agreed to move to the private nursing home.

However, it was almost 23 weeks before he was ready to leave the private nursing home. In the meantime, he paid €15,930 towards the cost of his care in the private nursing home.

##### **Investigation**

When I took up the matter with the HSE, it said that the general hospital had no access to community support beds or step down facilities. It pointed out that, following a discussion with the patient, he agreed to transfer to a private nursing home for six weeks. The HSE told me that all costs were fully explained to him.

I was not entirely satisfied with the HSE's position. Accordingly, one of my investigators visited the complainant. Following this meeting, my Office entered into detailed correspondence on the matter with the HSE.

I was of the view that, as a medical card holder at the time of his discharge from the hospital, my complainant had a statutory entitlement to in-patient care, including nursing home care. However, it appears that he was persuaded by hospital staff to go to a private nursing home on the clear understanding that he would be there for six weeks only.

My understanding is that people recover from amputations very differently depending on factors such as their general health, their level of healing and the presence or otherwise of infection. It may very well be that six weeks is the average time taken to heal before a patient can be fitted with a prosthesis.

However, healing is not an exact science. As my complainant had diabetes, heart and renal problems, there was a possibility that these conditions could potentially pose a risk to his healing. I believe that in the circumstances, it was unreasonable that what seemed almost like a guarantee, was given to the patient about a six-week stay. I feel that the patient could have been given information to suggest that a six-week stay was probable, but the possibility of a longer stay being needed should also have been explained to him before he agreed to go the private nursing home. In addition, the HSE told me that because the man owned a farm, the hospital did not advise him to apply for a nursing home subvention to cover some of the cost of the private nursing home fee.

I concluded that, regardless as to whether the patient had a farm or not, given that he was a 71-year-old single man, with a medical card, on limited means, living alone, in poor housing facilities and with no immediate family and a limited social support network, the hospital had a duty to advise him of his entitlement to apply for the subvention. It appears that the hospital unilaterally decided not to advise the patient of his rights in this regard.

### **Outcome**

Having regard to the manner, level and content of the communication with the patient prior to his discharge from the HSE South hospital and the fact that he was not advised of his entitlement to apply for a nursing home subvention, I asked the HSE to review the handling of the case.

In response, the hospital agreed to introduce a policy on patient advocates. The HSE also processed an application for a nursing home subvention and awarded my complainant a payment in the sum of €6,814.26.



This figure was based on the maximum subvention available and covered the time my complainant was a resident in the private nursing home. I was satisfied with the outcome of the complaint. I am pleased to say that the patients advocacy organisation and the complainant were happy too.

#### **4.2.9 HSE refunds €8,000 in nursing home charges**

##### **Background**

A woman from Dublin contacted my Office regarding a decision under the Health Service Executive (HSE) Health Repayment Scheme (HRS). She was refused her claim for a refund of nursing home charges in respect of her mother.

The complainant's mother had initially been a private patient in a private nursing home, but she was subsequently awarded a publicly funded "contract bed" for the period 1 October 2001 to 30 September 2009. The initial decision to refuse her claim was overturned on appeal. However, the appeals officer's decision was challenged by the HRS and a subsequent decision was made not to repay the money.


##### **Investigation**

The complainant thought this was unfair as her mother had surrendered her pension book to the HSE (former South Western Area Health Board). She provided my staff with a 'Change of Agency' form she completed in October 2001, which proved that the HSE had taken payment of her mother's pension.

Following contact with the Department of Social Protection and the HSE, my staff were able to confirm that the complainant's mother's pension was paid directly to the HSE for the period in question and that an in-patient charge was levied in respect of her publicly funded bed in the nursing home.

##### **Outcome**

This information was made available to the HRS, who reversed their decision. The complainant received a refund of some €8,000.



The Office of the Ombudsman is committed to providing all our clients with a high standard of service in accordance with the Ombudsman's Principles of Good Administration and in accordance with the principles of Quality Customer Service approved by Government.



## Chapter 05

## Chapter 5: Local Authorities Section – Selected Cases



### **5.1 Wicklow County Council refunds part of booking deposit to affordable housing scheme buyer. No such thing as “contingency fee”.**

#### **Background**

The complainant agreed to purchase a property under the Wicklow County Council affordable housing scheme. She paid a total of €9,020 to the council (booking deposit of €750 and a deposit of €8,270). She later withdrew from the purchase of the property due to ill health.

The council refunded €7,750 to her but decided to retain a “contingency fee” of €1,270.

#### **Investigation**

A “provisional offer” letter which the council sent to the complainant set out the conditions which would apply if the offer of the property was accepted. The conditions stated that a booking deposit of €750 was payable and would not be refunded should she withdraw from the purchase. The conditions made no reference to any contingency/administration fee being withheld.

The council confirmed that the complainant had not been informed that monies other than the €750 booking deposit would be withheld should she withdraw from the purchase.

### Outcome

I found that the council should not be required to refund the booking deposit of €750 but that the balance of the monies withheld (€520) should be given back to the complainant. The council agreed to do so.



The Cork News, September 17, 2010

## 5.2 Limerick County Council reverses decision not to grant waiver for refuse collection charges – couple discriminated against because they had a child

### Background

In October 2008 I published my investigation into the operation of waiver schemes by local authorities for refuse collection charges. My investigation report highlighted some unfairness in the administration of waste waiver schemes. In 2010 I received a complaint against Limerick County Council from a man who had been refused a waiver of his

refuse collection charges. The man lived with his wife and four year old daughter. Among the criteria for receiving a waiver under the council's waiver scheme was that the person be receiving a specified social welfare payment and:

*“be living alone or residing with one other qualified adult (MAX. 2 IN HOUSE)...”.*

The council refused to grant the waiver as there were three people living in the household, i.e. the man, his wife, and their four year old child. It pointed out that its current scheme had been expanded from its previous scheme which was restricted to persons living alone and in receipt of social welfare payments.

### **Investigation**

I wrote to the council pointing out that the purpose of a waiver scheme is to assist those in “personal hardship”, (section 75(3) of the Waste Management Act, 1996). It seemed to me that the couple were being discriminated against by virtue of having a child and, through the costs associated with providing for a child, may be enduring greater ‘personal hardship’ than those without children. In any event, I was of the view that the scheme should be interpreted as meaning a maximum of two adults in the household and not, as the council maintained, two persons of any age.

### **Outcome**

In response, the council agreed to reverse its decision and grant the waiver of his refuse collection charges. It also agreed to review all applications it had received in 2010 which were refused on a similar basis, with a view to granting a waiver, providing the other qualifying criteria were met.

The council also reviewed its waiver scheme for 2011 in light of my conclusions.

## **5.3 Complaint about second property €200 annual charge – how to measure 2km distance from principal residence**

### **Background**

The Local Government (Charges) Act 2009, introduced a new annual charge of €200 on certain individuals who own a second property. This is commonly known as the non-principal private residence (NPPR) charge. In 2010 I received a complaint relating to the charge against Limerick County Council. It was about the exemption provided for from the charge, subject to other criteria, if the second property was located within two kilometres of the principal residence.

In this case the complainant's second property was located more than two kilometres from his principal residence if measured by road, but was within two kilometres if the distance was measured in a straight line. The Council, which is responsible for collecting the charge, had taken the view that such distances should be measured by road.

The council explained to me that in the absence of guidance from the then Department of Environment, Heritage and Local Government, it had consulted with other local authorities in the region and decided to measure the distance by road as this was the only way to travel between the two properties in an urban setting.

### **Investigation**

I examined the legislation and it does not provide guidance on how the distance between the principal residence and second property should be calculated. I considered that measuring such distances by road would inevitably lead to individuals who had a relatively indirect road access to the second property being treated less favourably than those with a more direct and, therefore, shorter road access. This despite the fact that in both cases the second property may be the same distance from the respective principal residence if measured by the "straight line" method.

### **Outcome**

When I pointed this out to the council it agreed to amend its method of calculating the distance and the complainant was refunded his NPPR payments for 2009 and 2010. The Department has since compiled guidance on how the two kilometre distance should be measured, in line with the outcome of the complaint.

## **5.4 Couple should not be forced to live with parents – housing application accepted**

### **Background**

I received a complaint from a couple who had been refused housing with Limerick County Council. The council refused their application as it took the view that the couple had voluntarily vacated adequate accommodation and that they should be in a position to provide accommodation from their own resources.

The couple had applied to the council as they claimed they could not afford to house themselves. While the couple were renting a flat at the time of their application, they had each previously lived with their respective parents. The male partner's parents lived alone in a three bedroom house. There also appeared to be sufficient room for


the woman to live with her parents. The couple said they had left their family homes as neither set of parents approved of their relationship.

### **Investigation**


I examined the council's file on their housing application. The couple were in receipt of social welfare payments and, therefore, it appeared that they were not in a position to provide accommodation from their own financial resources. The couple were in their late twenties and it appeared from the file that the council had not given adequate consideration to their respective ages, and the couple's reasonable expectation to live independently from their families. I asked the council to review its decision.

### **Outcome**

The council accepted that it had not given due consideration to the age of the couple. It decided to reverse its decision and accept the couple's application for housing, backdating it to the date of the original application. The council also agreed to review its system of assessment to ensure that such a situation would not arise in the future.



The Office provides an independent complaint examination service to those who are unhappy with how they have been treated by public bodies and who have suffered as a result.



## Chapter 06





## **Chapter 6: Civil Service Section – Selected Case**

### **6.1 *Ex gratia* payment of €22,073 made by former Department of Justice and Law Reform to Garda widow – emergency tax charged on pension for eight years**

#### **Background**

This case was about taxing the pension of a Garda Síochána widow. Emergency tax had been applied to the complainant's garda widow's pension since its award in 2000. This only came to light in January 2009 when the complainant's son wrote to the then Department of Justice and Law Reform querying the application of emergency tax to his mother's pension payments.

The complainant had then requested a review of her income tax liabilities for the years 2001 to 2007. She had received refunds from Revenue for the years 2005 to 2008. Refunds could not be provided for the years 2001 to 2004 as they were outside Revenue's four year statutory time limit.

Initially, the complaint had been made against the Revenue but could not be upheld on the basis that the Revenue was acting in accordance with relevant legislation. A complaint in relation to the department, as administrator of her pension, was then considered.

It is normal practice for the department to write to garda widows advising them to request a PPS number from the Department of Social Protection. On receipt of the PPS number, that department issues a P46 form to Revenue notifying them of the requirement to issue a certificate of tax credits to the person. The department could find no evidence of having advised the complainant to request a PPS number. Consequently the P46 form did not issue to Revenue.

PAYE Regulations of 2001 amended the emergency system of tax to provide that where a PPS number is not supplied, the employer must calculate the tax due at the higher rate of tax without application of tax credits. The amended system applied with effect from 1 January 2003. The department did not inform the complainant that the amended emergency system was being applied to her pension.

### Investigation

When the issue came to light, the department made representations to the Revenue requesting a relaxation of its restrictions in order to allow for the issuing of any tax rebates due to the complainant since the tax year 2000. As there is no discretion to allow for the repayment of tax where a claim has been made outside the four-year tax period, Revenue could not accede to the department's request.

I found that the department had failed to notify the complainant that she was being charged emergency tax upon the initial payment of her widow's pension. During the eight-year period in which she was charged at the emergency rate, no review or follow-up seemed to have been carried out to ensure that the appropriate tax rate was being applied.

I considered that the complainant could not reasonably have been expected to be familiar with Revenue's PAYE requirements and that as administrator of her pension, the department had a responsibility to advise her that her payments would be subject to emergency tax.

Given these facts, I suggested that, it would be appropriate for the department to consider an *ex gratia* payment in respect of the money due to her.

### Outcome

I am pleased to say that the department agreed to make an *ex gratia* payment of €22,073 to my complainant for the years 2001 to 2004.

The department also advised that new procedures had been put in place to ensure that a similar situation would not occur in future. It also undertook to carry out a check of all other widow's pensions receivers to ensure that a similar anomaly had not occurred.





# Annex

## Annex: Statistics



<b>Table 1: Overview of 2010 complaints</b>	
Total complaints carried forward from 2009	1,112
<b>Total complaints within remit - received in 2010</b>	<b>3,727</b>
Total on hand for 2010	4,839
<b>Total complaints completed in 2010</b>	<b>3,207</b>
Total complaints carried forward to 2011	1,632
Total complaints outside remit - received in 2010	1,317
Total all complaints received in 2010	5,044
Total all enquiries received in 2010	9,390

<b>Table 2: Numerical and percentage breakdown by sector of complaints within remit</b>		
Civil Service	1,675	45%
Health Service Executive	1,008	27%
Local Authorities	979	26.3%
An Post	58	1.5%
Disability Act 2005	7	0.2%
<b>Total</b>	<b>3,727</b>	

<b>Table 3: Numerical and percentage breakdown of complaints completed by outcome</b>		
Not upheld	946	29.5%
Assistance provided	875	27.3%
Discontinued	829	25.8%
Complaint resolved	447	13.9%
Withdrawn	89	2.8%
Partially resolved	21	0.7%
<b>Total</b>	<b>3,207</b>	

<b>Table 4: 3-year comparison of complaints received within remit</b>	
2010*	3,720
2009 *	2,867
2008 *	2,781

\* Figure does not include complaints received under the Disability Act, 2005.  
See table 2 for 2010 details.

<b>Table 5: 10-year trend of complaints received within remit</b>	
<b>2010</b>	<b>3,727</b>
2009	2,873
2008	2,787
2007	2,578
2006	2,245
2005	2,243
2004	2,064
2003	2,213
2002	2,326
2001	2,539

<b>Table 6: Numerical breakdown of complaints received by county</b>	
Carlow	67
Cavan	61
Clare	89
Cork	462
Donegal	143
Dublin	939
Galway	207
Kerry	113
Kildare	146
Kilkenny	64
Laois	90
Leitrim	21
Limerick	244
Longford	21
Louth	79
Mayo	118
Meath	110
Monaghan	39
Offaly	42
Roscommon	33
Sligo	44
Tipperary	105
Waterford	71
Westmeath	54
Wexford	91
Wicklow	106
Outside Republic	168
<b>Total</b>	<b>3,727</b>

<b>Table 7: Numerical and percentage breakdown of types of complaint received outside remit</b>		
Private companies	350	26.6%
Banking/Insurance	302	22.9%
Miscellaneous	295	22.4%
Public bodies outside remit	180	13.7%
Courts / An Garda Síochána	124	9.4%
Terms and conditions of employment	66	5%
<b>Total</b>	<b>1,317</b>	

## Civil Service

<b>Table 8: Numerical breakdown of complaints received by Government Departments, Revenue Commissioners and Land Registry</b>	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
Social Protection - see 8(a)	213	1,181	1,394
Revenue Commissioners - see 8(b)	17	123	140
Justice and Law Reform - see 8(c)	4	65	69
Agriculture, Fisheries and Food - see 8(d)	38	106	144
Education and Skills - see 8(e)	16	83	99
Environment, Heritage and Local Government - see 8(f)	8	28	36
Health and Children - see 8(g)	7	9	16
Enterprise, Trade and Innovation - see 8(h)	0	10	10
Foreign Affairs - see 8(i)	1	16	17
Communications, Energy and Natural Resources - see 8(j)	4	6	10
Transport - see 8(k)	2	8	10
Land Registry – see 8(l)	0	13	13
Others	7	27	34
<b>Total</b>	<b>317</b>	<b>1,675</b>	<b>1,992</b>



**Table 8(a): Department of Social Protection**

<b>Numerical and percentage breakdown of types of complaint</b>		
Unemployment payments	345	29%
Child benefit	291	24.6%
Miscellaneous	117	9.9%
Disability, invalidity and maternity payments	116	9.8%
Old age & retirement pensions	77	6.5%
No reply to correspondence	67	5.7%
Widows and one-parent family payment	49	4.1%
Carer's allowance	48	4.1%
Pay-related social insurance	18	1.5%
Fuel allowance and free schemes	18	1.5%
Family income supplement	23	1.9%
Occupational injury benefit	11	0.9%
Treatment Benefit	1	0.1%
<b>Total</b>	<b>1,181</b>	

**Table 8(b): Office of the Revenue Commissioners**

<b>Numerical and percentage breakdown of types of complaint</b>		
Income tax	60	48.8%
Miscellaneous	31	25.2%
Value added tax, inheritance, Capital gains tax	15	12.2%
Delay, no reply to correspondence	10	8.1%
Customs and excise	3	2.4%
Stamp duty	3	2.4%
Vehicle Registration Tax	1	0.8%
<b>Total</b>	<b>123</b>	

<b>Table 8(c): Department of Justice and Law Reform</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
Administration of visa or asylum applications	48	73.8%
No reply to correspondence	12	18.5%
Miscellaneous	3	4.6%
Delay	1	1.5%
Quality of service	1	1.5%
<b>Total</b>	<b>65</b>	

<b>Table 8(d): Department of Agriculture, Fisheries and Food</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
Rural environment protection scheme (REPS)	27	25.5%
Miscellaneous	23	21.7%
Farm development grants	19	17.9%
Single farm payment	16	15.1%
No reply to correspondence	6	5.7%
Livestock grants	6	5.7%
Forest premium scheme	4	3.8%
Milk quota	3	2.8%
Early retirement scheme	1	0.9%
Area aid	1	0.9%
<b>Total</b>	<b>106</b>	

<b>Table 8(e): Department of Education and Skills</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
Higher education grants & fees	54	65.1%
Miscellaneous	20	24.1%
Delay, failure to reply to correspondence	6	7.2%
School Transport	1	1.2%
Examinations	1	1.2%
National office for victims of abuse (NOVA)	1	1.2%
<b>Total</b>	<b>83</b>	

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

Miscellaneous	18	64.3%
No reply to correspondence	8	28.6%
Motor tax, driving licence, driving test	2	7.1%
<b>Total</b>	<b>28</b>	

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

Miscellaneous	5	55.6%
General Registrar's Office	3	33.3%
No reply to correspondence	1	11.1%
<b>Total</b>	<b>9</b>	

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

Miscellaneous	9	90%
No reply to correspondence	1	10%
<b>Total</b>	<b>10</b>	

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

Passport application	7	43.7%
Quality of Service	6	37.5%
No reply to correspondence	2	12.5%
Miscellaneous	1	6.3%
<b>Total</b>	<b>16</b>	

<b>Table 8(j): Department of Communications, Energy and Natural Resources</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
No reply to correspondence	3	50%
Miscellaneous	3	50%
<b>Total</b>	<b>6</b>	

<b>Table 8(k): Department of Transport</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
Miscellaneous	5	62.5%
Quality of Service	2	25%
No reply to correspondence	1	12.5%
<b>Total</b>	<b>8</b>	

<b>Table 8(l): Land Registry</b>		
<b>Numerical and percentage breakdown of types of complaint</b>		
Land registry	7	53.8%
Registration of title	3	23.1%
Acquisition of land/rights	1	7.7%
No reply to correspondence	1	7.7%
Miscellaneous	1	7.7%
<b>Total</b>	<b>13</b>	

<b>Table 9: Civil Service – Numerical breakdown of complaints completed by outcome</b>							
	<b>Resolved</b>	<b>Partially resolved</b>	<b>Assistance provided</b>	<b>Discontinued</b>	<b>Withdrawn</b>	<b>Not upheld</b>	<b>Total completed</b>
Social Protection	92	4	409	236	10	150	901
Revenue Commissioners	19	0	11	54	4	27	115

Justice and Law Reform	8	0	30	13	5	5	61
Agriculture, Fisheries and Food	10	0	7	13	3	32	65
Education and Skills	12	0	4	19	3	30	68
Environment, Heritage and Local Government	0	0	17	4	5	6	32
Health and Children	2	0	1	4	3	3	13
Enterprise, Trade and Innovation	3	0	0	0	3	0	6
Foreign Affairs	1	0	3	11	0	2	17
Communications, Energy and Natural Resources	2	0	2	2	2	2	10
Transport	2	0	0	3	0	2	7
Office of Public Works	1	0	0	0	0	0	1
Land Registry	1	0	4	6	2	0	13
Others	5	0	1	3	3	6	18
<b>Total</b>	<b>158</b>	<b>4</b>	<b>489</b>	<b>368</b>	<b>43</b>	<b>265</b>	<b>1,327</b>

## Local Authorities

**Table 10: Local Authorities  
Numerical breakdown by local authority of complaints received**

	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
Carlow	8	17	25
Cavan*	3	9	12
Clare	29	31	60
Cork City Council*	19	43	62
Cork County	19	57	76
Donegal	19	32	51
Dublin City Council	20	103	123
Dún Laoghaire-Rathdown	23	39	62
Fingal	10	29	39
Galway City Council*	8	25	33
Galway County	26	44	70
Kerry	18	39	57
Kildare	22	28	50
Kilkenny*	6	21	27
Laois	17	47	64
Leitrim	3	5	8
Limerick City Council*	10	25	35
Limerick County	12	46	58
Longford	3	6	9
Louth	11	17	28
Mayo*	14	45	59
Meath	14	33	47
Monaghan	10	9	19
North Tipperary	5	20	25
Offaly	8	12	20

Roscommon	11	10	21
Sligo	5	17	22
South Dublin	10	54	64
South Tipperary	7	19	26
Waterford City Council	4	9	13
Waterford County	4	10	14
Westmeath	10	12	22
Wexford	11	30	41
Wicklow	16	36	52
<b>Total</b>	<b>415</b>	<b>979</b>	<b>1,394</b>

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 2010 and this is likely to have affected the number of complaints received.

<b>Table 11: Local Authorities</b>		
<b>Numerical breakdown of types of complaint received</b>		
Housing		370
Allocations & transfers	263	
Repairs	53	
Loans & grants	24	
Rents	21	
Sales	9	
Planning		160
Enforcement	100	
Administration	60	
Miscellaneous		108

Delay/Failure to reply to correspondence		108
Roads and traffic		90
Waste disposal		42
Water supply		31
Sewerage and drainage		22
Motor tax & Drivers licence		11
Parks/Open space		9
Service charges		9
Acquisition of land/rights		7
Rates		6
Quality of service		5
Provision of service		1
<b>Total</b>		<b>979</b>

**Table 12: Local Authorities – Numerical breakdown of complaints completed by outcome**

	<b>Resolved</b>	<b>Partially resolved</b>	<b>Assistance provided</b>	<b>Discontinued</b>	<b>Withdrawn</b>	<b>Not upheld</b>	<b>Total completed</b>
Carlow	3	1	3	4	0	2	13
Cavan	1	0	1	2	0	3	7
Clare	4	1	12	13	1	15	46
Cork City Council	8	0	8	13	0	25	54
Cork County	11	2	5	13	0	23	54
Donegal	3	0	11	9	1	10	34
Dublin City Council	7	2	10	41	1	33	94



Dún Laoghaire-Rathdown	8	1	13	14	4	10	50
Fingal	4	0	10	4	3	7	28
Galway City Council	5	1	3	2	0	11	22
Galway County	9	0	13	11	0	22	55
Kerry	4	0	15	8	2	10	39
Kildare	8	0	2	9	0	18	37
Kilkenny	2	0	3	8	1	2	16
Laois	7	0	19	8	0	6	40
Leitrim	0	0	1	3	0	1	5
Limerick City Council	3	0	8	6	1	9	27
Limerick County	8	0	14	8	1	9	40
Longford	1	1	1	0	0	2	5
Louth	1	0	7	7	0	9	24
Mayo	9	0	9	12	4	14	48
Meath	8	0	7	6	0	15	36
Monaghan	1	0	1	2	0	9	13
North Tipperary	4	0	6	5	0	5	20
Offaly	3	0	2	3	0	8	16
Roscommon	1	0	5	2	0	7	15
Sligo	6	0	1	4	0	5	16
South Dublin	12	1	9	9	4	14	49
South Tipperary	4	0	8	4	2	4	22

## Ombudsman – Annual Report 2010

Waterford City Council	0	0	6	2	0	3	11
Waterford County	0	0	3	1	1	2	7
Westmeath	2	0	4	3	0	11	20
Wexford	5	1	12	9	0	7	34
Wicklow	8	1	18	11	0	5	43
<b>Total</b>	<b>160</b>	<b>12</b>	<b>250</b>	<b>256</b>	<b>26</b>	<b>336</b>	<b>1,040</b>

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

## HSE

<b>Table 13: Health Sector complaints - received in 2010 by area</b>			
	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
HSE : Dublin / North East	59	224	283
HSE : Dublin Mid-Leinster	79	283	362
HSE : West	76	181	257
HSE : South	65	162	227
Hospitals	43	116	159
Complaints relating to the Health Repayment Scheme	51	37	88
Other Service Providers	0	5	5
<b>Total</b>	<b>373</b>	<b>1,008</b>	<b>1,381</b>

The above table refers to complaints about all health sector service providers. The following tables break these down into two separate complaint types: (i) complaints relating to the provision of health and social care services and (ii) complaints about other services from health sector providers.

<b>Table 14: Health and social care complaints - received in 2010 by complaint category</b>			
	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
<b>Dental Services</b>	<b>2</b>	<b>4</b>	<b>6</b>
Appointment	0	1	1
Care and Treatment	2	0	2
Complaint Handling	0	1	1
Not otherwise categorised	0	2	2
<b>Disability Services</b>	<b>5</b>	<b>20</b>	<b>25</b>
Residential Care	1	7	8
Day Services	1	2	3
Policy/Administration/Funding	0	3	3
Complaints Handling	1	6	7
Not otherwise categorised	2	2	4
<b>Hospitals - General</b>	<b>48</b>	<b>135</b>	<b>183</b>
Accident and Emergency	2	3	5
Admission/Discharge	3	4	7
Appointment	1	4	5
Care and Treatment	20	64	84
End of Life Care	1	1	2
Out-Patient Treatment	1	1	2
Consent	2	0	2
Complaint Handling	11	32	43
Hospital Charges	3	7	10
Not otherwise categorised	4	19	23

<b>Hospitals - Psychiatric</b>	<b>6</b>	<b>22</b>	<b>28</b>
Appointment	0	1	1
Care and Treatment	4	8	12
Out-Patient Treatment	0	1	1
Consent	0	1	1
Complaint Handling	2	6	8
Not otherwise categorised	0	5	5
<b>Nursing Homes</b>	<b>51</b>	<b>41</b>	<b>92</b>
Entitlement to Services	3	3	6
Nursing Home Subvention/ Support Scheme	37	20	57
Complaint Handling	2	3	5
Not otherwise categorised	9	15	24
<b>Primary &amp; Community Care</b>	<b>17</b>	<b>41</b>	<b>58</b>
Home Help	13	15	28
Home Care Grant	0	2	2
GP Services	0	7	7
Pharmacy Services	0	1	1
Public Health Nurse	0	2	2
Psychiatric Care	0	2	2
Therapy Services (Physio, OT, Speech. etc)	1	3	4
Pre-school Services	1	2	3
Appliances & equipment	1	3	4
Transport	1	0	1
Complaint Handling	0	1	1
Not otherwise categorised	0	3	3
<b>Social Work Services</b>	<b>5</b>	<b>35</b>	<b>40</b>
Child Welfare and Protection	1	13	14
Fostering	2	4	6
Complaint Handling	2	6	8

Not otherwise categorised	0	12	12
<b>Treatment Abroad Scheme</b>	<b>1</b>	<b>5</b>	<b>6</b>
<b>Other</b>	<b>1</b>	<b>10</b>	<b>11</b>
<b>Total</b>	<b>136</b>	<b>313</b>	<b>449</b>

**Table 15: Other Health Sector complaints - received in 2010 by complaint category**

	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
<b>Medical &amp; GP Card</b>	<b>52</b>	<b>181</b>	<b>233</b>
<b>Supplementary Welfare Allowance</b>	<b>74</b>	<b>259</b>	<b>333</b>
Basic SWA	16	91	107
Exceptional Needs Payment	31	69	100
Rent Supplement	25	79	104
Mortgage Interest Supplement	1	14	15
Not otherwise categorised	1	6	7
<b>Other Payments</b>	<b>34</b>	<b>52</b>	<b>86</b>
Mobility Allowance	3	6	9
Motorised Transport Grant	4	11	15
Crèche Supplement	0	1	1
Not otherwise categorised	27	34	61
<b>Environmental Health Services</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>Back to School Clothing and Footwear Allowance</b>	<b>18</b>	<b>139</b>	<b>157</b>
<b>Health Repayment Scheme</b>	<b>52</b>	<b>38</b>	<b>90</b>
<b>Other</b>	<b>6</b>	<b>25</b>	<b>31</b>

<b>Table 16: Health Sector complaints - closed in 2010 by area</b>							
	<b>Re-solved</b>	<b>Partially resolved</b>	<b>Assistance provided</b>	<b>Discontinued</b>	<b>Withdrawn</b>	<b>Not up-held</b>	<b>Total</b>
HSE : Dublin / North East	17	0	22	37	2	73	<b>151</b>
HSE : Dublin Mid- Leinster	26	1	22	42	5	107	<b>203</b>
HSE : West	19	0	26	29	5	71	<b>150</b>
HSE : South	18	2	22	31	3	59	<b>135</b>
Com- plaints relating to the Health Repayment Scheme	16	0	12	5	1	12	<b>46</b>
Hospitals	19	2	23	36	1	10	<b>91</b>
Other Service Providers	0	0	0	3	0	0	<b>3</b>
<b>Total</b>	<b>115</b>	<b>5</b>	<b>127</b>	<b>183</b>	<b>17</b>	<b>332</b>	<b>779</b>

The above table refers to complaints about all health sector service providers. The following tables break these down into two separate complaint types: (i) complaints relating to the provision of health and social care services and (ii) complaints about other services from health sector providers.

<b>Table 17: Health and social care cases - closed in 2010 by complaint category</b>							
	<b>Re-solved</b>	<b>Partial-ly re-solved</b>	<b>Assist-ance provided</b>	<b>Discon-tinued</b>	<b>With-drawn</b>	<b>Not upheld</b>	<b>Total</b>
Dental Services	1	0	0	0	0	2	<b>3</b>
Disability Services	1	0	2	9	1	1	<b>14</b>
Hospitals - General	21	2	26	43	0	11	<b>103</b>
Hospitals - Psychiatric	2	1	5	0	0	7	<b>15</b>
Nursing Homes	18	0	6	14	1	23	<b>62</b>
Primary & Community Care	4	0	8	9	2	12	<b>35</b>
Social Work Services	2	0	7	15	0	5	<b>29</b>
Treat-ment Abroad Scheme	2	0	1	1	0	1	<b>5</b>
Other	1	0	1	5	0	0	<b>7</b>
<b>Total</b>	<b>52</b>	<b>3</b>	<b>56</b>	<b>96</b>	<b>4</b>	<b>62</b>	<b>273</b>

<b>Table 18: Other Health Sector complaints - closed in 2010 by complaint category</b>							
	<b>Re-solved</b>	<b>Partial-ly re-solved</b>	<b>Assist-ance pro-vided</b>	<b>Discon-tinued</b>	<b>With-drawn</b>	<b>Not upheld</b>	<b>Total</b>
<b>Medical &amp; GP Card</b>	<b>12</b>	<b>0</b>	<b>20</b>	<b>10</b>	<b>4</b>	<b>81</b>	<b>127</b>
<b>Sup-plemen-tary Welfare Allow-ance</b>	<b>16</b>	<b>1</b>	<b>23</b>	<b>58</b>	<b>5</b>	<b>78</b>	<b>181</b>
Basic SWA	1	1	11	20	3	20	<b>56</b>
Excep-tional Needs Payment	7	0	4	6	1	39	<b>57</b>
Rent Supple-ment	7	0	6	29	1	16	<b>59</b>
Mortgage Interest Supple-ment	1	0	1	2	0	1	<b>5</b>
Not otherwise catego-rised	0	0	1	1	0	2	<b>4</b>
<b>Other Pay-ments</b>	<b>9</b>	<b>1</b>	<b>8</b>	<b>3</b>	<b>1</b>	<b>27</b>	<b>49</b>
Mobility Allowance	0	0	0	0	0	4	<b>4</b>



Motorised Transport Grant	1	0	0	0	0	3	<b>4</b>
Crèche Supplement	0	0	0	1	0	0	<b>1</b>
Not otherwise categorised	8	1	8	2	1	20	<b>40</b>
<b>Environmental Health Services</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>Back to School Clothing and Footwear Allowance</b>	<b>7</b>	<b>0</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>69</b>	<b>85</b>
<b>Health Repayment Scheme</b>	<b>16</b>	<b>0</b>	<b>12</b>	<b>5</b>	<b>1</b>	<b>12</b>	<b>46</b>
<b>Other</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>17</b>
<b>Total</b>	<b>63</b>	<b>2</b>	<b>70</b>	<b>87</b>	<b>13</b>	<b>271</b>	<b>506</b>

Table 19: Complaints under the Disability Act 2005 - received in 2010

	Brought forward from 2009	Received in 2010	On hand for 2010
<b>Disability Act 2005</b>	<b>0</b>	<b>7</b>	<b>7</b>
Access to Services (Section 26)	0	6	6
Access to Information (Section 28)	0	1	1

<b>Table 20: Complaints under the Disability Act 2005 - closed in 2010</b>							
	<b>Re-solved</b>	<b>Partial-ly re-solved</b>	<b>Assist-ance pro-vided</b>	<b>Discon-tinued</b>	<b>With-drawn</b>	<b>Not upheld</b>	<b>Total</b>
<b>Disability Act 2005</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>6</b>
Access to Services (Section 26)	0	0	3	1	0	1	5
Access to Information (Section 28)	0	0	1	0	0	0	1

## An Post

<b>Table 21: An Post: Numerical breakdown of complaints received</b>			
	<b>Brought forward from 2009</b>	<b>Received in 2010</b>	<b>On hand for 2010</b>
<b>An Post</b>	<b>7</b>	<b>58</b>	<b>65</b>

<b>Table 22: An Post: Numerical breakdown of complaints completed by outcome</b>							
	<b>Resolved</b>	<b>Partially resolved</b>	<b>Assist-ance provided</b>	<b>Discon-tinued</b>	<b>With-drawn</b>	<b>Not upheld</b>	<b>Total completed</b>
<b>An Post</b>	<b>14</b>	<b>0</b>	<b>5</b>	<b>21</b>	<b>3</b>	<b>12</b>	<b>55</b>



