

Annual Report 2015

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Oifig an Ombudsman
Office of the Ombudsman



*making a
difference*

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Report Number 32

Designed by:

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Oifig an Ombudsman
Office of the Ombudsman

Annual Report 2015

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Report to the Oireachtas

I hereby submit the Annual Report of the Office of the Ombudsman to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act 1980 (as amended). This is the 32nd 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, which appears to read "Peter Tyndall". The signature is stylized and cursive.

Peter Tyndall
Ombudsman

June 2016



Ms Bernadette McNally
Director General

April 2012 to March 2015



Ms Jacqui McCrum
Director General

October 2015 to present



Introduction from the Ombudsman



"While the cases we examine do not always get resolved in favour of the complainant, our examination often results in a greater understanding by the person of the reason for the decision of the public service provider and a greater appreciation by the public service provider of the person's circumstances."

Geraldine, Examinations Team, Office of the Ombudsman

Chapter 1: Introduction from the Ombudsman

2015 marked a year of improved performance, significant innovation and development for the Office. This report highlights the cases of some of the many individuals who were helped by the Office to obtain redress after they had suffered injustices as a consequence of failures by public service providers.

As Ombudsman, it is my privilege to be able to help to put things right for users of public services. The vast majority of interactions between service providers and members of the public go well. Social welfare is correctly awarded and calculated. Grants to students are awarded properly and on time. People using the public health service are treated well. But inevitably, given the huge number of interactions between services and their users, some things don't go as they should.

My Office's job is to look independently and objectively at complaints where service users have not been able to resolve things locally. Where we discover things have gone wrong, we aim to provide redress for the individual and identify any systemic failings which might need to be put right to ensure that the same failing doesn't affect other people.

Most service providers work very effectively with my Office, providing us with the information we need to consider the complaint and then cooperating in providing redress and changing processes and procedures where we identify a need to do so. We aim to resolve complaints as quickly as possible and only undertake full blown examinations or investigations where it isn't possible to do so or where there is a major public interest.

As well as dealing with individual complaints, my Office also considers systemic issues, where we either receive more than one complaint on a particular topic or where in considering a single complaint it becomes evident to us that more people are likely to have been similarly affected. We can work with individual service providers or with a representative group. For example, I was grateful to the County and City Management Association for its role in facilitating the resolution of some complaints in the local authority sector.

We also had a number of complaints about the Reasonable Accommodations for Examinations Certificate (RACE) scheme (see Chapter 4), which allows support to be provided to students sitting their Leaving Certificate where it is needed. It was helpful to be able to deal with these complaints in a concerted way with the State Examinations Commission. Other cases were resolved following discussions with the Department of Social Protection. All of these cases highlight our dual role of providing redress for individuals and improving public services.

Until this year, every investigation undertaken by the Office was on the foot of a complaint, or a group of complaints. In 2015, for the first time, my Office launched an own-initiative investigation into health complaints. This was because the level of complaints reaching my Office is well below what we would expect. The report of the investigation, Learning to Get Better, has led to a far reaching reform of the way health complaints are managed across Ireland. A further, major, own-initiative investigation is being planned for 2016.

During the year, I was very pleased that Government brought complaints about private nursing homes within my jurisdiction. Many of the residents in these homes receive public support and it is important that they should be able to come to my Office. Welcome announcements were also made about bringing clinical judgement and Direct Provision centres into remit, and I hope that these, along with prisons, will be addressed in the coming year. I am grateful to the Departments concerned for their positive engagement in moving these long-standing issues forward.

Our work during the year would not have been possible without the dedication and commitment of the staff of the Office, whose expertise and determination ensures that they go the extra mile in getting results. I want to pay particular tribute to Bernie McNally, who was Director General for three years, and whose personal contribution was immense. She has been ably succeeded by Jacqui McCrum, who has maintained the momentum for change and improvement which Bernie had put in place.

In conclusion, the role of my Office is to give people access to a free, independent and objective consideration of their complaints, and to put things right where they have gone wrong. The case studies in this report show that this role continues to be at the heart of our work and we are proud to have been able to make life better for many people who had lost out.



Peter Tyndall
Ombudsman





02

Review of the Year



"As a caseworker I know I make a difference when as a result of my examination of a complaint an administrative wrong has been corrected leading to a benefit for the complainant and others in similar situations. Correcting an unfair practice or a bad decision or finding a better way to resolve issues will always make a positive difference."

Jackie, Examinations Team, Office of the Ombudsman

Chapter 2: Review of the Year

2.1 Role of the Ombudsman

As Ombudsman my main role is to examine complaints from people who feel they have been unfairly treated by certain public service providers, including:

- government departments
- local authorities
- the Health Service Executive (HSE)
- public hospitals
- publicly-funded third level education institutions
- and, since August 2015, private nursing homes.

The services of my Office are free to use. We examine complaints in a fair, independent and impartial way. Before bringing a complaint to my Office the person who has been adversely affected must usually have tried to resolve the complaint with the service provider complained about.

When considering complaints we will consider if the action complained about, for example a decision or failure to act, was made:

- without proper authority
- on irrelevant grounds
- in a negligent or careless manner
- based on wrong or incomplete information
- in a way that improperly discriminated against the individual
- based on bad administrative practice or
- in a way that did not demonstrate fair or sound administration.



“Thank you so much for such a comprehensive investigation into my complaint. It brings me comfort that at the very least someone is listening and acknowledging the impact my time in the hospital has had.”

A Complainant

In practice, many complaints are resolved informally after my Office has brought the complaint to the attention of the public service provider concerned.

If I uphold a complaint I will recommend appropriate redress. I may also make recommendations which aim to reduce the likelihood of others being similarly affected in the future.

As Ombudsman I can also examine complaints under the Disability Act 2005. These complaints relate to access to information and services by people with disabilities. I report on complaints under the Disability Act later in this Chapter.

I am appointed by the President and report to the Oireachtas, and not to any Minister of the Government.

2.2 Complaints Received and Completed: Analysis

In 2015, the total number of complaints received by my Office about service providers within my jurisdiction was 3,641 compared to 3,535 in 2014. This is an increase of 3% following an increase of 11% the previous year and considerably higher than the average for the previous 10 years (3,019).

In 2015, 86% of cases were closed within 3 months and 96% were closed within 12 months which is a significant improvement over the equivalent 2014 figures of 60% and 91% respectively. This improvement results from changes in our procedures for processing complaints which we refined throughout the year and which we continue to refine in the context of continually improving our service. In particular we are doing more of our work with both complainants and service providers within our remit by telephone and email which speeds up our communication, contributing to the improved performance figures for 2015.

Before complainants bring complaints to my Office they must take reasonable steps to resolve their complaint with the public body concerned. In a number of cases (1,032 in 2015) my Office provided advice and assistance to those who made their complaint prematurely to us and usually redirected them back to the local service, inviting them to come back to us if the case was not resolved at that level.

The Civil Service, which includes the Department of Social Protection, is the largest source of complaints (at 38.4% compared to 41.3% in 2014), followed by Local Authorities (27.6% compared to 25.5%) and the HSE/Tusla (17.4% compared to 19.7%). (This is broadly consistent with the volume of interactions that these bodies have with service users).

Excluding 'premature' complaints, 18% of cases were fully or partially upheld, assistance was provided in 15% of cases, 45% were not upheld, 12% were either discontinued or withdrawn and 10% of cases were outside my remit to examine. In 33% of cases members of the public directly benefitted from contacting the Office but even where complaints are not upheld, we are often able to provide an explanation or reassurance.

Of the 1,397 complaints made against the Civil Service, 870 were against the Department of Social Protection, 137 against the Revenue Commissioners, 135 against the Department of Agriculture, Food and the Marine, and 83 against the Department of Justice and Equality.

134 of the 1,006 Local Authority complaints were against Dublin City Council, 78 were against Cork County Council, 61 against Cork City Council, 56 were against Limerick City and County Council, and 48 against Galway City Council.

243 of the 634 complaints against the HSE were against hospitals. 113 involved medical or GP cards.

My Office completed 11 of 12 complaints received against private nursing homes, which were brought within my remit with effect from 24 August 2015. Of these 11, 6 were outside my remit to examine, 3 were premature, 1 was withdrawn and 1 was not upheld.

A total of 588 complaints were received about the public service providers which came within my jurisdiction in May 2013. These include 285 against publically funded-third level education bodies such as universities and institutes of technology. 91 complaints were received against Student Universal Support Ireland (SUSI). We continue to work closely with SUSI to resolve many of these complaints.

2.3 Learning to Get Better - An investigation into how hospitals handle complaints

In May, I published the results of an own initiative investigation into how public hospitals handle complaints – a report entitled Learning to Get Better. This extensive investigation looked at how well the HSE and voluntary hospitals listen to feedback and complaints and whether they are learning from complaints to improve the services they provide.

A seminar to launch the report was attended by representatives of the HSE, the hospital groups, the Department of Health and other health sector bodies. I addressed the seminar along with Tony O'Brien, Director General of the HSE, and Sir



Peter Tyndall Ombudsman and Sir Robert Francis

Robert Francis, author of the report into failures at the Mid-Staffordshire NHS Trust in the United Kingdom.

A short film of people's experiences of making complaints to hospitals was produced by my Office and is available on our website www.ombudsman.ie. The investigation report, Learning to Get Better, was subsequently nominated for a Civil Service Excellence and Innovation Award.

This investigation is discussed in greater detail in Chapter 3 of this report.

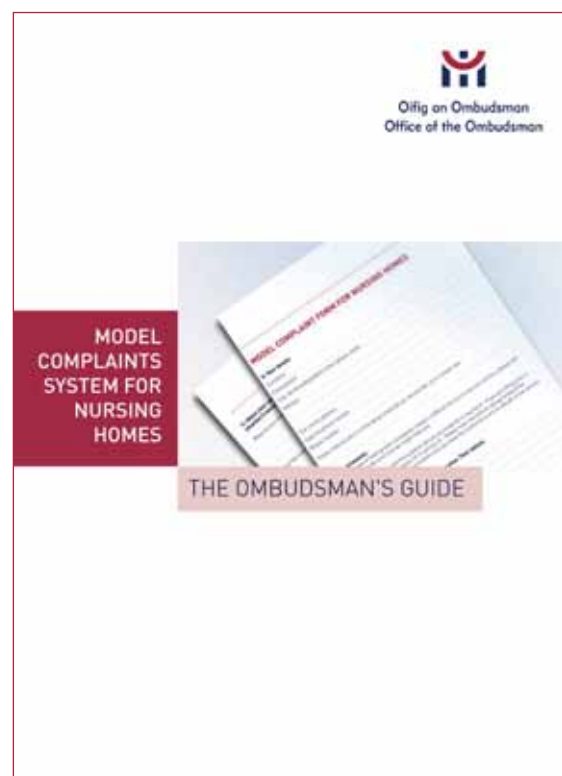
2.4 Extension of the Ombudsman's jurisdiction to Private Nursing Homes

During 2015, my Office's jurisdiction was extended to allow for independent oversight of private nursing homes. As Ombudsman, I could already examine complaints about publicly-funded nursing homes. However, from 24 August 2015 my Office could accept complaints from, or on behalf of, residents in private nursing homes, about events that occurred on or after that date. There are over 430 such homes in Ireland.

The legislation provides that I can examine complaints in relation to the administrative actions of private nursing homes in receipt of public funding. Almost all private nursing homes are in receipt of public funding either under subvention or through the Nursing Home Support Scheme – *Fair Deal*. However, as is the case with public nursing homes I am currently legally prevented from examining complaints where the action complained of is a clinical judgement decision.

My Office had a lead-in period of two months to prepare for the extension of jurisdiction. Practical structures were put in place to support the extension; a model complaints procedure for use in the sector was developed, as was a public information fact sheet. Both are available on my Office's website.

There was a strong focus on working with all the stakeholders involved in the sector. My Office worked in cooperation with Nursing Homes Ireland (NHI), the representative body for the bulk of private and voluntary nursing homes. Mr Tadhg Daly, CEO, NHI represented his members and facilitated a two-way flow of information between my Office and private nursing home providers. Staff from my Office



held a number of information seminars in Dublin and around the country to inform private nursing home providers of the Ombudsman processes and procedures.

I met with HIQA, the National Treatment Purchase Fund, the HSE and the Department of Health to discuss the importance of working in cooperation and sharing information, in order to promote a 'no wrong door' approach to complaints. In June 2015 my Office signed a memorandum of understanding with the Health and Information Quality Authority (HIQA) which has resulted in closer working relations and ensures among other things, that when appropriate, individual complaints submitted to HIQA about a private nursing home, will be passed to my Office for examination.

2.5 TUSLA (Child and Family Agency): Policy for Responding to Allegations of Child Abuse and Neglect

Last year, in my Annual Report, I referred to the fact that TUSLA had developed a new Policy and Procedures for responding to allegations of child abuse and neglect. This Policy had been approved by TUSLA in September 2014 and was made available to staff through TUSLA's internal information hub. However, when implementing the Policy, TUSLA found that some significant questions arose which required some amendment and additional practice guidance and training.

TUSLA removed the Policy from its website to avoid confusion but the procedures outlined in the Policy remained in place within the service pending approval of any amendments by the Senior Management Team.

I understand that a Working Group within TUSLA was established to progress the review of the Policy, guidance development and training needs. This required significant input from managers, legal advisers and workforce learning and development staff. I am advised by TUSLA that a final version of the Policy and additional guidance is expected to be completed during the year with specialist training being rolled out for staff.

Meanwhile, TUSLA has confirmed that Area Managers in consultation with Service Directors are responsible for implementing an appeals mechanism for adults who do not wish allegations made about them to be shared with third parties. I understand that there are around 30 requests for appeals all of which are at varying stages of progression.

2.6 The Ombudsman's Casebook

Since becoming Ombudsman I have been working to make the learning from cases considered by my Office much more widely available.

One of the ways of doing this has been through *The Ombudsman's Casebook*, a quarterly publication. I published my fifth edition of *The Ombudsman's Casebook* in December 2015. I also published a special Donegal edition of the Casebook, summarising complaints I received

from that county, to coincide with our Donegal Outreach Event in November 2015 (see later in Chapter 2).

The Casebook provides summaries of cases we have dealt with over the previous months in the Office. It describes complaints across all the areas the Office deals with, such as Health, Social Welfare, Education, Local Government, Agriculture, Taxation and Nursing Homes.

It is circulated in digital format to over 2,500 officials in public service providers, members of the Oireachtas and other public representatives. It is also available on my website, www.ombudsman.ie

My Casebook has received a very positive response from public service providers and public representatives.

2.7 Bringing the Ombudsman Service to the Regions

Donegal Outreach Event 2015

On 12 and 13 November 2015 my Office organised a major outreach event in Letterkenny, County Donegal. The event consisted of a number of initiatives over the two days:

i. Complaint-taking service for the public

Staff from my Office held a full day clinic in Letterkenny, to take complaints from the public and provide advice and assistance to callers. I was pleased that we were able to help quite a number of people and all visitors commented on the benefits of being able to meet our staff and use our services in person.

ii. Conference: 'It's a Common Complaint - What Donegal Complains about'

This half-day conference was attended by key officials from public service providers in Donegal such as the HSE, hospitals and local authorities. A number of local TDs and representatives from voluntary groups also attended. I, and two of my officials, set out the type of complaints we receive from Donegal; the aim of the quarterly publication The Ombudsman Casebook; and how we can work together to improve the delivery of public services. We had an extremely positive discussion with those who attended which should benefit the work of us all in the future.

iii. Training session for staff of Citizens Information Centres in Donegal

Citizens Information Centres (CICs) provide an excellent service to people around the country, including providing advice and assistance to the public in their dealings with public service providers under my jurisdiction. In Donegal we took the opportunity to explain to staff of Donegal CICs the type of complaints we can deal with and how they can take complaints from the public on our behalf. Again this event was extremely useful and we look forward to working closely with the CICs in the future to benefit the public.

While in Donegal I also met with senior management in Letterkenny General Hospital and Donegal County Council. We discussed the issues facing public service providers in Donegal



From left Orla Foster HSE, Dr Anne Drake HSE, Peter Tyndall Ombudsman, Eileen Egan HSE, Elizabeth Neely HSE

and, in the case of Letterkenny General Hospital, the recommendations in my investigation report – *Learning To Get Better*.

I am pleased to say that we received extremely positive feedback from those we met and we plan to arrange a similar event in another part of the country in 2016.

Visits to the Citizens Information Centres (CICs)

Most of our complaints are received by letter, e-mail, online and through telephone calls but sometimes people want to talk to us in person.

To improve access to people living outside Dublin, staff from my Office visit CICs to take complaints from members of the public. Monthly visits to Cork, Limerick and Galway continue to provide a valuable local service, easily accessible to people living there.

During 2015, Ombudsman staff were available on 35 occasions to provide advice and assistance and to take complaints from the public.

Limerick CIC in 2015

47 complaints were received.

Galway CIC in 2015

49 complaints were received.

Cork CIC in 2015

56 complaints were received.

Our visits to the CICs also gave us the opportunity to provide assistance to over 200 other people whose complaints were not within our remit or where they had not taken up the matter with the public service provider in the first instance.

Participation at Exhibitions

i. Cork Adult Education & Training Exhibition

The Office has had a long standing presence at this two-day exhibition held every September. Attendance has been extremely useful in promoting the role and function of the Office in the Southern region.

ii. Over 50's Show

The Over 50's show is a popular event attracting approximately 23,000 people over three days. Staff members were present at shows in Cork and Dublin to answer questions about the role of the Office and provide advice and assistance to members of the public. The Cork show contributed to an increase in visits to the Cork CIC centre.

I would like to thank all those involved in our Outreach programme during 2015. As ever, my staff continue to bring our service directly to the people in a courteous and professional manner.

2.8 Oireachtas Committee on Public Service Oversight and Petitions

The Joint Oireachtas Committee on Public Service Oversight and Petitions (PSOP) has a role in considering individual petitions from members of the public and in examining systemic issues of concern relating to public administration generally. In line with its terms of reference, the Committee continued its engagement with my Office throughout 2015. The work of my Office also leads to the unearthing of systemic failings and this in turn assists and informs the work of PSOP.

In May 2015, the Committee published a comprehensive report into the Direct Provision system. The Committee was of the view that the current system is not fit for purpose and needs to be replaced. In the meantime, the Committee made quite a number of recommendations aimed at making the current system more humane and open. Among the recommendations was that my Office and the Office of the Ombudsman for Children should have unfettered jurisdiction to examine complaints from residents about the direct provision centres.

In September 2015, the Secretary General of the Department of Health and a number of senior officials appeared before the Committee to discuss the Department's plans for the replacement of the Mobility Allowance and Motorised Transport Grant schemes which had been closed down following my Office's Special Reports which found them to be acting illegally (see Chapter 3 also).

I appeared before the Committee on 30 September 2015 to discuss my 2014 Annual Report and my Office's systemic investigation report into hospital complaints systems - *Learning To Get Better*.

As part of a general review of the role and remit of Ombudsman Offices in Ireland the Committee held a series of debates in 2014 and 2015 with the individual post holders. In January 2016 the Committee published a report which contained a wide ranging analysis arising from its deliberations and made a number of recommendations aimed at strengthening the various offices and making them more independent.

The Committee recommended that:

- formal investigation recommendations of Ombudsman offices be rejected only where 75% of the Dáil votes to do so
- the relevant Ombudsman be given oversight of private sector entities in receipt of public money to fund the delivery of public services
- all Ombudsman offices be constitutionally based
- that when an Ombudsman initiates a formal investigation then legal professional privilege should not apply to prevent the Ombudsman from accessing relevant information
- that the Ombudsman should have remit over clinical judgement decisions made by persons acting for or on behalf of the HSE and private nursing homes
- all Ombudsman offices are funded directly from the Central Fund.

2.9 Memorandum of Understanding with HIQA

My Office and the Health Information and Quality Authority (HIQA) have separate but complementary roles in the health and social care area and on occasion complaints or information received by either Office can be of use and benefit to both. In July, the Chief Executive of HIQA and I signed a Memorandum of Understanding (MoU) on behalf of the two Offices. It is intended that this MoU will facilitate the exchange of information and complaints



Peter Tyndall Ombudsman and Phelim Quinn Chief Executive of HIQA

between both Offices in the best interests of the public and the health and social care services. The agreement also established procedures to assist members of the public in accessing the services of both organisations.

2.10 Ombudsman Jurisdictional Issues

Clinical Judgement

My Office cannot pursue complaints against private nursing homes or the Health Service Executive where the action complained of relates solely to a clinical judgement decision (for example the diagnosis or the particular course of treatment prescribed for a patient). I have argued that this constraint should be removed, as many people wishing to complain about the health service want these issues addressed. During 2015 the Minister for Health began a review of this matter in consultation with the Department of Public Expenditure and Reform and other interested parties. He also indicated that he was in favour of having the restriction removed. The Northern Ireland Ombudsman, the UK Parliamentary Ombudsman and many other Ombudsman Offices have full jurisdiction in the area of clinical judgement. I very much hope that there will be progress on this issue in 2016.

Direct Provision

Under the Ombudsman Act 1980, as amended, my Office cannot take complaints which relate to actions taken by the Department of Justice and Equality in the administration of the law relating to immigration or naturalisation. The precise scope of this restriction has led to a long running disagreement between the Department of Justice and Equality and my Office in relation to complaints about the day to day operation of direct provision centres. A similar dispute arose between the Department and the Office of the Ombudsman for Children. My Office has argued that, as things stand, my Office has jurisdiction to take such complaints, whereas the Department had taken the position that it does not. I received clear legal advice which supported my Office's position.

In 2015 two important developments occurred. In May 2015, the Joint Oireachtas Committee on Public Service Oversight and Petitions published a comprehensive report into the Direct Provision system which called for my Office to be given full jurisdiction.

The Department of Justice and Equality had set up a Working Group on the Protection Process and the Direct Provision System under the chairmanship of Mr Justice Bryan McMahon. My Office and the Ombudsman for Children (OCO) made a joint submission to the Working Group. The Working Group reported in June 2015 and made some 170 recommendations including a recommendation that the two Ombudsman Offices should have remit over complaints relating to services provided to residents of direct provision centres, including transfer decisions following a breach of the House Rules governing such centres. Subsequently, the Minister for Justice and Equality made it known, subject to legal advice to be obtained from the Attorney General, that she wanted the two Offices to have unfettered jurisdiction over direct provision centres. Following discussions involving officials from the

Department, my Office and OCO, the Department has indicated its intention to pave the way to implement the Minister's commitment. I very much welcome this development.

Complaints about the Prison Service

My Office is prevented from taking complaints about actions taken by the Department of Justice and Equality in the administration of prisons or other places of custody. My Office has long argued that the restriction should be removed as it puts my Office out of step with most Ombudsman Offices in Europe and beyond which, generally speaking, enjoy full jurisdiction in this area.

In late 2012 it was announced by the then Minister for Justice and Equality that new procedures were being introduced to investigate complaints by prisoners. This led to the establishment of a panel of external investigators. However, the panel was recruited and paid by the Irish Prison Service and only deals with the most serious complaints, known as Category A complaints. In my view the current system is not sufficiently robust or independent of the service which it investigates and I remain of the view that my Office should have jurisdiction in this area.

2.11 Single Complaints Portal for Health Sector Complaints

As part of the work on developing new Information and Communications Technology (ICT) solutions for my Office and complaints management across public services, I have taken responsibility for leading the development of the multi-agency HealthComplaints.ie website. Work is in hand on incorporating an interactive form to ensure that complaints can be made on all public health and social care matters through the website. Currently, the website, which is very well used, can signpost people to the appropriate complaints process but cannot be used to make complaints online. My thanks are due to the Citizens Information Board for their work in developing and hosting the website to date.

2.12 Complaints under the Disability Act

The Disability Act 2005 imposes significant obligations on Government Departments and other public bodies to work proactively towards the improvement of the quality of life of people with disabilities. A complaint can be made to the Ombudsman regarding a public body's failure to comply with Part 3 of the Disability Act. Specifically, the Ombudsman may investigate complaints about access by people with disabilities to public buildings, services and information.

As I have reported in previous years, the low number of complaints about Part 3 of the Disability Act is disappointing (4 received in 2015). It is vitally important that people with disabilities are informed as to their rights on access to services and information and that they are aware of their right of recourse to me as Ombudsman to examine their unresolved

complaints. It is also crucial that both professional and non-professional people involved in the disability sector are knowledgeable about the Disability Act 2005.

TABLE 10 - Disability Act - Complaints Received and Completed in 2015

	Received	Completed							Total
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	
Complaints Handling (S.38 to S.39)	2	0	0	0	0	0	1	0	1
Accessibility of Services Provided to Public Body (S.27)	1	1	0	0	1	0	0	0	2
Access to Services (S.26)	1	0	0	0	0	0	2	0	2
Total	4	1	0	0	1	0	3	0	5

2.13 Official Irish Language Scheme

During 2015, the Office of the Ombudsman along with the Office of the Information Commissioner prepared its third draft scheme under the Official Languages Act. The Scheme (available on www.ombudsman.ie), was approved by the Minister of State at the Department of Arts, Heritage and the Gaeltacht and will remain in force for a period of 3 years from 29 February 2016 or until a new scheme has been approved, whichever is the later.

2.14 Strategy Statement 2013-2015

As 2015 marked the final year of the current Strategic Plan, it is timely to reflect on key developments within the last 12 months and highlight some significant initiatives over the last three years. We will continue to build on these achievements in the coming years to bring us closer to our vision of a public service that is fair, open, accountable and effective.

The plan committed us to work internally to process cases to the highest standard and develop our team. We have delivered these objectives through a variety of initiatives that are now firmly embedded in the organisation. These included the establishment of operational systems that are flexible and dynamic and the introduction of quality standards and quality assurance practices, including mechanisms to ensure that we learn from any shortcomings identified. In 2015, we delivered a programme of focussed caseworker training initiatives and we recruited a number of specialist staff to strengthen the expertise of our team.

We have continued to work with a variety of stakeholders to use lessons learned from our work to improve public services for the benefit of all citizens. I am pleased to report that initiatives undertaken during the current Strategic Plan such as the publication of a quarterly casebook and the publication of my report *A Good Death* concerning end of life care which have helped sharing insights gained from my examination of complaints, have been warmly welcomed by public service providers and their staff and used as tools to help improve service standards.

In 2015, I undertook the first Ombudsman own initiative investigation *Learning to Get Better*. This investigation looked at how public hospitals in Ireland handle complaints about their services and whether they are learning from complaints to improve the services they provide. Further details are reported elsewhere in this report. The positive feedback on the report that I received shows that sharing perspectives and listening openly to feedback are crucial to the delivery of quality, customer focussed public services.

2015 also saw the extension of my Office's remit to private nursing homes. To support nursing homes in understanding the work of my Office and to ensure best practice complaint handling systems were established from the outset, my Office hosted information seminars across the country and designed a model complaints system for nursing homes. I hope that this will mark the first step towards the standardisation of complaint handling systems across the public service.

The next strategic plan aims to build upon the many successes we have achieved over the course of the last three years. It focuses in particular on extending/improving the impact of the Office on the wider public service, on continuously improving the level of services we provide, and in ensuring that our systems and processes allow us to deliver on those objectives.

2.15 International Ombudsman Institute (IOI)

The International Ombudsman Institute (IOI), established in 1978, is a global organisation for the cooperation of more than 170 independent Ombudsman institutions from more than 90 countries worldwide. Following my election to the position of Second Vice-President of the IOI, I stood down as President of the European Region of the IOI. However, I continued to play an active part in the work of the Region throughout the year as a member of the Regional Board and was invited to attend and participate in events promoting the concept of the Ombudsman. These included a presentation to an Italian parliamentary committee in October on the importance of having a national Ombudsman. During the year, I also developed a best practice guide on IOI principles for establishing new Ombudsman schemes or reforming existing ones.

2.16 European Network of Ombudsmen

The 10th National Seminar of the European Network of Ombudsmen took place at the end of April in Warsaw. This seminar is organised by the European Ombudsman. The theme of this seminar was “Ombudsmen against discrimination” and included discussions on the rights of the elderly, national minorities and people with disabilities. I was invited to speak on the Ombudsman’s role in securing the rights of older people. On the final day of the seminar, delegates travelled to Krakow and paid a very moving visit to Auschwitz-Birkenau. During this visit, Ombudsmen from throughout Europe signed a declaration affirming their commitment to protect and promote human rights.



"I am very happy that the process is being concluded and am most appreciative of the level of commitment, professionalism and dedication you have put into investigating the matters complained of on my behalf."

A Complainant



"I can't thank you enough for your tireless work on our case. Your support and understanding to all we had been through was a great comfort."

A Complainant



03

Ombudsman Reports



"The Enquiries Section is the first point of contact for all complaints received into the Office whether it is via- written correspondence, email, telephone or in person. While the work can be challenging at times, it can also be very rewarding, especially when you see the difference an Office such as the Ombudsman's can make to the lives of others."

Elaine, Enquiries Team, Office of the Ombudsman

Chapter 3: Ombudsman Reports

3.1 Learning to Get Better: An investigation into how public hospitals handle complaints

In May, I published the results of an own initiative investigation into how public hospitals handle complaints – a report entitled *Learning to Get Better*.

I began this investigation as I was concerned that my Office was receiving very few complaints about the healthcare system compared with Ombudsman offices in other countries. The investigation was the first own initiative investigation by an Ombudsman since this Office was established. It was also the most extensive investigation carried out by this Office and involved a survey of all public hospitals (both HSE and voluntary hospitals), site visits to a sample of hospitals (including a maternity hospital and mental health facility), interviews with front line and senior hospital staff and consultations with regulators, medical and nursing schools and health sector and advocacy groups. My Office also asked members of the public to share their experiences of complaining (both the good and the bad). In addition, we conducted a small number of focus groups with members of the public and past complainants.

The investigation found many good practices in complaint handling across the country which we were happy to highlight in the report. However, the investigation also discovered that many users of hospital services:

- are afraid to complain because of possible repercussions for their own or their loved one's treatment
- do not believe anything will change as a result of complaining
- find it difficult to discover how to complain and are not aware of the support available to help them to do so (including the right to come to my Office)
- are frustrated at delays, incomplete answers to their complaint and failure to provide proper apologies.

As a result of the investigation, I made a number of recommendations, which were accepted in full by the HSE. In particular, I have asked the HSE and each hospital to put a robust

complaints system in place to ensure that:

- it is easy for people to complain
- people have access to an effective independent advocacy service
- there is a single, consistent complaints system
- the most serious complaints are investigated independently.

I have also suggested that learning from complaints could usefully sit alongside other sources of information such as litigation, serious incidents or even “near-misses” to ensure that there is a comprehensive approach to learning from mistakes.

The HSE is currently developing an action plan in order to implement the recommendations contained in this report and my Office is in ongoing productive discussions with the HSE about this. I intend to monitor progress on implementation over this year.

I will also be working with the Department of Health, the HSE and other key stakeholders on reforming the current health complaints system in the coming year.

3.2 Mobility Allowance and Motorised Transport Grant Schemes: Update

The Department of Health decided to discontinue the Mobility Allowance and Motorised Transport Grant schemes to new applicants following Special Reports by my Office which found them to be in breach of Equal Status legislation. In 2013, the Government signalled its intention to introduce a new statutory transport support scheme for disabled persons with mobility needs. It is the responsibility of the Department of Health to bring forward the draft legislation. I am disappointed at the length of time it is taking to bring in the new scheme.

When the Secretary General of the Department of Health appeared before the Joint Oireachtas Committee



on Public Service Oversight and Petitions in September 2015 to discuss the matter the Committee was also critical of the delay. The Secretary General acknowledged the delay but stressed the complexity of the task of framing the new legislation. He undertook to keep my Office advised of progress. While I acknowledge that trying to move from the two previous administrative schemes to a unified statutory scheme with clear eligibility criteria in an area of such complexity and sensitivity poses a significant challenge I hope that the Department will treat the matter with the urgency it demands.



“The €204 a week may not be an awful lot of money but it has given me a lifeline and has already made an enormous difference in our daily lives.”
A Complainant



Ombudsman Case Studies



"A rewarding part of my role as a caseworker is providing a service to some of the most vulnerable people in society. I was delighted to assist a mother with her application for Domiciliary Care Allowance. Her seven year old son suffers from brittle asthma, severe allergies, speech and language impairment and Klinefelter's Syndrome. During my assessment of her complaint I obtained extra medical information which impacted on her application being reviewed and subsequently awarded."

Orla, Assessment Team, Office of the Ombudsman

Chapter 4: Ombudsman Case Studies

HEALTH

4.1 Man given seven times the amount of pain relief he should have received

Background

The family of a man complained to the Ombudsman after the man received seven times the amount of pain relief medication recommended for him on two occasions before the error was spotted. The family wanted to know what steps the hospital was taking to ensure that such an error would not happen again. The family said they were offended by remarks made by the Consultant following the error which they felt were inappropriate and defensive. They also asked the Ombudsman to highlight the case so that other hospitals might learn from it.

The man, who had a history of cancer, was admitted to the day ward in St. Vincent's Hospital and treated for dehydration and underwent some tests. During his admission, a doctor asked the man about his pain medication and he was said to have indicated that he was taking seven pain pills twice per day. The doctor understood this to mean 70 mgs (rather than 10 mgs) of pain relief twice per day. The prescription was written and the man's care was then assumed by another doctor who administered this incorrect dosage to him twice before the error was noticed by the hospital's pharmacist. This effectively meant that the man received a seven day dosage within twelve hours. This happened two days in a row before it was stopped. The man had to be admitted to the Medical Observation Unit for closer monitoring. Subsequently, the man developed a lung infection and pneumonia. Sadly, the man died one month later in hospital as a result of his underlying condition.

Examination

In response to the incident, the hospital asked the Clinical Director for Unscheduled Care to conduct an Internal Incident Review. The Clinical Director met with the doctor in question and the man's Consultant. The Consultant apologised to the family on a number of occasions throughout the review. The incident had been forwarded to the hospital's Patient Safety Committee (which is chaired by the CEO) to facilitate wider learning. The Clinical Director's

report said that the key causal factor was that the doctor had not verified the prescription but presumed the prescription to indicate 70 mg of pain relief twice a day. Contributory factors included the fact that it had been a very busy on the Day Ward on that particular day and that there was no pharmacy input on a daily basis. Measures had been put in place to avoid future errors. These included additional staffing at registrar level and extended pharmacy cover in the Oncology Day Ward. However, the Ombudsman was concerned that despite these additional measures, such an error could potentially happen again. He considered that it would be beneficial for medical staff to receive ongoing training in medication safety and to be reminded of the need to verify medication dosages before charting them.

Outcome

Officials from the Ombudsman's Office met with the Consultant and the Clinical Director for Unscheduled Care to discuss the case. The hospital undertook to discuss with the Patient Safety Committee how best to remind all medical staff of the need to verify medication dosages, possibly through ongoing training events or through the 'grand rounds' forum within the hospital. The treating Consultant also asked that his sincere apologies be conveyed to the family for the remarks he had made which had caused them unintentional upset.

4.2 Support for foster couple did not meet standards

Background

A couple who had been recently approved as short-term foster parents by the HSE complained about their interactions with the social work department. They said that during their first placement in 2012, they received insufficient information about the children's needs before they agreed to foster them. They said that no care plans had been made available to them, no practical support had been provided to them during what had been a difficult placement, and no counselling offered to them when the placement broke down. While a second short-term placement had gone very well, they complained that their social worker had (from their perspective) chastised them for becoming too attached to the infant when she met with them post-placement. The couple said that their formal complaint to the HSE had not been dealt with fairly or in a timely way.

Examination

The Ombudsman found that the HSE's response to the couple was inadequate. No attempt was made to meet with the couple to discuss their concerns or to resolve them. Some of the details in the response were inaccurate and did not reflect what was contained in the social work records. Due to the serious nature of this complaint, Ombudsman staff met with the social work team involved with the couple. The Ombudsman found that the relevant fostering standards had not been complied with and that the social worker had not been sufficiently empathetic or understanding in her approach towards the couple during her post placement visit. He set out his views in a letter to TUSLA.

Outcome

TUSLA (the Child and Family Agency) was established in January 2014 and assumed responsibility for child and family services from the HSE. TUSLA wrote a letter of apology to the couple. It acknowledged the validity of their complaint and accepted that they had not been treated in accordance with the fostering standards. TUSLA also accepted that the complaint had not been handled properly and that they had not been offered the option of an informal resolution or meeting in 2012. It said that the issues raised had been taken very seriously and would be incorporated in on-going supervision and training for social workers in foster care.

While the couple accepted the apology, they decided that they would not continue to act as foster parents.

4.3 Couple unfairly refused refund of prescription charges

Background

A man complained about the decision of the HSE to refuse him and his wife a refund of prescription charges. The man, who is blind and has Parkinson's disease, lives alone. His wife lives in a nursing home.

Examination

Prescription charges were introduced in 2010. At that time, the man and his wife both had medical cards but they used different pharmacies. In May 2014, the man became aware that he and his wife were entitled to register as a 'family group' (which means a family pays prescription charges to a set limit) and he applied to the HSE for a refund for the four year period.

The HSE refused to refund him the extra charges he incurred for the period that he and his wife were not registered as a family.

Outcome

The Ombudsman highlighted the unique circumstances of this case with the HSE. The HSE agreed to refund the difference paid in prescription charges (€305) for the period in question.

4.4 Woman undergoes unnecessary procedure in hospital

Background

A woman attended Waterford Regional Hospital for a consultation regarding a preoperative gynaecological procedure. During the course of the consultation the woman said the Doctor, who was a locum, was unable to answer certain questions and did not conduct a pregnancy

test or sign the necessary form. A number of days later the woman attended the hospital and underwent the procedure. It subsequently came to light that the woman was pregnant and that if the correct test had been carried out there would have been no need for her to undergo the procedure. The woman complained to the HSE and then to the Ombudsman.

Examination

The Ombudsman examined the investigation into the woman's complaint that was carried out by the hospital. The Consultant accepted that the locum Doctor should have been able to answer all the woman's questions and carry out the necessary tests. It was also accepted that records of the woman's treatment were not as well kept as they should have been. Following its investigation of the woman's complaint, the hospital apologised to her for the actions of the locum doctor. It changed its procedures regarding pregnancy testing for gynaecology patients, including the use of consent forms, and provided training for staff on the role of each staff member in the management of complaints.

Outcome

The Ombudsman considered that, while the shortcomings in the woman's care should not have arisen, the steps to improve the quality of its service taken by the hospital following its investigation of the woman's complaint were reasonable.

4.5 Rehabilitation Training Allowance reduced by local office despite no national reduction

Background

A man complained to the Ombudsman about a reduction in his Rehabilitation Training Allowance (RTA). At the time in question, there was a range of employment supports for people with disabilities to help with getting a job and staying in employment. These included accredited training centres run by the HSE or by service providers contracted by the HSE and designated sheltered workshops. Trainees in foundation training and sheltered workshops retained their social welfare payments, usually Disability Allowance, and also received a training allowance each week, which is the Rehabilitation Training Allowance.

The man said that a reduction was made to his Rehabilitation Training Allowance, despite the announcement of Minister Kathleen Lynch at the time that such a cut would not be implemented.

Examination

When the man complained to the HSE about this reduction, he was informed by the Area Manager for Primary, Community and Continuing Care that RTA is paid for a maximum of three years. The Ombudsman was subsequently informed by the HSE Consumer Affairs Area Officer that the rate of RTA was reduced locally as part of cost containment measures. The Ombudsman was also provided with a letter issued to trainees by the training unit in question, stating that the reduction was part of cost containment measures.

The Ombudsman liaised with the Department of Health who confirmed that RTA is only payable for the duration of training on a rehabilitative training course. It confirmed that no reduction in the RTA payment was authorised by the Department.

Outcome

The man was provided with a reimbursement of the reduction in his RTA for the period from when it was reduced until he completed his rehabilitative training. This amounted to €265.20 in total. The HSE also agreed to reimburse others similarly affected by this reduction.

EDUCATION

Reasonable Accommodations for the Examinations Certificate Scheme (RACE)

Candidates with permanent or long-term conditions, including visual and hearing difficulties, or specific learning difficulties, which they believe will significantly impair their performance in the examinations may apply to the State Examinations Commission for a reasonable accommodation(s) to be made to facilitate them taking the examinations e.g. a candidate with a severe hearing impairment may apply for an exemption from an aural examination.

4.6 Student with writing disability granted assistance four days before Leaving Certificate Examinations

Background

A woman complained that her daughter's application under the RACE scheme to use a word processor during her Leaving Certificate Examinations had been refused by the State Examinations Commission. The Ombudsman received this complaint one week before the Leaving Certificate Examinations was due to commence.

Examination

The woman's daughter had a developmental co-ordination disorder which made it difficult for her to write by hand for long periods of time. As she had been using a word processor throughout the school year, she was not used to writing for long periods. During the Ombudsman's examination, the mother said that her daughter has Scoliosis but that she had not informed the Commission. The Ombudsman contacted the Commission to explain the situation and submitted extra medical evidence.

Outcome

The SEC immediately reviewed her application and the daughter was granted approval to use a word processor four days before her Leaving Certificate Examinations.

4.7 Student refused waiver after scores calculated incorrectly

Background

A student with dyslexia and dyscalculia applied for a waiver from being assessed for her spelling, grammar and punctuation in her Leaving Certificate language exams under the RACE scheme. Her application was refused by the State Examinations Commission (SEC). She appealed the decision to the Independent Appeals Board and the Board upheld the original decision.

Examination

To be eligible for a waiver from the assessment of spelling, grammar and punctuation the candidate must have:

- evidence of a Specific Learning Difficulty for the purpose of RACE and
- a standardised score on an approved spelling test of 85 or less and
- a spelling/grammar/punctuation error rate of 8% or more in written samples.

The report from SEC showed that she did not qualify for a waiver because her written script error rates were 7.2% and 3.4%. The Ombudsman found that the scores had been reassessed to 11% and 8.1% by the Learning Support Teacher and had been resubmitted to SEC at the appeal stage.

The Ombudsman asked SEC to confirm whether or not the Appeals Board had taken this information into consideration when making its decision.

Outcome

As a result of the Ombudsman's intervention, SEC requested that the Independent Appeals Board review her case. The Board found that the student qualified for the waiver, which was granted three weeks before the Leaving Certificate Examinations.

4.8 Student asked to read from wrong paper when assessing reading ability

Background

A mother complained on behalf of her son who has Asperger's Syndrome after he was refused a reader for his Leaving Certificate Examinations under the RACE Scheme.

Examination

In order to obtain a reader, the student must meet certain criteria. These include reading a passage from a sample examination paper at the appropriate level. The student was sitting three Higher Level subjects in his Leaving Certificate Examinations. The SEC file showed that

the school had asked the student to read from Ordinary Level English sample papers. This did not provide a true reflection of his reading difficulties. The error had not been noticed during the review or the appeals process.

The Ombudsman asked the Commission to have the student reassessed at the correct level.

Outcome

As a result of the reassessment, the student was found to meet the criteria to qualify for a reader for his Leaving Certificate Examinations.

DEPARTMENT OF SOCIAL PROTECTION

4.9 Man's Guardian Payment prematurely stopped by Department

Background

A man complained to the Ombudsman about the decision of the Department of Social Protection to stop paying him Guardian Payment in respect of his sister. He appealed this decision, but it was refused.

Examination

The Ombudsman examined the relevant publication on Guardian's Payment on the Department's website which states that "Payment continues up to the end of the academic year in which the orphan reaches age 22, if they are in full-time education by day at a recognised school or college". The Department ceased making the payment from 25 May, the date the man's sister completed the third year of her course but she was not 22 years old until August of that year.

Outcome

The Ombudsman considered that the payment had ceased before it should have as the man's sister was still in full-time education and asked the Department to review the case. The Department agreed to the review and paid the man arrears of €2,898.

4.10 Woman receives €28,000 after Department incorrectly said child was 'not abandoned'

Background

A woman complained to the Ombudsman that the Department of Social Protection had refused her application for Guardian Payment. This decision had been upheld on appeal by the Social Welfare Appeals Office. The woman had sought the payment for her granddaughter whom she is rearing in the absence of her granddaughter's parents.

Examination

The Department and the Appeals Office explained that their decisions were based on the fact that they were not satisfied that the grandchild had been completely abandoned by her parents. Under the relevant regulations the child would have to be abandoned by both parents before the payment could be paid to a third party. The Ombudsman asked the Appeals Office to review some key points of evidence that in his view supported the woman's claim that her granddaughter had been abandoned. These included the assessment of various officials of the Department who had dealt directly with the woman and who had found her account credible and a reassessment of some of the evidence, including statements from the child's mother and grandmother, which were already on the file.

Outcome

The Appeals Officer revised his decision and decided that the application for Guardian Payment should be allowed. The woman received arrears backdated from the date of application, 1 July 2011, of €28,616.

4.11 Department reduces arrears due by woman by €8,500 after it failed to take account of husband's means

Background

A woman complained about the Department of Social Protection's delay in implementing a Social Welfare Appeals Office (SWAO) decision. The Department assessed a Jobseeker's Allowance (JA) overpayment of some €37,000, because she had failed to disclose her husband's means for almost two and a half periods when she applied for JA. However, the SWAO directed the Department to reassess the woman's JA based on earnings from her husband's employment during that period. This decision would reduce the overpayment which the Department had assessed against the woman because she would have been entitled to a reduced JA payment based on her husband's means.

Examination

During the Ombudsman's examination, the Department paid a revised rate of JA to the woman which reduced the amount of overpayment assessed against her. However, she was unhappy with how the Department arrived at the overpayment amount of about €18,500. The Ombudsman found that the Department had not provided a detailed breakdown of how it had determined the figure. The Ombudsman found the Department had not provided a detailed breakdown of how it had calculated the €18,500, and asked it to do so.

The Department reviewed the woman's case and accepted that the revised overpayment amount was incorrect. It explained it had not taken into account the time between the woman's JA being suspended and the time it took for her SWAO appeal to be concluded. As the woman was eligible for JA based on her husband's means for this period, this amount should have been deducted from the final overpayment.

Outcome

As a result of the Ombudsman's examination the amount the woman still owed the Department was reduced by €8,500.

4.12 Clerical error sees man's appeal refused when it had been granted

Background

A man complained that the Department of Social Protection had incorrectly refused his application for Rent Supplement and that his subsequent appeal to the Social Welfare Appeals Office was also refused incorrectly.

Examination

The man's application was refused on the basis that he had left local authority housing without good cause and he did not have a housing needs assessment from his local authority. The legislation governing entitlement to a payment under the Supplementary Welfare Allowance Scheme, which Rent Supplement is, provides for a payment to be made in cases where someone leaves local authority housing only if the Department is satisfied that the person had good cause for leaving. In this case the man was able to provide evidence from An Garda Síochána that he was the subject of anti-social behaviour. In addition he produced evidence that he had been assessed by his local authority for housing and it had been decided that he had a housing need.

Outcome

The Appeals Officer in the Department was satisfied with the information provided by the man and allowed his appeal. Unfortunately a clerical error was made and the man was advised that his appeal was "disallowed". An examination by the Ombudsman of the Department's files relating to the case revealed this error and the Ombudsman asked the Department to correct it. As a result the man was paid arrears of Rent Supplement amounting to €4,278.

4.13 Rent Supplement allowed and backdated due to children being dependents

Background

The Ombudsman received a complaint from a separated father of three children who was paying rent of €675 per month for a three bedroom house.

His Rent Supplement was refused on the basis that the rent was in excess of that allowed for a single person and that the housing needs of his children were considered to be met in the family home.

Examination

The man was classified for Rent Supplement purposes as a single person who was living alone. Therefore, he was subject to a rent cap of €450 per month. The man maintained that he should have been treated as a separated father with three children. This was on the basis that he had a Court Order which granted him overnight access to his three children for three nights per week during school terms and for a 14 day block period during summer holidays.

Rent Supplement is payable in respect of the applicant and any “qualified” children as defined in the Social Welfare Consolidation Act 2005. This provides that a qualified child is one who is dependent on the applicant for support. It seemed that the Department had not addressed the question of whether the children were dependant on the man for the support which was set out in the Court Order. Following the Court Order, the children had been staying with their father overnight for several nights per week since 2010.

Outcome

The Ombudsman referred the case to the Social Welfare Chief Appeals Officer who decided that, during such access, the children were dependent on their father for support. Accordingly, the appeal was allowed and the man was awarded backdated Rent Supplement of €18,100.

LOCAL AUTHORITY

4.14 Dog owner fined based solely on an allegation

Background

A man was fined by Cork County Council following an allegation that a third party had been attacked by his dogs. He contested the matter in the District Court where he won his case and was awarded costs. The man complained that the Council had fined him without having first established the facts.

Examination

The Ombudsman established that the Council had a policy of fining dog owners following receipt of complaints about their dogs without investigating the complaints. He considered this unfair and asked the Council to review its policy.

Outcome

The Council confirmed that it had amended its protocols. It now provides that on receipt of a verbal or written complaint, the Dog Warden would contact both the complainant and the owner of the dog(s) to investigate the alleged incident. It also now specifies that the allegation will, in all cases, be put to the person being investigated and that person will be invited to respond.

4.15 Council gave housing grant cheques to builder not home owner

Background

An elderly woman was awarded a grant of €56,000 by Fingal County Council under the Housing Aid for Older People Scheme. The woman engaged a builder to carry out the works. She told the Council she was not happy with the quality of some of the work completed. Subsequently, the Council released €42,000 of the grant money directly to the builder, rather than to the woman.

Examination

The Ombudsman's examination was confined to the dealings the woman had with the Council. The actions of her builder are not within the Ombudsman's remit. This is because she had a private contract with the builder.

In relation to the release of the funds to the builder, the Council said that there appeared to have been some confusion at the time as to whether or not the woman was available to receive her post. It indicated that she may have cancelled her post for a period. In these circumstances, the Council permitted the builder to collect five cheques and to deliver them to the woman, at her home. The Council emphasised that the five cheques were made payable to the woman and, as far as it was aware, the individual cheques were endorsed by her. The woman said she never received the cheques.

The woman had been on holidays but returned to her home nine days before the Council released the five cheques to the builder.

The Ombudsman took the view that any arrangement which the woman had regarding delivery of her post while she was on holidays was a matter for herself. It was not a matter in which the Council should have become involved, unless there were compelling reasons for doing so. The Ombudsman did not see any valid reason for the Council's release of the five cheques to the builder without the woman's specific authorisation, particularly in the absence of a certification from her that the works were completed to her satisfaction.

Outcome

The Council offered the woman €7,500. It also confirmed that, in future, it will only release grant payments to applicants, unless otherwise instructed by an applicant.

The Ombudsman felt the Council's offer was reasonable and appropriate as he felt it would allow the woman to carry out the remaining repairs to her home. The woman accepted the Council's offer.

4.16 A mother and her two children receive housing after 10 years on the housing list

Background

A woman complained about the delay in receiving social housing from Kildare County Council. She said that she had been on the Council housing list since 2006 without receiving a housing offer. She is a separated mother of two children aged 15 and 2. She had found it very difficult to secure private rented accommodation because of the increase in rents and the fact that many landlords refused to accept tenants who were on rent allowance. Her family had been forced to move from their previous private rented accommodation to a different town because of the rental costs. She had been given notice to quit from her current rented accommodation because her landlord needed the property for a family member. She said that the Council had ignored her requests for assistance after she had made them aware of the situation, so she sought the Ombudsman's assistance.

Examination

The Council accepted that the woman had been on the housing list for a long time. However it said that there were over 6,500 applicants on its housing list and because of the shortage of suitable units some had been waiting in excess of 13 years for social housing. The Council said that individuals who are in private rented accommodation and in receipt of rent supplement are deemed not to be such a high priority for social housing as those who are homeless, living in unfit accommodation, living in overcrowded accommodation, persons with disabilities, persons leaving congregated settings, persons on the Council's traveller accommodation plan and Rental Accommodation Scheme tenants losing their accommodation. Therefore it was not unusual that she would not have been offered accommodation in that time as she was considered to have been adequately housed in private rented accommodation.

As the woman's circumstances had changed because she was being evicted by her landlord and she had moved to another town, the Council reassessed her circumstances. A new voluntary housing unit in her desired location became available and the Council had recommended that she be allocated a three bed unit by the voluntary organisation involved.

Outcome

The woman accepted the offer of a three bedroom house from the voluntary housing association.

AGRICULTURE

4.17 Man paid incorrect rate of premium because of a computer error

Background

A man complained to the Ombudsman when the Department of Agriculture, Food and the Marine demanded repayment of some of the money he received under the Afforestation Scheme. His application was approved in October 2006. There are different rates of payment for farmers and non-farmers and his application was approved at the lower non-farmer rate of premium. However, the Department of Agriculture, Food and the Marine mistakenly paid him the higher farmer rate due to a computer error. The man was informed that the debt could be spread over a reasonable period of time but he said he was dissatisfied with the Department's proposals for repayment.

Examination

In 2009 the Department became aware that it was paying the incorrect rate of grant but took no action to rectify the situation. The Ombudsman requested that the Department review its decision.

The Department maintained its position that it is entitled to seek repayment of any over-payments made to a third party regardless of any shortcomings in its processing of the matter. However, it said it was prepared to recalculate and to limit the debt to premium payments paid up to and including 2009 when it first became aware that it was paying the incorrect rate.

Outcome

The Ombudsman considered that this was a fair outcome. The Department recalculated the man's debt and issued a refund of €13,000.



"I can only thank you most sincerely for your efforts on my part - even though you would probably say you are simply doing your job- the sad fact is that different people do their jobs in different ways and not always with the courtesy, commitment and efficiency that you have."

A Complainant



Annexes



*"Every day brings a new challenge - a different scheme,
legislation to research and the satisfaction of a job well done."
Mary, Examinations Team, Office of the Ombudsman*

Annex A: Statistics

TABLE 1 - Totals

Complaints Carried Forward from 2014	581
Complaints Received in 2015 (service providers within jurisdiction)	3641
Complaints Completed in 2015	3531
Complaints carried forward to 2016	691
Enquiries 2015	
Complaints against bodies outside jurisdiction (for example banks, private companies) received in 2015	849

TABLE 2 - Complaints Received by Sector

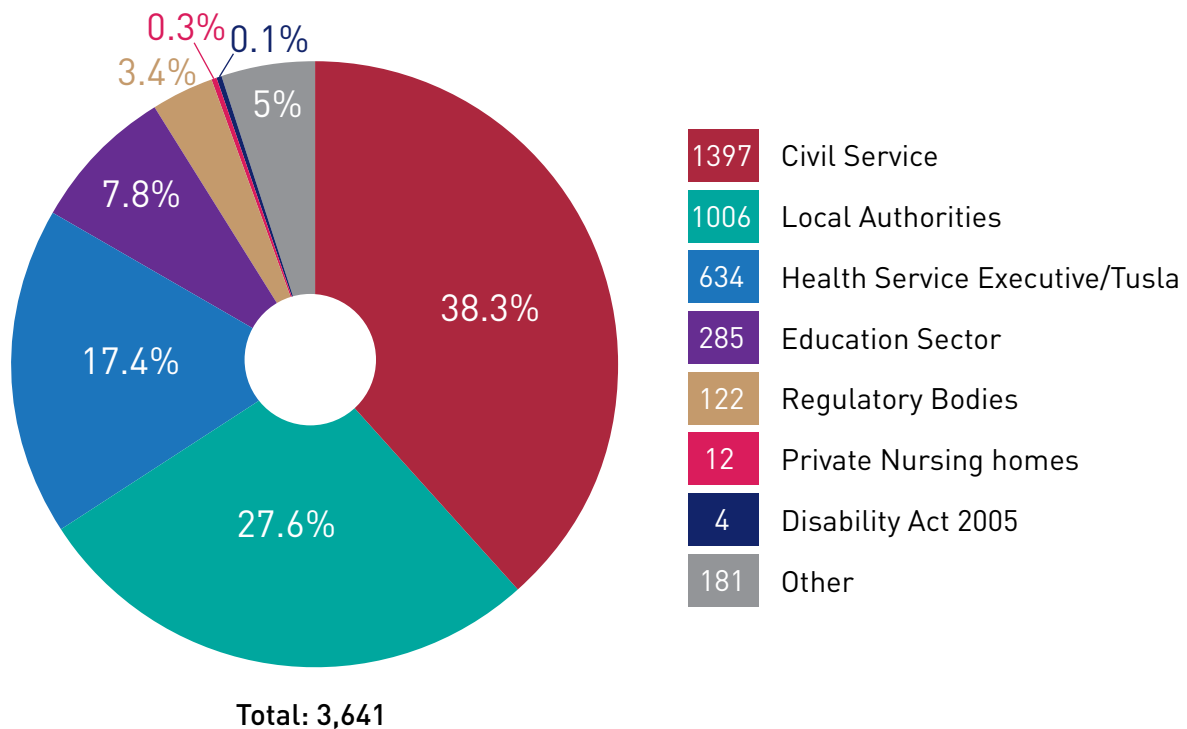


TABLE 3 - Complaints Completed by Outcome

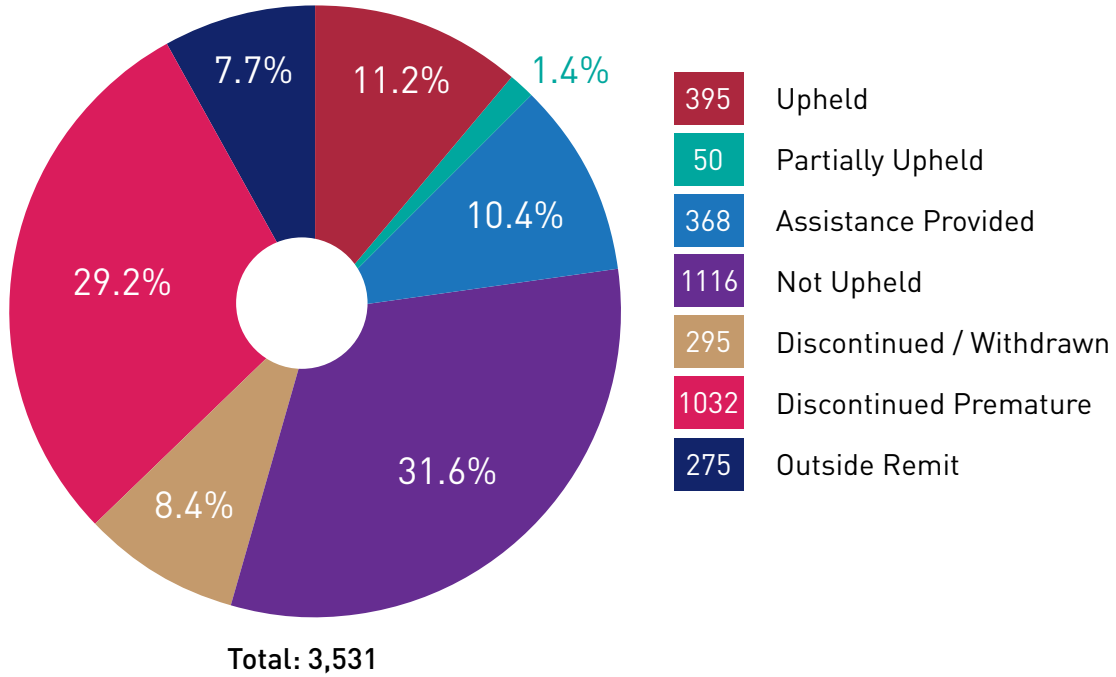


TABLE 4 - 10 Year Trend of Complaints Received

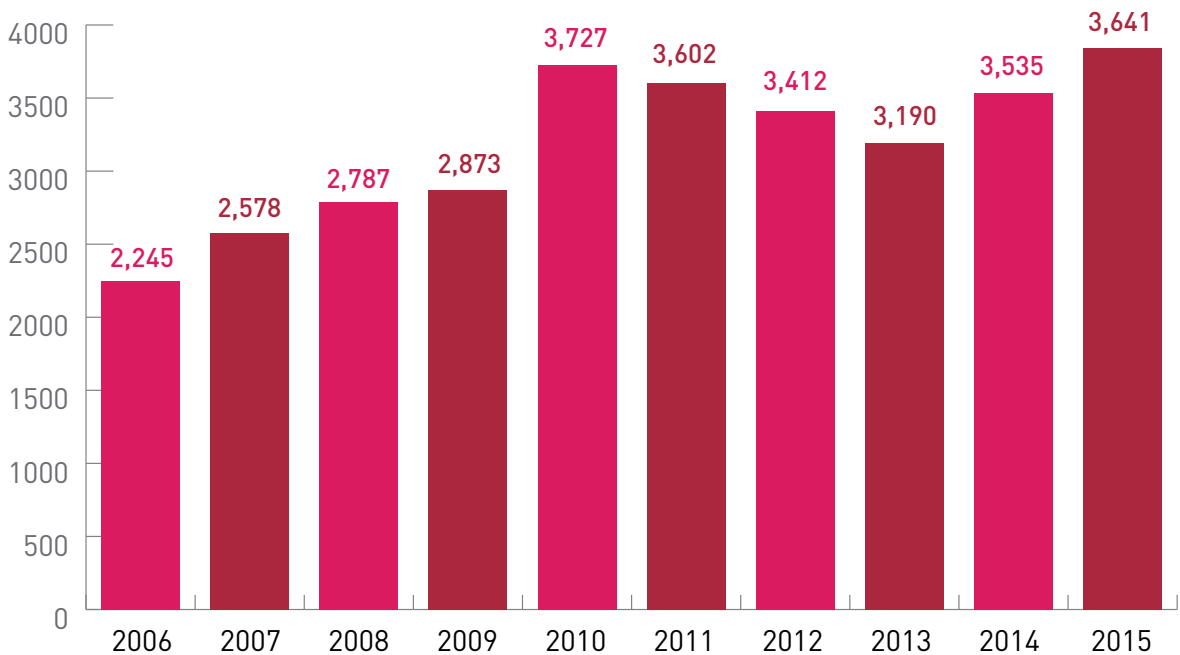


TABLE 5 - Complaints Received by County

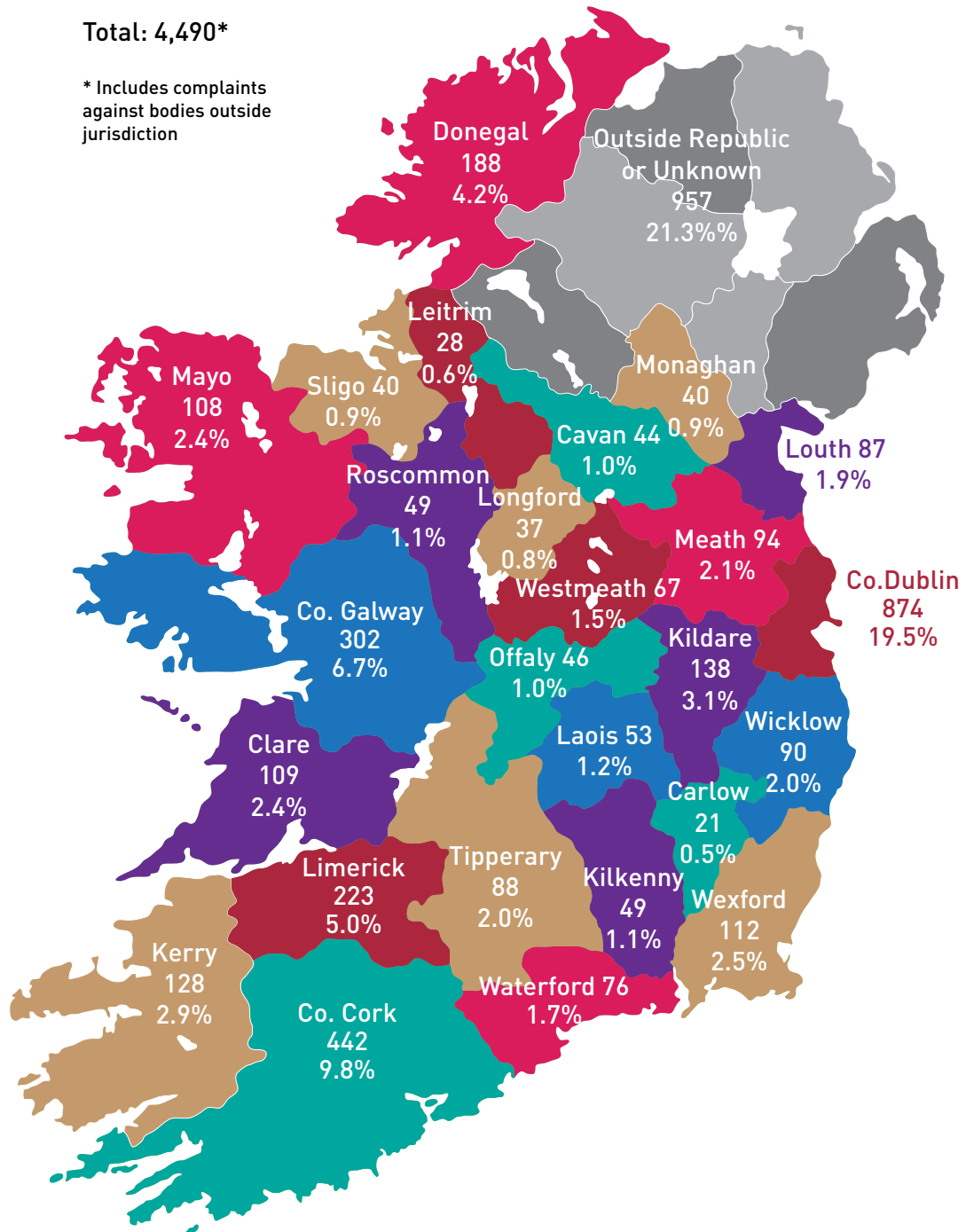


TABLE 6 - Civil Service - Complaints Received and Completed in 2015

	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Social Protection	870	83	5	84	67	326	273	21	859
Revenue Commissioners	137	10	0	12	9	73	29	4	137
Agriculture, Food and the Marine	135	9	2	5	11	16	103	5	151
Justice and Equality	83	5	0	6	8	26	11	22	78
Education and Skills	32	5	0	0	3	1	1	17	27
Foreign Affairs and Trade	32	4	1	2	2	14	6	3	32
Environment, Community and Local Government	28	1	0	3	1	5	13	2	25
Health	4	0	0	0	0	1	0	2	3
Jobs, Enterprise and Innovation	4	0	0	0	0	1	2	0	3
Communications, Energy and Natural Resources	1	0	0	0	0	0	0	1	1
Civil Service (Others)	71	15	1	4	5	19	19	11	74
Total	1397	132	9	116	106	482	457	88	1390

TABLE 6(a) - Department of Social Protection - Complaints Received in 2015

Unemployment Payments	196
Disability, Invalidity and Maternity Payments	165
Supplementary Welfare Allowance	127
Old Age & Retirement Pensions	85
Carer's Payments	68
Family Income Supplement	40
Widows and One Parent Family Payment	39
Back to Work / Education Schemes	28
Child Benefit	24
PRSI	17
Fuel Allowance and Free Schemes	17
Occupational Injury Benefit	16
Other Payments	20
Miscellaneous	28
Total	870

TABLE 6(b) - Office of the Revenue Commissioners Complaints Received in 2015

Income Tax	68
V.R.T	13
Household Charge	12
Residential Property Tax	11
Value Added Tax	10
Miscellaneous	7
Capital Gains Tax	5
Customs & Excise	5
Capital Acquisitions Tax	4
Corporation Tax	1
Housing General	1
Total	137

TABLE 6(c) - Department of Agriculture, Food and the Marine - Complaints Received in 2015

Single Farm Payment	64
R.E.P. Scheme	12
Agri-Environment Options Scheme (AEOS)	9
Miscellaneous	9
Disadvantaged Areas Scheme	8
Disease Erad. Scheme	5
Forest Premium Scheme	4
Early Retirement Scheme	3
Sea Fishing & Aquaculture Licensing	3
Farm Development Grants	2
Reconstitution of Woodlands Scheme	2
Other Schemes/Payments	14
Total	135

TABLE 7 - Local Authority - Complaints Received and Completed in 2015

	Received	Completed							Total
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	
Carlow County Council	3	0	0	0	0	1	2	0	3
Cavan County Council	9	5	0	1	0	2	2	0	10
Clare County Council	44	6	2	7	6	7	12	3	43
Cork City Council	61	15	0	8	2	18	13	2	58
Cork County Council	78	10	0	10	4	20	23	5	72
Donegal County Council	37	1	1	6	3	10	10	5	36
Dublin City Council	134	9	2	23	17	29	47	5	132
Dún Laoghaire-Rathdown County Council	39	5	1	1	3	9	17	2	38
Fingal County Council	33	8	0	4	3	3	9	3	30
Galway City Council	48	12	0	8	3	12	11	3	49
Galway County Council	42	13	1	1	6	8	12	2	43
Kerry County Council	46	5	0	6	3	11	10	1	36
Kildare County Council	47	9	1	6	5	9	16	0	46
Kilkenny County Council	10	1	0	1	1	3	1	1	8
Laois County Council	19	1	0	2	2	8	6	1	20
Leitrim County Council	6	1	0	1	0	2	2	0	6
Limerick City & County	56	6	0	4	4	24	15	3	56
Longford County Council	10	2	0	0	0	4	3	0	9
Louth County Council	31	8	0	6	3	3	9	2	31
Mayo County Council	28	6	0	7	0	6	7	0	26
Meath County Council	21	0	0	4	4	4	3	2	17
Monaghan County Council	9	0	0	0	1	3	4	0	8
Offaly County Council	16	1	0	3	1	6	3	0	14
Roscommon County Council	13	1	0	4	0	0	6	1	12
Sligo County Council	12	3	1	1	1	4	2	0	12
South Dublin County Council	28	7	0	5	2	5	6	2	27
Tipperary County Council	26	6	0	5	4	3	6	2	26
Waterford City & County	23	1	0	3	0	7	9	2	22
Westmeath County Council	12	3	0	3	0	1	3	1	11
Wexford County Council	28	5	0	4	5	8	8	0	30
Wicklow County Council	37	5	0	3	1	6	15	2	32
Total	1006	155	9	137	84	236	292	50	963

TABLE 7(a)- Local Authority - Complaints Received in 2015

Housing		546
	<i>Allocations and Transfers</i>	430
	<i>Repairs</i>	79
	<i>Rents</i>	18
	<i>Loans and Grants</i>	10
	<i>Sales</i>	9
Planning		218
	<i>Enforcement</i>	113
	<i>Administration</i>	105
Roads/Traffic		86
Motor Tax & Driver Licence		11
Provision of Service		11
Sewerage & Drainage		10
Water Supply		9
Acquisition of land/rights		8
Parks/Open Spaces		6
Waste Disposal		5
Rates		5
No Reply to Correspondence / Delay		4
Miscellaneous		87
Total		1006

TABLE 8 - Health and Social Care Sector - Complaints Received and Completed in 2015

	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Health Service Executive									
Medical & GP Card	113	20	2	14	11	34	37	2	120
Other	35	4	1	5	2	9	8	9	38
Other Payments	11	3	0	0	0	1	6	2	12
Health & Social Care									
Hospitals - General	243	25	11	43	28	69	26	21	223
Nursing Homes	44	3	0	3	4	9	20	3	42
Primary & Community Care	41	6	2	4	1	12	14	0	39
Hospitals - Psychiatric	32	1	1	5	3	11	4	2	27
Disability Services	24	3	0	3	6	4	5	2	23
Other	14	0	2	1	1	7	3	2	16
Treatment Abroad Scheme	10	1	0	0	1	1	1	1	5
Social Work Services	9	0	3	2	1	3	2	1	12
Dental Services	9	0	0	1	2	4	3	0	10
TUSLA - Child & Family Agency	49	4	1	7	3	17	2	9	43
Total	634	70	23	88	63	181	131	54	610

TABLE 9 - Other Service Providers (within jurisdiction since May 2013)

	Received in 2015	Completed in 2015
EDUCATION:		
Central Applications Office	1	1
City of Dublin Education and Training Board	1	1
Coláiste Chiaráin	1	0
Cork Institute of Technology	2	1
Dublin City University	9	6
Dublin Institute of Technology	6	7
Dún Laoghaire Institute of Art, Design and Technology	1	0
Dundalk Institute of Technology	6	5
Finn Valley College	1	0
Galway-Mayo Institute of Technology	3	3
HEAR/ DARE	11	8
Institute of Technology Sligo	1	1
Institute of Technology Tallaght	5	5
Institute of Technology Tralee	0	1
Kerry Education and Training Board	1	0
Letterkenny Institute of Technology	1	1
Limerick & Clare Education & Training Board	1	1
Limerick Institute of Technology	5	5
National College of Art and Design	1	1
National College of Ireland	5	3
National University of Ireland Galway	5	5
Quality and Qualifications Ireland	1	1
St. Patrick's College, Drumcondra	2	2
State Examinations Commission	82	77
Student Grant Appeals Board	5	6
Student Universal Support Ireland (SUSI)	91	79
SUSI / Student Grant Appeals Board	1	1
Trinity College Dublin	7	6
University College Cork	7	5
University College Dublin	11	11
University of Limerick	3	3
Waterford Institute of Technology	2	2
Other	6	8
Sub-total	285	256

TABLE 9 - Other Service Providers (within jurisdiction since May 2013)

	Received in 2015	Completed in 2015
REGULATORY:		
Adoption Authority of Ireland (*CF)	2	0
An Bord Altranais	6	4
Competition and Consumer Protection Commission	4	3
CORU - Health and Social Care Professionals Council	1	3
Dental Council (*CF)	2	3
Health and Safety Authority (*CF)	4	4
Health Information and Quality Authority (HIQA)	3	2
Health Products Registration Authority (HPRA)	1	1
Inland Fisheries Ireland	6	6
Law Society of Ireland	11	12
Medical Council (*CF)	15	16
National Transport Authority	11	13
Pharmaceutical Society of Ireland (*CF)	3	3
Property Services Appeals Board (*CF)	1	1
Property Services Regulatory Authority (*CF)	6	7
Road Safety Authority	40	36
Sea Fisheries Protection Authority	2	2
Teaching Council	4	3
The Pensions Authority	0	1
Sub-total	122	120

* CF - Only certain functions of these providers are within the Ombudsman's jurisdiction

	Received in 2015	Completed in 2015
OTHER:		
An Bord Bia	1	1
Appeal Commissioners of Income Tax	2	2
Caranua	12	10
Courts Service (*CF)	18	18
Crawford Gallery	1	1
Credit Review Office	1	0
Disabled Drivers Medical Board of Appeal	77	77
Enterprise Ireland	1	2
Irish Museum of Modern Art	2	2
Irish Sports Council	2	2

TABLE 9 - Other Service Providers (within jurisdiction since May 2013)

Legal Aid Board	19	15
Limerick County Enterprise Board	1	1
National Roads Authority	4	4
Personal Injuries Assessment Board (*CF)	3	3
Pobal	5	4
Private Residential Tenancies Board (*CF)	17	17
Residential Institutions Statutory Fund Board	1	1
Science Foundation Ireland	0	1
Solas (previously known as FÁS)	2	3
Sustainable Energy Authority Ireland	9	9
Teagasc	1	1
Údarás na Gaeltachta	2	2
Sub-total	181	176
<i>* CF - Only certain functions of these providers are within the Ombudsman's jurisdiction</i>		
ALL 'NEW' SERVICE PROVIDERS - TOTAL	588	552

TABLE 9(a) - Other Service Providers - Complaints Completed in 2015 by Outcome

Upheld	37
Partially Upheld	9
Assistance Provided	27
Discontinued/Withdrawn	40
Discontinued Premature	130
Not Upheld	232
Outside Remit	77
Total	552

TABLE 10 - Disability Act - Complaints Received and Completed in 2015

	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Complaints Handling (S.38 to S.39)	2	0	0	0	0	0	1	0	1
Accessibility of Services Provided to Public Body (S.27)	1	1	0	0	1	0	0	0	2
Access to Services (S.26)	1	0	0	0	0	0	2	0	2
Total	4	1	0	0	1	0	3	0	5

TABLE 11 - Private Nursing Homes - Complaints Received and Completed in 2015

	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Care and Treatment	4	0	0	0	0	2	0	1	3
Complaint Handling	3	0	0	0	0	0	1	2	3
Nursing Home Charges	5	0	0	0	1	1	0	3	5
Total	12	0	0	0	1	3	1	6	11

Annex B: Ombudsman Engagements

Meetings and conferences attended by the Ombudsman in 2015

Meetings with Irish Ombudsmen

Mr Kieran Fitzgerald, Garda Síochána Ombudsman Commissioner
Dr Niall Muldoon, Ombudsman for Children
Mr Tony McCourt, Ombudsman for Defence Forces
Mr Paul Kenny, Pensions Ombudsman
Irish Ombudsmen Forum

Meetings with International Ombudsmen

Ms Emily O'Reilly, European Ombudsman, in Dublin
Mr Reinier van Zupten, Ombudsman for the Netherlands, in Dublin
Dr Tom Frawley, Ombudsman for Northern Ireland, in Dublin
Mr Jim Martin, Ombudsman for Scotland, in Dublin
Mr Nick Bennett, Ombudsman for Wales, in Dublin
Mr Mario Hook, Ombudsman for Gibraltar, in Dublin
Rev Lewis Shand Smith, Chief Ombudsman for Ombudsman Services UK, in Dublin

International Delegations & Meetings

Addressed a roundtable conference at the Maltese Parliament
Hosted delegation from the Czech Republic Parliament including the Chairman of the Committee on Legal and Constitutional Affairs
Hosted members of the Northern Ireland Ombudsman Office and Northern Ireland Human Rights Commission
Hosted the Maltese Commissioner for Health
Visited the Northern Ireland Civil Service Commissioners
Met with the Korean Ambassador, Hae-yun Park

Meetings with Political Representatives

Minister Leo Varadkar, Department of Health

Deputy Fergus O'Dowd, TD

Appearance before Oireachtas Joint Committee on Public Service and Oversight Petitions

Appearance before Oireachtas Joint Committee on Health and Children

Meetings with Senior Government Officials

Mr Jim Breslin, Secretary General at the Department of Health

Dr Tony Holohan, Chief Medical Officer in the Department of Health

Mr Tony O'Brien, Director General of the HSE

Mr Seán Ó Foghlú, Secretary General, Department of Education & Skills

Mr William Beausang, Assistant Secretary General in the Department of Public Expenditure and Reform

HealthComplaints.ie Governance Committee

Property Services Appeals Board

Mr. Patrick Lynch, National Director Quality Assurance and Verification, HSE

Senior management in the State Examinations Commission

Senior management in the Department of Social Protection

Senior management in the Department of Justice

Senior management in Letterkenny General Hospital

Meetings with Senior Public Officials

Judge Michael Reilly, Inspector of Prisons

Ms Caroline Spillane, CEO of the Irish Medical Council

Ms Fiona Tierney, Chief Executive Officer of the Public Appointments Service

Ms Ginny Hanrahan, CEO and Registrar of CORU

Ms Patricia Gilheaney, Chief Executive of the Mental Health Commission

Ms Leigh Gath, Confidential HSE Recipient

County and City Management Association (CCMA)

Justice Bryan McMahon, Chair of the Working Group on the Protection Process

Mr Phelim Quinn, Chief Executive Officer of HIQA

Ms Angela Black, Chief Executive of the Citizens Information Board

Mr Alan Murphy, Chief Executive Officer of Student Universal Support Ireland

Professor Chris Hodges, Professor of Justice Systems, Oxford University

Mr Séamus Neely, Chief Executive Donegal County Council

Meetings with Advocacy Groups

Nursing Homes Ireland
National Disability Authority
Transparency International
Irish Nurses and Midwives Organisation
Immigrant Council of Ireland
Disability Federation of Ireland
Victims' Rights Alliance
Sage
Alone
Irish Hospital Consultants Association
Pharmaceutical Society of Ireland

Conferences/Seminars at home and abroad

Attended Launch of the StateBoards.ie, Public Appointments Service – 5 February
The Ombudsman gave an address “Service delivery – an external perspective on Public Service Delivery in Ireland” to staff in the Oireachtas – 6 February
Attended a meeting of the Northern Ireland Civil Service Commissioners – 26 February
The Ombudsman partook in the Immigrant Council Roundtable Discussion on “Taking Racism Seriously - Housing” – 9 March
The Ombudsman gave an address “Resolving disputes about public services” at the AGM of Chartered Institute of Arbitrators, Dublin – 24 April
The Ombudsman gave an address “Valued Citizens – the Ombudsman’s Role in Securing the Rights of Older People” at the European Network of Ombudsmen 10th National Seminar, Warsaw– 26-29 April
Attended launch of the Register for Lobbying, Wood Quay – 30 April
The Ombudsman spoke at the International Ombudsman Institute & World Bank Roundtable on “The Role of Ombudsman Offices in Promoting Citizen-Centric Governance & Inclusive Institutions”, Washington DC – 11/12 May
The Ombudsman gave an address “Dealing with Unreasonable Complainants, An Ombudsman’s Perspective” at the Healthcare Complaints Management Conference 2015, Dun Laoghaire – 20 May
The Ombudsman gave an address “An improving complaint!” at the Launch of the Irish Patients Association Pact for Patient Safety – 16 July
The Ombudsman presented a paper on “The Ombudsman and Parliament -Effective Implementation of Recommendations” at 3rd International Symposium on Ombudsman Institutions, Ankara – 17 September

The Ombudsman gave an address “The Office of the Ombudsman - Recent Significant Developments” at the Chartered Accountants & Internal Auditors Regulatory Update – 29 September

The Ombudsman gave an address “Role of advocates in complaints about public services” at the SAGE National Conference on – 16 October

The Ombudsman participated in the Department of Justice’s “Open Policy Debate”, - 23 November

The Ombudsman hosted a seminar on “Taking Complaints from the Public” in Letterkenny – 13 November

Ombudsman Association (OA)

OA Executive Committee meetings, Edinburgh, London and Dublin

OA Annual Conference, Loughborough, UK

International Ombudsman Institute (IOI)

The Ombudsman attended the IOI World Board of Directors Meeting, Namibia

The Ombudsman attended the IOI European Board Meeting, Rome

(UK & Ireland) Public Services Ombudsman Network Meetings

The Ombudsman hosted a meeting of the Public Service Ombudsmen Network in Dublin in June, and attended a meeting of the group in Malta in November

Other statutory functions of the Ombudsman

Member of the Commission for Public Service Appointments

Member of the Standards in Public Office Commission

Member of the Referendum Commission

Annex C: Annual Energy Efficiency Report 2015

Monthly Energy Report		OPW - Office of Public Works Office of the Ombudsman	
Dec 2015			
Summary			
Month to month			
<p>Energy usage has decreased -26.3% from 58,955kWh in Dec 2010 to 43,449kWh in Dec 2015. As a result, CO2 emissions for this period have decreased by -20.3% from 19,886kg to 15,841kg, (-4,045Kg).</p>			
Annual			
<p>The base year used for all these calculations is 2010.</p> <p>Compared to this base year, energy consumption on site has decreased by -59,111kWh or -12.8% over the last 12 months.</p> <p>In terms of total CO2, production has decreased by -16.6%, since 2010 or by -34,158Kg.</p> <p>Normalised for weather variations, CO2 has decreased by -14.6%, since 2010 or by -30,134Kg.</p>			
Energy use - Dec 2015			
Annualised energy usage			
Description	Electricity	Gas	Total
Benchmark Year	284,062	179,086	463,148
Previous 12 months	228,207	175,830	404,037
% Difference	-19.7%	-1.8%	-12.8%



