

Annual Report 2023

Independent | Impartial | Free



Ombudsman



Driving fairness
in public services
for **40 years**

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Annual Report 2023

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Introduction from the Ombudsman

The 2023 annual report is the 40th annual report in relation to the work of the Office of the Ombudsman. As the world, and indeed our own country becomes more troubled and challenging, the work of our Office becomes more important than ever. Vulnerable people and those needing public services are the first to feel the impact of world or domestic pressure and strife.

In 2023 we built on the past success of the Office and further contributed to driving fairness in the delivery of public services. We will continue to do this in 2024 and beyond. In particular, I believe it is essential that anyone who needs or would benefit from our service knows what we do and how to contact us. For this reason, we are determined to ensure our services are easily identifiable, available and accessible. We will continue to achieve this by expanding our proactive engagement with advocacy groups, marginalised groups and individuals through targeted outreach initiatives. We will measure our success at reaching our target groups through ongoing research over the coming years.

The details and case studies in this report demonstrate the importance of our work and the positive difference we make in many people's lives. We do this by investigating and resolving individual complaints and also by carrying out broader systemic investigations. Most importantly, whether we are dealing with an individual complaint, or a wider investigation, our constant focus is on improving public services generally. Because of our focus on improving the delivery of public services generally, there are many people who interact with public services who actually experience the benefit of our work without having made a complaint to us. This was very evident, for example, from the investigation completed into the treatment abroad schemes and the report, *In Sickness and in Debt*, which we published in April 2023.

This investigation was prompted by a number of complaints we received from patients who were unable to access necessary medical treatment in the State and had to travel abroad for treatment.

On their return, they faced great difficulty receiving reimbursement for the treatment they had paid for. Having completed a thorough investigation, we made 21 recommendations which focused on improving the administration of the schemes. The CEO of the HSE, Mr Bernard Gloster, accepted all the recommendations and put together a team to deal with their implementation. I am very encouraged with the manner in which the HSE is implementing the recommendations. They have greatly improved the operation of these important services for existing and new applicants. This is an excellent example of how public bodies can work in cooperation with our Office to improve the quality of their services.

Other similar investigations and reports we published in recent years, that aim to bring about improvements in the delivery of public services include:

- **Wasted Lives:** An investigation into the placement of people under 65 in nursing homes for older people
- **Grounded:** Unequal access for people with disabilities to personal transport schemes

Updates in relation to these reports are set out in Chapter 3.

These investigations, in addition to dealing with individual complaints, play a key role in driving fairness and improvements in the delivery of public services. We will continue to pursue implementation of the recommendations in these reports and undertake further own initiative investigations in a targeted and effective manner.

In 2023 we commenced an investigation into the operation of the Housing Assistance Payment (HAP) scheme. We will publish the results of this investigation later in 2024. We will also continue to investigate complaints received, and work with public service providers to help improve services and reduce the necessity for people to make complaints.

I am pleased to report that we continue to see evidence of innovation and quality, and empathetic delivery of services by the large numbers of public servants throughout the country. We also note an increased awareness by public servants of their obligation to comply with their Public Sector Duty by taking a human rights based approach to the delivery of services as they are required to do by Section 42 of the Irish Human Rights and Equality Commission Act 2014.

It is through this human rights lens that we examine the complaints we receive. In addition to examining the service a person received or did not receive we look at how the person was treated. We consider if, during their communications and interactions with the public body the person was treated with the respect and dignity they were entitled to expect. Sadly, we see some public bodies fall short in that regard.

Since the establishment of our Office 40 years ago, the number of complaints we receive has risen. Indeed, over the past five years, complaints have risen by over 20% from 3,664 in 2019 to 4,465 in 2023. Enquiries to our Office have also increased greatly with an increase of over 20% in 2023 over 2022 to over 8,000.

Our aim is always to resolve complaints at the earliest stage and as informally as possible. I am happy to report that despite the significant increases in complaints received, we managed to deal with 80% of complaints within three months, and 92% within nine months in 2023. In just over 50% of cases completed we provided some assistance or benefit to the complainant.

These ongoing achievements are delivered by the dedication and commitment of the Director General, management and staff of the Office. I want to thank all of them for the important contribution they make to the work of the Office, and the lives of citizens and people living in Ireland. Further details of the important contribution made by our staff is set out in the Director General, Elaine Cassidy's update. I also want to thank our complainants for highlighting the issues they have and the public bodies for their cooperation in resolving complaints.

Finally, it is my pleasure to submit this 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 40th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984. In this report we highlight just some of the key moments from 40 years of the Office's work.

I look forward to continuing to work with the Oireachtas and with all our stakeholders to continue to drive fairness in the delivery of public services.



Ger Deering
Ombudsman

June 2024



Update from the Director General

At the outset I would like to thank our staff for a very productive year in managing our caseload. While overall figures are down on last year's record highs, the general upward trend in the number of complaints received by our Office continues. During 2023 our staff also dealt with a significant increase in the number of enquiries received and further increased the percentage of cases closed within 3 and 6 months to 80% and 92% respectively.

During 2022 we launched our Strategy 2025 which sets out our Office's key objectives to 2025. I am pleased to say that we further progressed a number of our strategic objectives during 2023. In terms of achieving our objective of delivering at least one systemic investigation, special or themed report each year, we published our investigation report 'In Sickness and In Debt' in April 23. We hosted workshops and community events in order to progress our objective of increasing awareness of the Office through effective and targeted outreach among minority and specific interest groups. We also progressed our objective of implementing a Human Rights Based Approach to our complaint handling by providing specialised training to our staff and completing our Staff Guidance Manual. I am pleased to say that we have already successfully implemented this approach when examining some of the complaints we received in 2023.

Behind the Ombudsman team, we have a "corporate spine", which provides all of the back office supports, so that all our team are fully available to focus on Ombudsman casework. The corporate spine consists of HR, ICT, Finance, Procurement, Facilities, Legal, Communications, as well as support in handling Data Protection and FOI requests. The ICT team achieved significant progress in 2023 by outsourcing many of our support functions to the Office of the Government Chief Information Officer (OGCIO) and by aligning our ICT Strategy with that of the OGCIO. This will have the effect of improving our data security and creating long term resilience in our systems.

Our Legal team continued to provide support to each of the offices on casework and investigations and has managed our legal costs and procurement with a focus on quality assurance and value for money. We have also taken part in the first wave of the new Civil Service Financial Management System, which was a major project for our Finance team and I am proud of the work they did on it.

I am pleased with the progress we are making on our Strategic Objectives. As we near the halfway point in our Strategy 2025 we look forward to critically reviewing our progress during 2024. We also look forward to celebrating the 40th Anniversary of the Office of the Ombudsman and our theme will be looking forward to see how we can improve our service offering for the decade ahead.



Elaine Cassidy

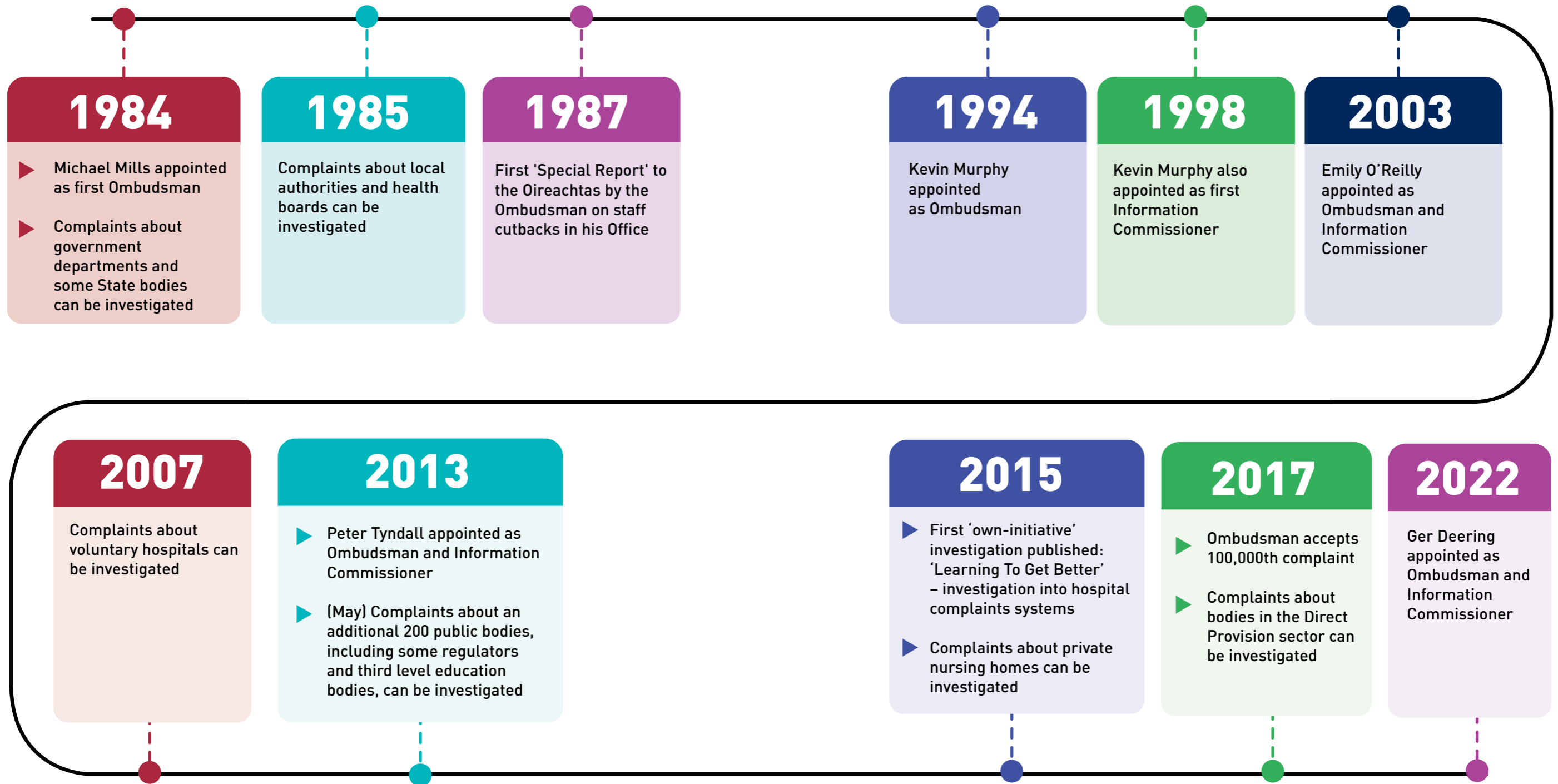
Director General

June 2024



40 years of the Ombudsman

This is the 40th Annual Report of the work of the Office of the Ombudsman. Throughout the report we highlight some of the key moments of 40 years of our work.



1. INTRODUCTION

At the end of its first year of operation the Office of Ombudsman has been established on fairly firm foundations. Our achievements to date compare favourably with other Offices throughout the world which are established for many years and have much greater staff numbers.

It was a very difficult year because of the many and complex problems associated with the launching of a new institution. The dedication and hard work of a very small staff was a major factor in dealing with the heavy flow of complaints. I cannot speak too highly of their contribution which involved a constant giving of time and effort well beyond the call of duty.

After one year of practical experience of the Office I have no doubt whatever about the need for the creation of the Office of Ombudsman. From the day on which I first took up Office a steady stream of letters seeking my help was the real manifestation of the need. While some of these letters dealt with subjects outside my remit or were of such a nature that there was not much I could do for the complainants, I want to stress that the vast majority of complaints received were genuine appeals for help from people who had reached frustration point in their dealings with the public service and who had no avenue of appeal for what they felt were very real grievances.

The response of many civil servants to the creation of the Ombudsman's Office has been most encouraging. They recognised the need for the Office and co-operated whole-heartedly in its enquiries. There was evidence, however, that some senior civil servants had considerable suspicions about the new institution and resented its intrusion, particularly when their decisions were under scrutiny.

Role of the Ombudsman

I have been asked on several occasions how I see my role as Ombudsman. The short answer is that I see myself as a kind of mediator between the public and the administration. The principal aim of the Office of Ombudsman is to ensure that the ordinary man in the street gets fair play in dealing with the



**1985: Introduction to the first
Ombudsman Annual Report**

Chapter 1

2023 at a glance



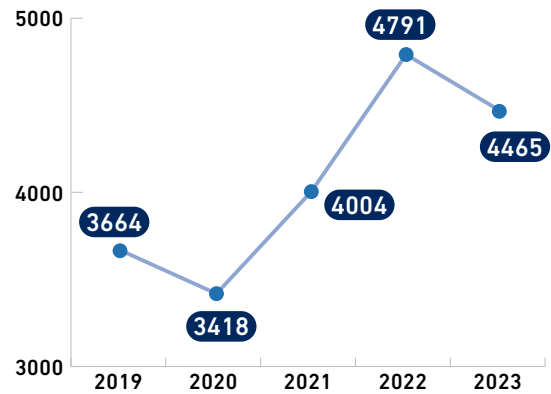
Chapter 1: 2023 at a Glance

We received

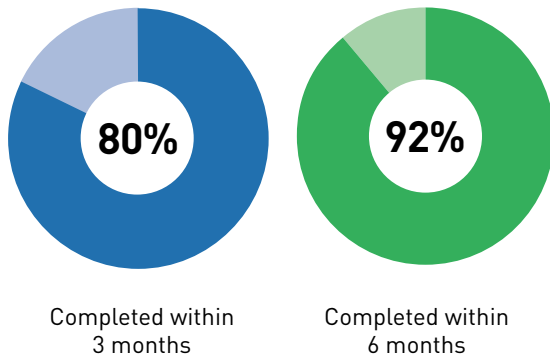
4,465 complaints in 2023

4,458 complaints completed

Complaints received last 5 years



Time taken to investigate complaints

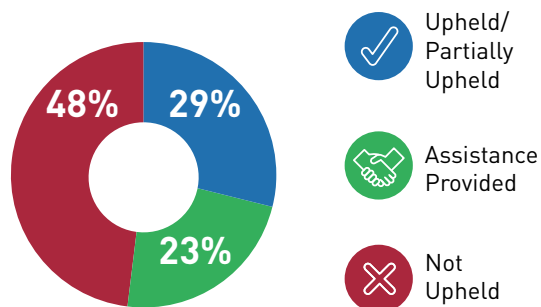


We responded to

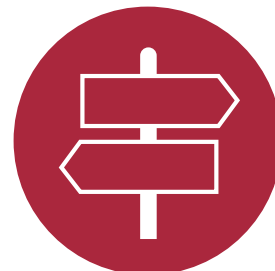
8,171 enquiries



Complaints completed by outcome



915 other complaints about bodies outside jurisdiction signposted to correct organisation



How we received complaints



45%
Online



38%
Email



15%
Letter



1.5%
In person



0.5%
Phone

Complaints received by sector



1,430
Local
Authorities



1,175
Government
Departments
& Offices



839
Health/
Social Care



321
Regulatory
Bodies



301
Other
Bodies



192
Education



96
Private
Nursing
Homes

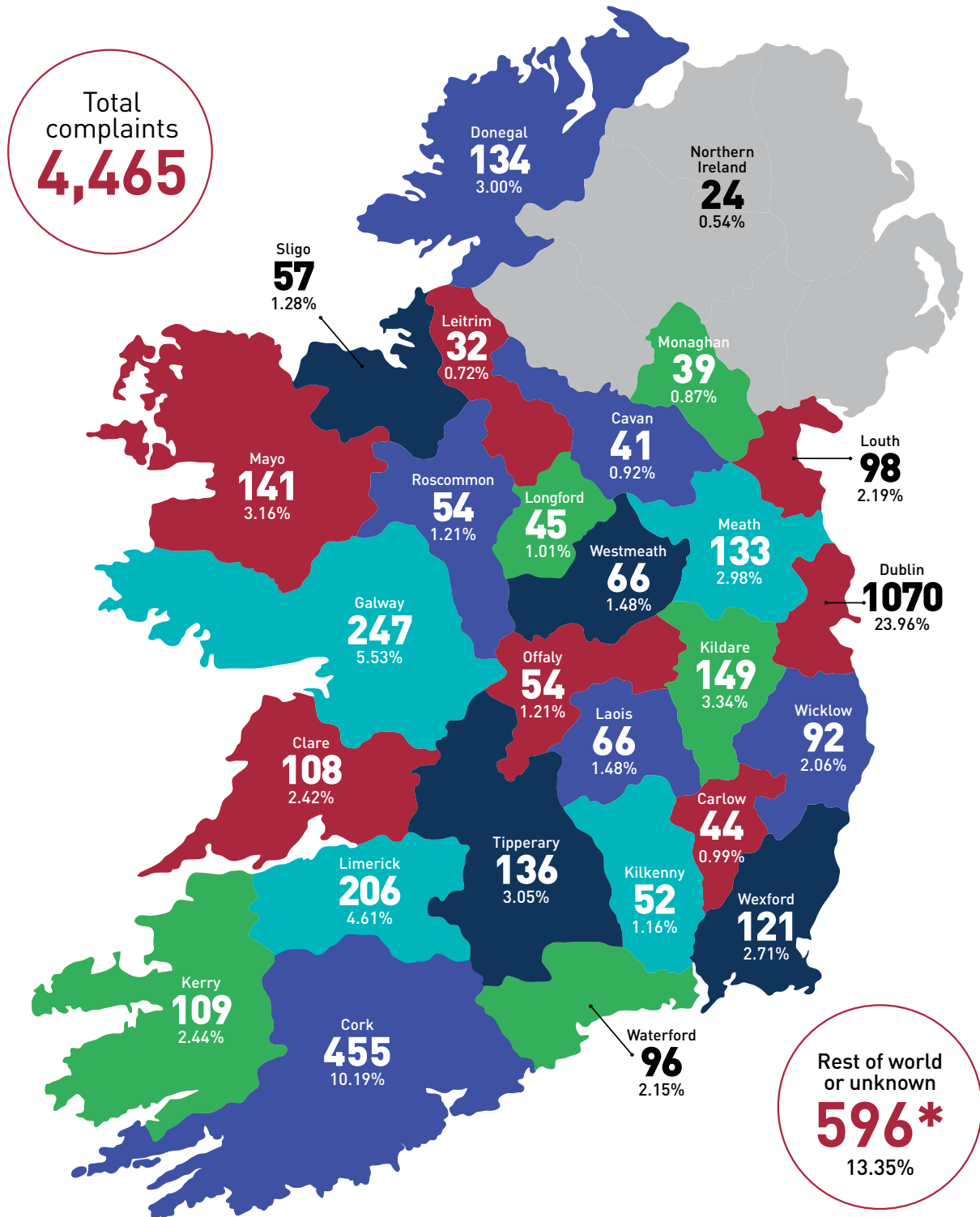


90
Direct
Provision



21
Disability
Act

Where did the complaints come from in 2023?



*Some complaints we receive by email do not contain a postal address.

Chapter 2

Complaints in 2023



Role of the Ombudsman

The role of the Ombudsman is to investigate complaints from people who feel they have been unfairly treated by certain providers of public services, including:

- government departments
- local authorities
- the Health Service Executive (HSE)
- public hospitals
- publicly-funded third level education institutions
- public and private nursing homes, and
- 'direct provision' accommodation centres.

The services of the Office of the Ombudsman are free to use. We investigate complaints in a fair and impartial way. Before bringing a complaint to our Office the person who has been adversely affected must usually have tried to resolve the complaint with the service provider complained about. In practice, many complaints that come to us are resolved informally after we bring the complaint to the attention of the public service provider concerned. If we uphold a complaint, we will recommend appropriate redress. We may also make recommendations which aim to reduce the likelihood of others being adversely affected in the future.

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

The Ombudsman is appointed by the President and reports to the Oireachtas.

Complaints received in 2023: Analysis

It was another busy year for the Office of the Ombudsman. We received 4,465 complaints in 2023 and dealt with 4,458 complaints.

The number of complaints received in 2023 continues the general rise in complaint numbers in recent years. 3,067 complaints were received in 2016, steadily increasing to 2022 when 4,791 complaints were received (a 56% increase). While the 2023 figure of 4,465 is down on 2022, the 2022 figure included over 800 complaints about the Passport Service. This dropped to less than 150 last year. This reduction was due primarily to faster turnaround times for the service along with the introduction of improved communication channels within the Passport Service, including a new online complaints portal.

2023 saw the Office deal with 8,171 enquiries, a significant increase of 1,461 compared to 2022. This reflects the inclusion of all enquiries received in the 2023 figures but also the work we have done on increasing our visibility to ensure that the public are aware of the services we offer and how they can engage with us.

Where we can, we will resolve complaints informally and speedily as we work to improve our timelines year on year. In 2023 we dealt with 80% of complaints within 3 months (3,571 complaints in total, representing a 3% increase on 2022 figures) and we resolved 92% of complaints within 6 months (4,118 complaints in total, representing a 1% increase over 2022 figures). Importantly, despite the consistently high volume of complaints we received in 2023, we still completed 98% within 12 months.

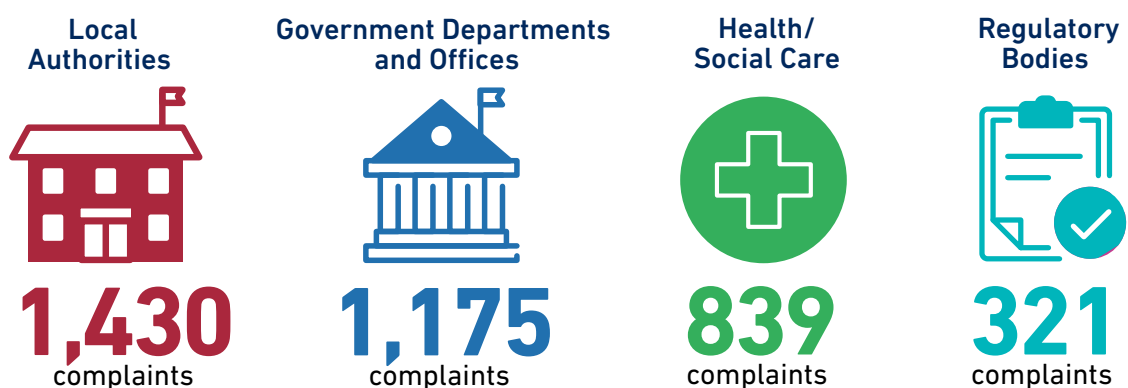
585 complaints were discontinued or withdrawn. These are often cases where the issue that gave rise to the complaint has been resolved or the complainant no longer wishes to pursue their complaint.

Of the complaints investigated, (excluding complaints that were withdrawn or discontinued for example) 29% were either fully or partially upheld. This equates to an increase of over 200 upheld or partially upheld complaints compared to 2022. 48% of complaints were not upheld.

There are of course other cases in which we are able to provide an explanation or another positive outcome to the complainant. In 2023 we were in a position to provide this sort of further assistance in 23% of complaints (530).

Overall, members of the public directly benefitted from contacting the Office in over 52% of cases.

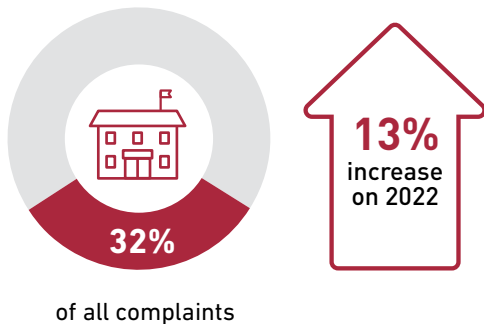
The top sectors for complaints were:



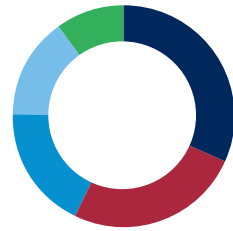
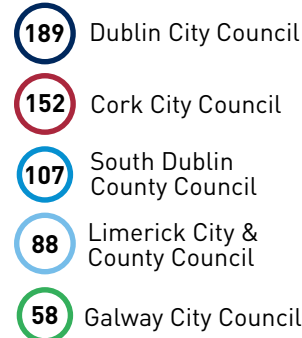
Analysis by Sector

Local Authorities

Local authorities represent:



The top 5 bodies complained about are:



We received 1,430 complaints about local authorities (city and county councils) in 2023. This represents an increase of 13% on the 2022 figure of 1,269 complaints received. We dealt with 1,411 complaints in 2023.

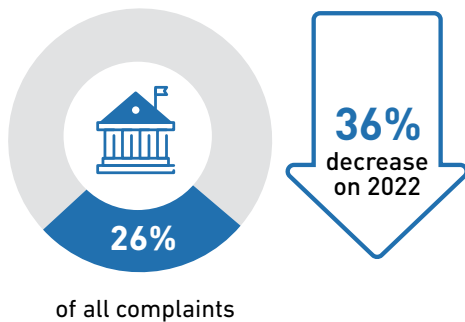
Housing related complaints made up the majority of complaints we received about local authorities (58%). The second largest complaint type was planning enforcement / planning administration which made up just over 14% of complaints. When added to the third largest complaint type of 'road related' complaints, these three categories together made up just under 80% of the total complaints last year in the sector.

We received 27 complaints about accommodation for the Traveller community in 2023, which was an increase on the 14 such complaints we received in 2022. Homeless services, which are categorised separately to housing related complaints, also saw an increase from 47 received in 2022, to 62 complaints received last year.

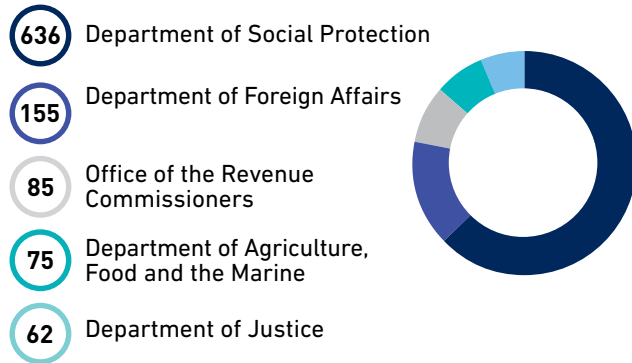
We upheld/partly upheld almost 22% of local authority cases and provided assistance in 15% of them. Just over 31% of cases completed were not upheld, with the remaining 32% of cases being closed as outside our remit, discontinued because the complaints were either premature or, subsequently withdrawn by the complainant.

Government Departments and Offices

Government departments represent:



The top 5 bodies complained about are:

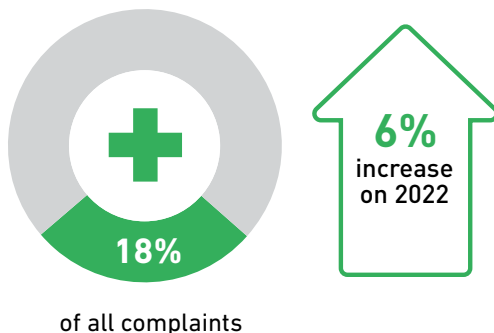


There was significant reduction in complaints about government departments and Offices in 2023. A total of 1,175 complaints were received – 36% less than last year. This decrease was as a result of a significant fall-off in complaints about the Passport Service. We received over 800 complaints in 2022 concerning passports and this dropped to less than 150 last year. This reduction was due primarily to faster turnaround times for the service along with the introduction of improved communication channels within the Passport Service, including a new online complaints portal.

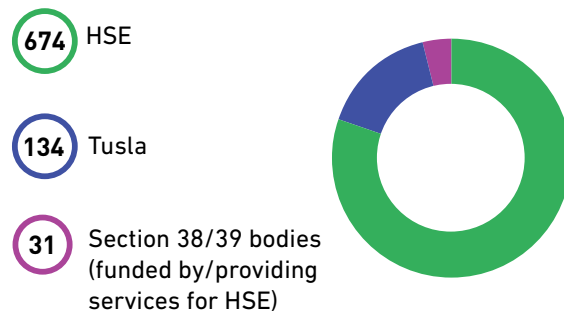
The highest number of complaints received in this sector was about the Department of Social Protection (636), followed by the Department of Foreign Affairs (155 - mainly passport related complaints), the Office of the Revenue Commissioners (85) and the Department of Agriculture, Food and the Marine (75). Overall, of the complaints received in this sector which we were able to investigate, we upheld or partly upheld 23% and provided some form of assistance in a further 24% of cases. 53% of cases were not upheld.

Health and Social Care

Health/Social Care represents:



The top 3 bodies complained about are:



We received 839 complaints about public bodies in the health and social care sector in 2023. 674 complaints were about the HSE, 134 complaints related to Tusla, and 31 complaints related to bodies funded by, or providing services on behalf of, the HSE (section 38/39 bodies).

This is an increase of 49 cases or 6% from 2022. Excluding complaints that were withdrawn, discontinued or outside our remit, 28% were upheld, 12% partially upheld, 35% were not upheld, and in 25% of complaints we provided some assistance or benefit to the complainant.

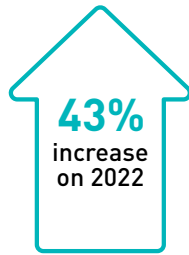
As in other years, we continued to monitor progress on the recommendations made in our 2015 report, 'Learning to Get Better: an investigation into how public hospitals handle complaints' and receive updates every six months. We welcome the publication of the quarterly HSE Feedback Learning Casebooks from 2023, available on the HSE's website.

Nursing Homes

Nursing homes represent:



2% of all complaints



The top 5 types of complaint:

- 34 Care and Treatment
- 21 Not otherwise categorised
- 11 Complaint/Appeal Handling
- 8 Care of the elderly
- 8 Level of Fees charged



We received 96 complaints about private nursing homes in 2023. This is a 43% increase in the number of complaints received in 2022. 2023 saw a number of high profile closures of private nursing homes which resulted in service users contacting the Ombudsman.

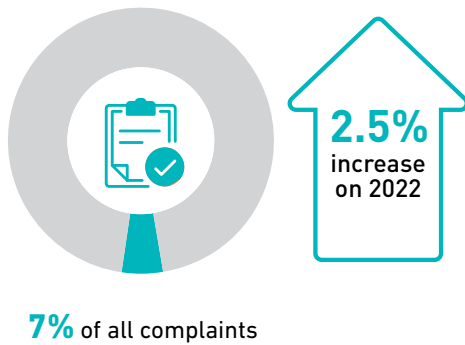
Excluding complaints withdrawn, discontinued or outside our remit, we upheld or partly upheld 22% of complaints, 29% were not upheld and in 49% of complaints we provided some assistance to the complainant.

In 2023 we issued over 1,000 posters for display in private nursing homes to raise awareness of the role of the Ombudsman. In the coming months we will visit a number of nursing homes to meet with service users and families to increase awareness of our role in the sector.

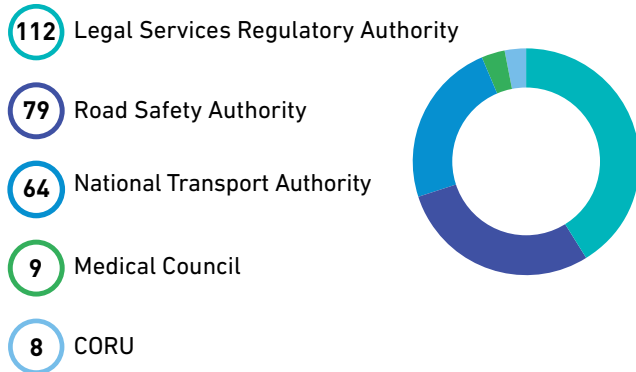
We are continuing to monitor the implementation of the recommendations arising out of our 'Wasted Lives' report (an investigation into the appropriateness of the placement of people under 65 in nursing homes for older people) and an update on that report can be found in Chapter 3.

Regulatory Bodies

Regulatory bodies represent:



The top 5 bodies complained about:

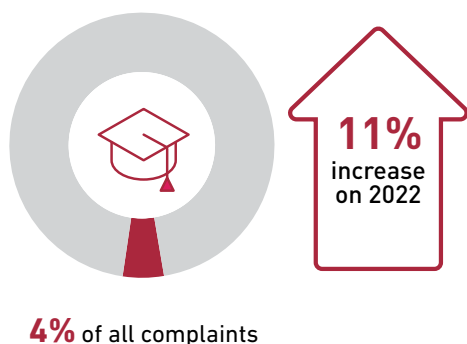


We received 321 complaints in 2023 about bodies in the regulatory sector. This represents a 2.5% increase on 2022. We upheld or partly upheld 17% of the complaints we investigated and provided some form of assistance in a further 9% of cases. 74% of cases were not upheld.

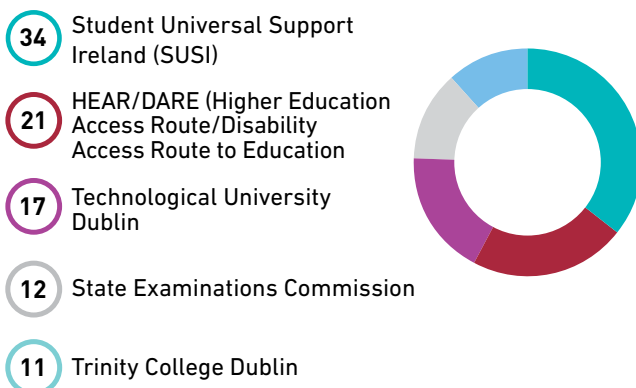
The highest number of complaints we received was about the Legal Services Regulatory Authority (LSRA - 112). Complaints mainly concerned the LSRA's handling of complaints about legal practitioners. We received 79 complaints about the Road Safety Authority (RSA) and 64 about the National Transport Authority (NTA). Among the RSA issues complained about were difficulties applying for, or renewing, driving licences, and arranging driving tests. Among the NTA issues were complaint handling and dealing with clamping appeals.

Education

Education represents:



The top 5 bodies complained about:



217 complaints were received in relation to the Education sector in 2023. This includes complaints about the Department of Education (24), and the Department of Further and Higher Education, Research, Innovation and Science (1). This is an increase from 195 in 2022 (up 11%).

We upheld or partly upheld 16% of complaints investigated against bodies in this sector and provided some form of assistance in a further 11% of cases. 73% of cases investigated were not upheld.

We received 34 complaints about Student Universal Support Ireland (SUSI), which is an increase from 23 on the 2022 (up 48%). While we consider that the SUSI administration process generally works quite well, there remains no provision in primary legislation to correct errors, such as overpayments to students, where there is no fault on the part of the student.

We saw complaints about the administration of the Higher Education Access Route (HEAR) and Disability Access Route to Education (DARE) schemes remain the same at 21 for 2023. There were 17 complaints about Technological University Dublin in 2023, an increase from 8 in 2022. There were 12 complaints about the State Examinations Commission in 2023, 33% less than in 2022.

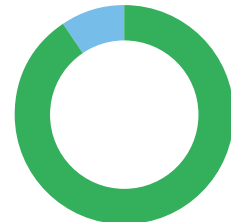
Direct Provision

Direct provision represents:



The top 2 bodies complained about:

- 78 International Protection Accommodation Services (IPAS)
- 8 Direct Provision Centres



In 2023 we received 90 complaints from people who have applied for international protection (IP) who are living in state provided accommodation about direct provision services. This represents a 53% increase on the 59 complaints we received in 2022, although 2022 saw a drop in the number of complaints from 2021, which was likely due to a knock-on impact of the pandemic and the ongoing crisis in Ukraine.

The highest number of complaints was about the International Protection Accommodation Service - IPAS (78), accommodation centres (8), and the Ukraine Crisis Temporary Accommodation Team - UCTAT (3). We dealt with 84 of the 90 complaints received.

Among the issues complained about were the standard of accommodation (44), transfers from one IPAS accommodation centre to another (22), and complaints about centre staff (4).

We upheld 10% of complaints in this sector and provided some form of assistance in a further 45% of complaints. 45% of complaints were not upheld.

The application of the 'National Standards for accommodation offered to people in the protection process' was a feature of a number of complaints from international protection applicants living in IPAS accommodation centres. In 2023, IPAS's position remained, as in previous years, that it could not facilitate inter-centre transfer requests due to the continued constraints on the system, and that its accommodation portfolio was at full capacity. We will continue to engage with IPAS on this issue and will only proceed with complaints about transfer cases under exceptional circumstances in which we identify an absolute need.

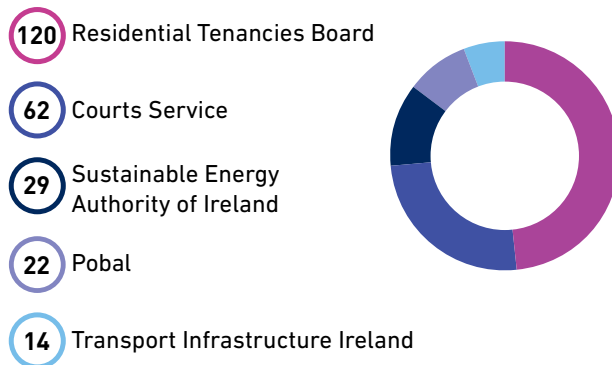
In November 2023 we held two workshops with NGOs on 'Migrants & Persons seeking International Protection - Experiences of Public Services in Ireland'. These involved round table discussions on the issues NGO's working in this field are dealing with, and which the Ombudsman might be able to investigate.

Other Bodies

Other Bodies represent:



The top 5 bodies complained about:



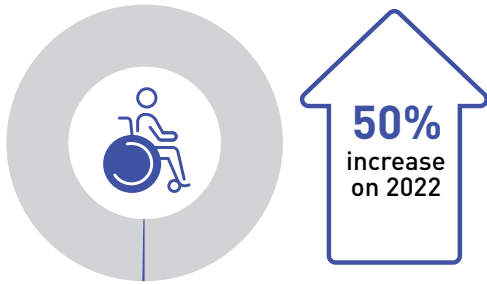
In 2023 we received 301 complaints about public bodies in the remaining 'Other Public Bodies' sector. This was an increase from the 273 complaints received in 2022. We upheld or partially upheld 33% of complaints investigated in this sector, and provided some form of assistance in a further 31% of cases. 36 % of cases were not upheld.

The highest number of complaints was about the Residential Tenancies Board (120 – up from 95 in 2022). Annual registration for landlords was introduced on 4 April 2022 and there were delays in the registration process. Among the issues complained about were poor customer service, delays and the application of late fees.

We received 62 complaints about the Courts Service. 41 were not within the Ombudsman's remit as they did not relate to an action 'taken in the performance of administrative functions' under section 5 of the Courts Service Act 1998. The types of complaints we investigated related to the administrative actions of court offices.

Disability Act

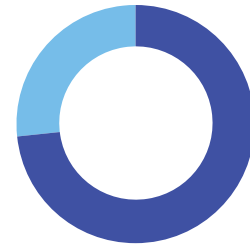
Disability Act represents:



<1% of all complaints

The top 2 types of complaint:

- 11 Access to Services (S.26)
- 4 Complaints Handling (S.38 to S.39)



In 2023 we received 21 complaints under the Disability Act 2005. This represents a 50% increase on 2022 when we received 14 complaints, which was an increase on 2021 when we received 6 complaints.

Over half of complaints in 2023 (11) relate to Access to Services, with four complaints about the complaints handling process.

The Disability Act 2005 imposes obligations on public bodies to work proactively towards the improvement of the quality of life of people with disabilities. An example of this is that all public bodies are required to have at least one Access Officer to help people with disabilities access information and services.

Complaints under the Disability Act should be brought, in the first instance, to the relevant public body. An inquiry officer will issue a determination on the complaint, and, if not resolved, a complaint can be made to our Office regarding a public body's failure to comply with Part 3 of the Disability Act.

Part 3 deals, specifically, with:

- Access by people with disabilities to public buildings, services, information, and heritage sites, and
- Sectoral plans which are plans by government to ensure that services are provided to people with specified disabilities in the areas of public transport, health services, vocational training, employment support services, housing, accommodation.

Nursing home fees 'impoverish' elderly, Ombudsman warns

Eilish O'Regan
Health Correspondent

ELDERLY people are being left financially "impoverished" because of the additional charges they are forced to pay in private nursing homes, Ombudsman Peter Tyndall has warned.

Mr Tyndall (inset) could see the "unfairness to a resident" who is paying 80pc of their pension for their nursing home care and must use the remaining 20pc for social activities, for which they have no inclination or may be physically unable to participate in.

"My main concern is that there is clarity, transparency and fairness around any additional charges levied. All additional charges must be laid out clearly in the contract of care and agreed upon when signing the contract. The additional services should also be separately itemised and costed," he said.

"These additional charges can effectively wipe out the remaining income, leaving lit-

tle for extras such as taxis for hospital visits, or services such as hairdressing and chiropody. In some cases, they can be an additional burden on families."

The Ombudsman has received 45 complaints about private nursing homes this year - a 50pc increase in the number of complaints received in 2016.

He was speaking at the launch of 'Contracts of Care for Nursing Home Residents - Issues of Policy and Practice,' a damning report by Sage, the support and advocacy service.

The document highlighted major flaws including allegations contracts are being signed by relatives on behalf of nursing home residents, even when they "clearly have the capacity" to make their own decisions.

Sage chairwoman Patricia Rickard-Clarke stressed this

casual approach to signing of contracts of care must stop, in order to protect vulnerable older people.

In many cases, contracts are signed without being read or understood due to complex and legalistic language.

Nursing home residents are left with no security about their accommodation and told to leave by the homeowner, who has the balance of power in the termination of a contract.

Termination can be done with "immediate effect".

Many older people are forced to go into a nursing home because there is no other reasonable alternative.

They are "put there" by concerned relatives, it was claimed. They can face an increase in additional charges of €25 a week, without consultation.

The report found some con-

tracts set out visiting restrictions and the right to transfer the elderly person to another nursing home.

Sage has received concerns about the level of control by some families over the older person's finances.

There was also a need for protocols where a person's finances are being handled by the home, but money is not being drawn down to enhance their quality of life.

Mr Tyndall backed calls for an overhaul of these contracts and said the Government must also ensure better availability of home care.

Nursing Homes Ireland, which represents private nursing homes, said contracts are subject to independent oversight by Higa, which carries out inspections.

Any discharge from a nursing home must be discussed, planned for and agreed with a resident and where appropriate, with their family or carer, the regulations stipulate.



2017: Ombudsman highlights issues with nursing home fees

Severe criticism of HSE over care of 88 years old lady in Mullingar

Ombudsman reports "unacceptable" standards in St. Mary's

An investigation by the Ombudsman Emily O'Reilly into the care and treatment of an elderly woman admitted for respite care to a HSE nursing home in Mullingar concluded that the standards of care and treatment were "unacceptable" and Ms. O'Reilly says the case is "one of a growing number of complaints received by her Office regarding care and treatment received in publicly funded healthcare agencies."

The report, issued on Monday last, December 15, related to the

care and treatment of an 88 years old woman, availing of respite care in St. Mary's Care Centre, Mullingar.

Says the report: "The complainant was the daughter of an 88 years old woman, physically and mentally incapacitated as a result of a stroke. The daughter had arranged one week's respite care for her mother in St. Mary's Care Centre, Mullingar. However, the daughter, herself a trained nurse, was extremely dissatisfied with the care her mother had received. In fact, she had taken her mother home from the nursing home after only three days when she saw what she felt was a

rapid deterioration in her mother's condition. Subsequently in April 2006, she complained to the Ombudsman about the poor care given to her mother. "The complainant was also unhappy with the manner in which her initial complaint to the HSE had been handled, she felt that the failure of the HSE to deal properly with her complaint added to her sense of grievance and compounded the shortcomings in the level of care provided."

"The Ombudsman's investiga-

■ CONTINUED: PAGE 2



2008: Ombudsman highlights poor care in HSE nursing home

Chapter 3

Outreach and Report Updates



Outreach

In line with our Strategic Plan 2022-25 we actively engage with our stakeholders to raise awareness of the role of the Ombudsman, help drive improvements in the quality of those public services within our remit, and to ensure better administration and delivery of public services.

During 2023 we held workshops and engaged with groups representing various sectors of the public, expanded our regional 'Complaint Clinics' so people could make their complaints to us 'in person' in their local area, and engaged with sectors of society who may need our services the most.

Engaging with those who need our service the most

As part of our strategic objectives we continue to raise awareness of the role of the Ombudsman and how to make a complaint to our Office. As part of our Strategic Plan we also want to ensure that those who may need our services the most, or who may not be aware of the Ombudsman service, know about us and how to engage with us.

In September, we took part in Kildare Social Inclusion Week 2023 organised by Kildare Public Participation Network and the Kildare LEADER Partnership. The Ombudsman and members of our team contributed to events at Athy Family Resource Centre, Leixlip Youth centre, Kildare Community Development Centre (which hosted an event for the Traveller and Roma communities), and the closing event in Newbridge Family Resource Centre. We were delighted to be able to engage with a wide range of sectors over a short period and we intend to participate at similar events in 2024.

In 2023 we continued our engagement with a range of groups, in particular those with disabilities through, for example taking part in the Disability Federation of Ireland podcast, and contributing to the Access All Areas programme on Phoenix FM. We also contributed to the Joint Oireachtas Committee on Autism in February.

As part of our engagement with young adults we have provided information packs and posters highlighting the role of the Ombudsman in the education sector to the main universities for distribution to students. We will continue our engagement with young adults in all sectors in 2024.

We have a very productive relationship with Citizen Information Centres (CICs) around the country, and in November and December we held information webinars for staff of CICs in the Dublin North and North Munster regions to explain our role and how they can assist people who engage with their service.

We also built on our engagement in 2022 with the nursing home sector and followed-up our information sessions for nursing homes in the country with posters to display in homes highlighting our role.

Workshops with representative groups

We commenced a series of workshops in 2022 to listen and engage directly with representative groups on issues affecting our public services. We continued these in 2023. The workshops help us identify what issues are affecting people ‘on the ground’ in addition to issues reflected in individual complaints to our Office. In 2022 we held workshops with representatives from the housing sector and the disability sector. In 2023 we heard from groups representing migrants and those seeking international protection, and the Traveller community.

The purpose of these workshops is to give us the opportunity to learn from NGOs, experts and affected persons, about their knowledge and experience of particular issues. In this way, we hope to improve our understanding and increase our skills in carrying out our work. We heard first-hand what issues are concerning people they represent in their interactions with public services.

Issues arising from the workshops will feed into our work for 2023 and beyond, and help us engage with groups who may be most in need of the Ombudsman service.

Complaint Clinics at Citizens Information Centres

Before the pandemic, staff from our Office made monthly visits to Citizens Information Centres (CICs) in Cork, Limerick and Galway to take complaints from members of the public. The visits provided a valuable local service, easily accessible to people living there and enabled people deal face-to-face with our Office.

We were pleased to recommence our monthly Complaint Clinic programme in 2022 in Limerick. In April 2023 we recommenced our monthly clinic at Galway city CIC. In early 2024 we set up monthly Complaint Clinics at Cork city and Mallow CICs. We thank the staff at each of these centres for working with us to deliver an extremely beneficial and practical service to the local community.

The monthly complaint clinics are held on the following days:

Cork CIC: Second Wednesday of the month (2pm to 4pm)

Mallow CIC: Second Wednesday of the month (10am to 12 noon)

Galway CIC: Fourth Tuesday of the month (10am to 1pm, 2pm to 4pm)

Limerick CIC: Second Tuesday of the month (10am to 1pm, 2pm to 4pm)

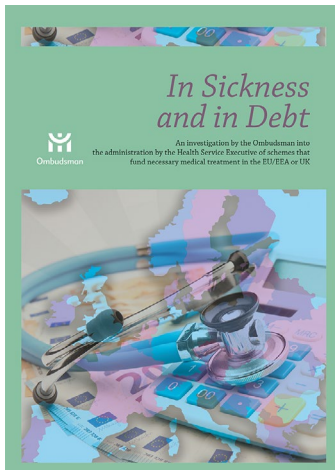
See www.ombudsman.ie for details.

Our website and social media

Throughout 2023, we continued to use our website and social media channels (X and YouTube), to provide information, advice and assistance to the public, public bodies and our other stakeholders. You can follow us on X: @OfficeOmbudsman, and YouTube: ‘Ombudsman Ireland’.

Reports and Updates

In this part of the report we provide updates following recent published investigations by the Office.



In Sickness and In Debt: An investigation into ‘treatment abroad’ schemes administered by the HSE

In 2022 we initiated an investigation into schemes administered by the Health Service Executive that fund necessary medical treatment in the EU/EEA or UK. The investigation was prompted by a number of complaints we received from patients who were unable to access necessary medical treatment in the State and had to travel abroad for treatment. On their return, they faced great difficulty navigating the schemes designed to reimburse them for the treatment they should have been able to access for

free in the State, but had to pay for abroad. The focus of the investigation was primarily the Cross Border Directive scheme but it also looked at the Northern Ireland Planned Healthcare Scheme, and follows-up on our 2018 report into the Treatment Abroad Scheme.

The investigation report, ‘In Sickness and In Debt’, was published in April 2023. We made 21 recommendations which focused on improving the administration of the schemes, both moving forward and in the investigation of complaints that remained with our Office. The HSE accepted all the recommendations and put together a team to deal with their implementation. In addition to implementing the 2021 recommendations that team is also reviewing cases, either at our request, or at the request of patients. To date there have been over 200 cases identified for review and the HSE is continuing to work through those.

This has resulted in patients who were previously denied reimbursements due to issues with referral letters receiving their reimbursements. Patients have now been provided with access to a meaningful appeals process and, in many cases, a full re-evaluating of the identified cost has led to an increased reimbursement. In addition, patients who borrowed from family members to pay for the treatment but were denied reimbursement, due to the HSE’s onerous proof of payments requirement, have received their reimbursement.

We have continued to liaise with the HSE since the report was published and we welcome the progress being made by the HSE in implementing the recommendations. The full implementation of the recommendations will have a very positive effect for patients seeking reimbursements under any of the treatment abroad schemes, and will put those patients at the centre of all future decisions.



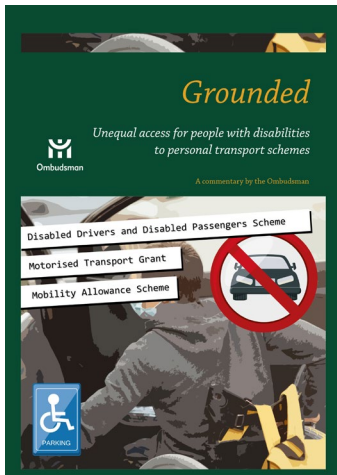
Wasted Lives: An investigation into the placement of people under 65 in nursing homes for older people

We published 'Wasted Lives: Time for a better future for younger people in nursing homes' in May 2021, detailing a series of findings with regard to people, under the age of 65, living in nursing homes. The report contained 19 recommendations covering themes including funding, informed consent, quality of life, access to services, navigating the system and policy and human rights. In order to oversee the implementation of these recommendations, the HSE established an Integrated Steering

Committee, chaired by its Chief Operations Officer. The HSE established five work streams to carry out distinct recommendation implementation work and in 2023, work commenced on the 'Wasted Lives' recommendations.

The HSE National Service Plan 2021 provided for an investment of €3 million to enable up to 18 people under the age of 65 years to move from nursing homes back into communities with supports. Toward the end of 2021, 14 people had moved. As recommended in my Report, Budget 2022 provided a further 'ring fenced' allocation of €5.5 million. This allowed for 22 people to move in 2022 and by the end of July 2023, a further 17 people had also moved out of the nursing home system. While the numbers concerned are modest, there are several broader factors at play which are making more rapid progress difficult. An insufficient number of care staff working in disabilities is having a direct impact on both the need for people to be admitted to nursing homes, in order to access the required care, and also the ability for people to be suitably transitioned out of the nursing home system to an appropriate alternative. There is also a lack of suitable housing which is further exacerbated by the internal competition for this limited resource between other deserving services such as de-congregation, respite and residential. These factors are compounded by the lack of ring fenced funding provided to this initiative in 2023. In that regard, a renewed focus by the HSE on recommendations made in our report is crucial in order to continue to reduce the admission of under 65s to nursing homes and to increase the transition of these people to appropriate alternative care and accommodations.

It was our intention to publish a progress report on the implementation of these recommendations in late 2023. However, the industrial action taken by HSE staff towards the end of last year had obvious impacts, not just upon the direct progress being made on the implementation of these recommendations but also on the availability of up to date statistics on that progress. Fortunately, those disputes appear to have been resolved and we expect to be provided with an update by the HSE.

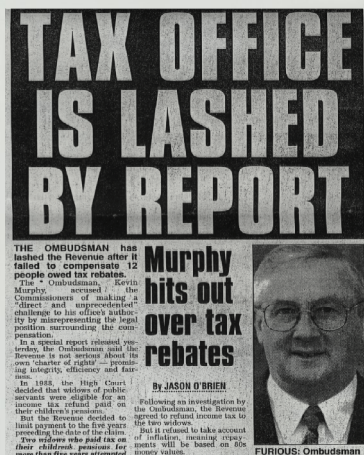


Grounded: Unequal access for people with disabilities to personal transport schemes: Update

In November 2021, we published our report, 'Grounded: Unequal access for people with disabilities to personal transport schemes', in which we set out our findings on a lack of access to transport schemes for people living with a disability. In our annual report for 2022, we highlighted the steps that we had taken to continue to advance this issue. The Ombudsman set out his firm view that leadership was required on this area and that the time for further reports from various departments had

passed. The Ombudsman also described the way in which people with disabilities continue to be denied access to personal transport supports as nothing short of shameful.

During 2023, the Ombudsman continued to engage on this issue. He met with the Department of An Taoiseach to reiterate how essential it is to have functioning transport schemes for people living with disabilities. Prior to publication of this report the Ombudsman sought an update from the Department and this update is published on our website www.ombudsman.ie. The Department of An Taoiseach's involvement in this matter and its stated objective to take a holistic view of all relevant transport schemes, including the initiation of several pilot schemes in different parts of the country is welcome. The Ombudsman remains of the view that what people with disabilities require is to have their transport needs addressed as a matter of urgency.



Inflexible HSE approach pushed many into debt, says Ombudsman

CONOR POPE
Consumer Affairs Correspondent

The HSE repeatedly refused to reimburse the legitimate expenses of patients who had necessary medical treatments in other countries which forced many people into debt, a damning report published by the Ombudsman states.

The investigation found that the HSE adopted an "unreasonable and inflexible approach" when it came to administering schemes fund health treatments abroad that the State system is either unable to provide, or unable to provide in a timely manner.

In his report, 'In Sickness and in Debt', Ombudsman Ger Deering said some patients faced a fight to be reimbursed for the legitimate costs they had incurred for necessary treatment received abroad

and some falling into debt as a result. In other cases, approval to have treatment abroad was unreasonably refused or delayed.

The HSE refused to reimburse one patient who paid for treatment overseas on the grounds that their GP had not signed a letter of referral he emailed to a hospital in Northern Ireland.

"This was despite the fact that it was clear that the letter was sent from the GP's email address, and the GP had assured the HSE in writing that the referral was genuine," the report says.

Another referral letter from an Irish GP was addressed to the relevant section of a Northern Ireland hospital and not a named individual in that hospital, which prompted the HSE to reject the claim. Its intransigence was further highlighted when it "refused to accept a sub-

sequent amended referral letter from the GP".

In another instance, a payment was refused because a treatment which had a waiting list of four years in Ireland took place in Belgium, but the initial consultation took place while the Belgian consultant was in Ireland.

In a separate case highlighted in the report, someone who was "in urgent need of treatment for chronic back pain" had their case rejected by the HSE, because prior to treatment in Poland, an outpatient consultation with a Polish consultant took place by phone rather than in person.

A number of older patients who sought refunds for treatment were in receipt of UK pensions. Due to the lack of information provided by the HSE, these patients were unaware that the fact they were in receipt of a pension from another

EU country would negatively affect their application.

The patients had borrowed significant amounts of money to have the treatment but received no reimbursement.

In the report, the Ombudsman sets out 21 recommendations to improve the administration of the schemes for the benefit of patients who need these critical treatments. Following discussions between the Ombudsman and HSE chief executive Bernard Glasser, the HSE has agreed to implement all the recommendations.

"I very much welcome the decision of the HSE to implement the recommendations," Mr Deering said. "Their implementation will have a significant positive impact on the lives of those who need to access treatment abroad, and will help ensure that decisions under the schemes are focused on the patient's needs."



2002: Ombudsman criticizes Revenue compensation payments



2023: Ombudsman investigation into treatment abroad schemes

Chapter 4

Case Summaries



Chapter 4: Case Summaries

Earlier in this report we described some of the complaints we received in 2023 including those upheld and not upheld. In this Chapter, we present summaries of some of the complaints that we upheld or resolved. Some of the details of the cases and the names of the complainants have been changed to protect their identity.



Outdated referral process sees hospital appointment and cancer diagnosis delayed

Background

Marie complained to the Ombudsman when a mix-up in referral letters resulted in an important medical appointment not being made and a diagnosis of cancer being delayed by up to eight months. Marie was a transplant patient. During a routine appointment a skin lesion was noticed by staff in the Nephrology Unit in St Vincent's University hospital, Dublin. The lesion was of some concern as transplant patients are more susceptible to skin cancers.

In early March, the Nephrology Unit issued a hard copy appointment letter to the hospital's Dermatology unit. While the Nephrology Unit had printed the letter, it never arrived in the Dermatology department. In May, Marie was attending another appointment at the Nephrology Unit and asked about the appointment for Dermatology. A second referral letter was sent, but again Marie received no notification of an appointment.

In August, Marie contacted the Dermatology Unit directly and received a date for an appointment in October. The lesion was removed and later turned out to be malignant.

Investigation

The hospital confirmed to the Ombudsman that the initial referral letter, dictated by the consultant at the time, had been typed and printed in the Nephrology Unit within a few days of the initial appointment. There was no record of it having been received by Dermatology.

The hospital accepted that there was a deficiency in its process for issuing referral letters and ensuring they were followed-up. It proposed that it establish a new centralised 'print room' where all referral letters between departments would be printed to mitigate the risk of any future letters being lost.

Having examined the hospital's proposal, the Ombudsman believed that a 'print room' was insufficient as it still relied on a hard copy letters being printed and delivered. The Ombudsman proposed that the hospital develop an ICT-based solution to ensure efficient and effective referral of appointments and tracking. The Ombudsman also believed that the hospital should apologise to Marie for the delay in her diagnosis.

Outcome

As a result, the hospital implemented a new internal electronic referral system between departments. This system was designed specifically for the purpose of removing the possibility of referral letters being lost. It works by recording the referral on an online form. Staff check this daily for new referrals which are logged to the relevant consultant, removing the requirement for letters to be dictated or sent in the internal post. The hospital also apologised to Marie for the failures and the difficulties that she encountered.



Council's withdrawal of emergency accommodation was 'inappropriate and unreasonable'

Background

A family in Cork, who had become homeless, complained to the Ombudsman saying that Cork County Council was threatening to withdraw their emergency accommodation.

The family of two adults and their children lived, worked and went to school in one area in Cork for around 10 years. Both parents were working and prior to the COVID pandemic, were not in receipt of any housing assistance. The family became homeless because their landlord had decided to end their lease and sell the property. As the family had become homeless, they were provided with emergency accommodation by Cork County Council.

Around two years earlier the family had been approved for social housing by the Council. The family had selected an area where both parents had worked and their children attended school for some time.

The Council offered the family a house some 40km from the area in which they had been living. The family believed they could not accept the offer due to the length and cost of their commute to work and school, and because of their ties to the community.

The family were told by the Council that if they did not accept the offer, they would lose their emergency accommodation and would be reported to TUSLA for putting the children at risk. The Council gave the family notice to leave emergency accommodation a week after the birth of an additional child.

Investigation

The Ombudsman believed that it was unreasonable for the Council to withdraw their emergency accommodation because they rejected the offer of housing.

The Ombudsman also said that the tone of the communications from the Council to the family was completely inappropriate, was far below the standard expected from a public body dealing with a family in need, and fell short of the Council's Public Sector Duty in relation to human rights.

The Ombudsman was also unclear why the family were offered a property 40km from where they worked and attended school when there were properties soon to be available in that area.

While the Ombudsman's investigation was ongoing, the Council provided the family with details of a smaller property. However, given the number of children in the family, the property was not big enough to house them. The Council also added that it was not recommending the property. However, no other suitable property was available and the emergency accommodation, which the Council had agreed to temporarily extend at the request of this Office, was due to be withdrawn.

The Council also told the family that if they signed a lease for the property, they would not be allowed to break that lease for two years. This was not correct, as the legislation governing the relevant scheme provides that 'overcrowding' is a reason for a lease to be broken.

The Ombudsman said that it was completely inappropriate of the Council to provide the contact details for this property, while recommending that it not be accepted, and at the same time ending the emergency accommodation in place within a few weeks. The family felt they had no alternative but to accept the offer of the smaller property.

Outcome

The Council apologised to the family for the tone of the communications and accepted that the family should be allowed to break the lease agreement given that the property they were living in was not suitable. The Council did not accept that its initial allocation offer was unreasonable. However, the Council provided further assistance to the family and located a suitable property closer to their employment and schools.



Department of Social Protection wrongly sought to recover €26,000 pandemic social welfare payment

Background

Joan complained to the Ombudsman when the Department of Social Protection contacted her to recover €26,000 it said was overpaid to her under the Pandemic Unemployment Payment (PUP). The Department said she was not entitled to the payment.

Investigation

Joan had been working part-time at the start of the pandemic, but had to leave her front-line job as she was a single parent to a daughter with health issues. Joan had no alternative childcare when the schools were advised to close as part of the pandemic restrictions. At that stage during the pandemic, the Operational Guidelines for the PUP advised that parents were entitled to the payment if schools and childcare facilities were closed under COVID-19 restrictions and parents were unable to secure childcare or other flexible employment options.

Joan had contacted her local Intreo office to explain her situation and had been given an application form to apply for the PUP.

The Ombudsman queried how the Department had calculated the woman's overpayment, and what payments she had received over the time in question. The Ombudsman also pointed out the Operational Guidelines that were in place at the time which suggested that Joan may be entitled to the payment.

Outcome

The Department reviewed Joan's case and found that she was entitled to receive the PUP. As a result, the Department accepted that Joan was not liable to repay the €26,000.



Man was wrongly refused Carers' Allowance when medical report was 'missed' by appeals office

Background

John complained to the Ombudsman when the Department of Social Protection said he was not entitled to Carer's Allowance for his father. His father suffered from chronic heart disease, hypertension and diabetes. However, the Department said that he was not eligible as his father did not meet the scheme's criterion of being "so invalided or disabled as to require full-time care and attention".

While the Ombudsman was investigating his complaint John re-applied and was awarded Carer's Allowance. However, the Department said that John was not entitled to the allowance from the date of his initial application nine months previously.

John appealed the decision to the Social Welfare Appeals Office (SWAO) and provided additional medical evidence in support of his appeal. The additional medical evidence described his father's chronic heart disease, hypertension, diabetes and his coronary artery bypass graft. However, the SWAO refused his appeal to backdate the payment on the same grounds as the Department.

Investigation

The Ombudsman examined the Department's file on John's case. He saw that the SWAO had sent the file to the Department's Medical Referee Assessment (MRA) section for an opinion on the additional medical evidence that John had supplied. Although the MRA Section had subsequently provided a report saying that John's father was considered medically eligible for Carer's Allowance, it appeared that the report had not been considered by the SWAO. The Appeals Officer had made no mention of the MRA report in the background note explaining the reasoning behind the decision to refuse the appeal. As a result, the Ombudsman asked the SWAO to look at the case again.

Outcome

After reviewing the case, the SWAO changed its decision and backdated the payment of Carer's Allowance to John to the date of his initial application. John was awarded nine months' arrears totalling €6,078.



Hospital refused to deal with bereaved parents' complaint as it was 'outside time limit'

Background

A couple contacted the Ombudsman after the Rotunda hospital refused to deal with their complaint as it was made outside the 12-month time limit for making complaints to it. The couple wanted to complain about their poor experience at the hospital during the birth of their baby who died shortly after birth.

The couple explained that the period since the loss of their child had been very difficult for them both and that the process of preparing the complaint was very emotionally challenging and brought back painful memories for them. They also pointed out that they were unaware of the 12-month limit for making complaints and that in fact, some of their concerns related to issues that occurred within the 12-month timeline.

They had met with the hospital some months after their loss but felt that all their concerns had not been adequately addressed. They subsequently made a complaint to the hospital but it would not accept the complaint saying that more than 12 months had elapsed since the issues they raised had occurred.

The hospital, while expressing sympathy for the couple, decided that an exemption to the time limit would not be granted. It stated that from past experience, it had found that the longer the time interval between the event and reviewing matters raised in complaints, the less likely staff are to have any recollection of events.

Investigation

The Health Act 2004 sets out the arrangements for dealing with complaints about a hospital and includes a 12-month time limit for making a complaint. However, this time limit may be extended by a hospital where special circumstances make it appropriate to do so.

The Ombudsman was concerned that the hospital's approach to the special circumstances that arose in this case was unfair. The loss of a child is a devastating experience. Bereaved parents will inevitably require time to begin to deal with their sadness and grief. It may take time before they are in a position to reflect on their hospital experience, and empathy and understanding is required. The Ombudsman believed that the circumstances surrounding this case was a very understandable reason as to why this couple was not in a position to pursue their concerns with the hospital until some time had passed. The Ombudsman asked the hospital to review its decision.

Outcome

In response to the Ombudsman's concerns the hospital agreed to accept the complaint and to contact the couple to discuss how best they wished to progress their complaint. The couple were satisfied with the outcome and that they would have an opportunity to have their complaint addressed.



Student sees education grant wrongly reduced after break from her course

Background

Julie complained to the Ombudsman when it appeared that her education grant had been wrongly reduced after she returned from a break in her course.

Julie had started a one-year Masters in University College Dublin (UCD) in September 2021. Student Universal Support Ireland (SUSI) awarded her a Postgraduate Tuition Fee grant of €6,270. These grants are paid directly to universities by SUSI to cover course fees.

Julie completed the first term, then took a leave of absence for a year. Julie had contacted SUSI about the decision to defer her studies and was assured that the deferral would not affect her grant.

When Julie returned to UCD a year later, she discovered that SUSI had awarded a smaller grant than she expected (€1,153 less). When Julie then complained to SUSI, she was informed that her grant had been cancelled. It later emerged that she had been wrongly informed about the cancellation but the reduced amount still stood. Julie was extremely worried about the reduction in the grant, missed several lectures as a result and considered quitting the course.

The situation remained unresolved and Julie submitted her thesis at the end of the course with the remaining grant still not paid. Julie was very concerned that she would not be able to graduate with her class because of the outstanding fees.

Investigation

In its response to the Ombudsman, SUSI said that UCD had invoiced it for less than Julie's eligible fees in the academic year 2021-22. While it was unable to confirm the reason for this, it explained that SUSI can only pay the amount that has been invoiced from UCD. However, having considered all the circumstances, the Ombudsman asked SUSI to review the case.

Outcome

SUSI then contacted UCD and requested an invoice for the outstanding fees owed. Julie received approval for the full grant and SUSI also apologised to her for the inaccurate information she had received.



Man has pension payment backdated to date of eligibility

Background

Joe complained to the Ombudsman when the Department of Social Protection refused to backdate payment of his Contributory State Pension to the date he would have become eligible - at 66 years of age. Joe had applied when he was 70, and was granted the pension which was backdated for six months prior to his application - the time provided for in legislation.

Joe told the Ombudsman that he had visited a local office of the Department shortly before turning 66. He was told he was unlikely to qualify for a pension and was not eligible for a Non-Contributory State pension. As a result, he did not pursue his application any further.

Investigation

The Ombudsman raised the issue with the Department. The Department did not dispute that the man had visited its local office and that he was told he was not eligible for a Non-Contributory pension. However, the Ombudsman believed that Joe should have been informed of his possible eligibility for a Contributory State Pension at that time. He believed the Department should review Joe's case with a view to backdating his payment to when he was 66.

Outcome

The Department reviewed Joe's case and accepted that it should have informed Joe of his possible entitlement when he approached the Department's local office. The Department awarded Joe arrears of €46,040 backdated to the date he became eligible.



Man refunded over €17,000 from Revenue after clarification of residency status

Background

Mark made a complaint to the Ombudsman after he received a notice from the Revenue Commissioners saying he had underpaid his income tax. Mark did not believe he had underpaid his tax and was concerned that Revenue had actually deducted too much tax from his salary. Mark had worked outside the State for some time. He had earned nearly €76,000 with around €31,000 deducted in income tax and universal social charge. Mark had tried to resolve the issue with Revenue over a three-year period but was unsuccessful. He had provided Revenue with all the information he had available and responded to all of its queries. Mark queried whether or not his declaring himself as a 'non-resident' might have made a difference to his liability but he had not received a clear answer from Revenue.

Investigation

Revenue confirmed to the Ombudsman that Mark had enquired about declaring himself as 'non-resident'.

Mark's employer had requested an 'exclusion order' from Revenue but only submitted the request in September 2019 - which was after Mark had commenced work outside the State. A PAYE Exclusion Order means that none or a reduced amount of income tax or Universal Social Charge is deducted from a person's income. The exclusion order starts from the date a person leaves the State. It remains in place while the person is non-resident and working abroad. A PAYE Exclusion Order may be issued if the person is employed abroad by an Irish employer, all of their employment duties are carried out abroad, and they will be non-resident in Ireland in the tax year.

In the circumstances, and in light of the information Mark had supplied over a number of years to Revenue, the Ombudsman requested that Revenue review Mark's case.

Outcome

Revenue completed a review of Mark's circumstances. It was satisfied that Mark was 'non-resident' for the periods in question and therefore he had a reduced liability for income tax and USC. As a result, it refunded Mark €17,700.



Student was refused access to education scheme as 'absent' father had ineligible occupation

Background

Sarah complained to the Ombudsman after being deemed ineligible for the Higher Education Access Route scheme because of her socio-economic group.

The Higher Education Access Route (HEAR) is a higher education admissions scheme for leaving certificate students (under 23) whose economic or social background are underrepresented in higher education. The scheme, overseen by the Irish Universities Association on behalf of the participating Higher Education Institutions, measures social background based on the applicant's parents' or guardians' occupations and employment status. Sarah's mother had an 'approved' occupation. Her father was unemployed but his last known occupation was not approved, and so Sarah was informed she was not eligible for the scheme. However, Sarah felt this decision was unfair as she had very little contact with her father. She lived with, and was financially supported solely by her mother. Her parents were divorced for a number of years and separated since Sarah was a baby.

Investigation

The terms and conditions of the HEAR scheme provide that applicants could be assessed on the occupation of one parent only in circumstances where they had 'no contact whatsoever' with the other parent.

This effectively meant that applicants could be assessed on the occupations of parents who may never have had, or who for a long time did not have, an active role in their lives. The Ombudsman considered this position to be unreasonable and unfair. He believed that the guidance was too restrictive and did not reflect the reality of many HEAR applicant's family situations. The Ombudsman also believed the guidance could potentially disadvantage students from certain backgrounds.

Outcome

The Ombudsman upheld Sarah's complaint. As Sarah had already commenced her third level studies her situation could not be changed. The 'socio-economic group' indicator is in the process of being phased-out as one of the eligibility criteria for the HEAR Scheme. For new applicants entering higher education in 2026, the 'socio-economic group' indicator will have been completely removed.



Student was wrongly refused re-entry to course after short break

Background

Catherine was studying for a four-year course at Technological University of the Shannon (TUS). After second year, she decided to leave the programme and was awarded a Certificate for completing the first two years. She later decided she wanted to re-enter the course in third year, to go on and complete the full four-year degree. However, TUS refused her application as students are not allowed to use an existing qualification (such as a Certificate) for 'advanced entry' into a later year of this particular course.

Investigation

Generally, students who take an early exit can return and pick up where they left off. In this case, however, TUS refused. Although TUS was correct in saying that advanced entry was not allowed on Catherine's course, this did not apply to Catherine's situation. She was looking to continue the same programme, rather than to join as a new applicant with a qualification from an entirely different course.

When the Ombudsman raised this point with TUS, the University carried out a review and acknowledged that the advanced entry rules were not intended to block a student from continuing in the same programme.

Outcome

TUS reversed its decision not to allow Catherine to re-enter the four-year course she had previously left with a lower level award. The University also revised the relevant policy and procedure.



Council agrees to apply rent hardship clause in Housing Assistance Payment scheme

Background

Hannah was renting her home with help from Galway County Council through the Housing Assistance Payment (HAP) scheme. Her only source of income was disability allowance. Between her weekly rent payment to the Council and a €350 monthly top-up to her landlord (to bridge the gap between the maximum HAP rate and the full rent), Hannah was spending 49% of her income on rent. She was struggling to meet her other expenses.

Hannah asked the Council to apply its 'rent hardship' clause to reduce the amount she would have to pay the Council weekly. The Council refused on the basis that Hannah had taken on a tenancy that, at 49% of her income, was unsustainable. The Council sent Hannah a photograph taken from Google Street view, which it said showed she was "living beyond her means" in a house that was much too big for her to afford in terms of both bills and rent.

Hannah complained to the Ombudsman that the photograph was not of her home but of a nearby pair of large semi-detached houses. She also said that she had searched extensively for an affordable and suitable property without success, and only reluctantly took on a tenancy with such a large top-up to the landlord when she felt she had run out of options.

Investigation

When the Ombudsman raised Hannah's complaint with the Council, the Council acknowledged that it was incorrect in relying on the photograph in question but that the tenancy was nonetheless unsustainable. The Council noted that, even with the hardship clause, Hannah would still be paying more than 30% of her income on rent and that, in any case, hardship clauses apply only temporarily. The Council said that Hannah should move to a more affordable property.

The Ombudsman recognised the Council's concerns about the long-term sustainability of Hannah's tenancy, even though the Council had in the first instance approved it for HAP with 49% of her income going on rent. However, the Ombudsman also noted the shortage of rental options within or close to HAP limits in Hannah's area and neighbouring counties. If her HAP tenancy ended in the short term due to a failure to pay rent to the Council or the landlord, she would most likely have to seek assistance and emergency accommodation from the Council.

Outcome

Following discussions with the Ombudsman, the Council agreed to apply its hardship clause and charge the minimum rent permitted (€25 per week) for four months, to help Hannah keep her tenancy for the time being and give her an opportunity to search for a more affordable property.



HSE grants woman 'physical and sensory disability' support after circumstances highlighted by the Ombudsman

Background

Deirdre complained to the Ombudsman when her application for Physical and Sensory Disability Services was refused by the HSE. The HSE did not accept that Deirdre was eligible for support under the service and referred her to primary care services.

Deirdre suffers from illness as a result of a workplace accident. She is disabled and does not have proper use of her lower limbs. Her GP was dismayed to learn that her request was refused. He hoped that she would be entered on a rehabilitation programme that would assist Deirdre with activities of daily living and improve her quality of life. The matter was urgent as Deirdre's landlord was selling the house and she faced eviction.

The HSE's Physical and Sensory Disability Referral Team had considered Deirdre's application and believed she had a medical condition which would require consideration of supports through Primary Care Services rather than having a long term established physical or sensory disability. Deirdre had appealed the decision but the appeal was not upheld.

Investigation

In light of the evidence presented by Deirdre and her GP, the Ombudsman queried the basis of the decision to refuse the application, whether her GP's letter was considered during the course of the appeal, the types of supports through Primary Care Services which would apply in this case, whether she was provided with information on how to apply to Primary Care Services or if the HSE referred her to Primary Care Services.

Outcome

In response, the HSE carried out a further review of Deirdre's application and decided that she met the criteria for Physical and Sensory Disability Services. It contacted Deirdre and apologised for the delay and distress that was caused as a result of its previous decision. Deirdre's application for Physical and Sensory Disability Services was approved.

Chapter 5

Governance



Chapter 5: Governance

The Office of the Ombudsman provides staffing and corporate services support for five other statutory Offices:

- * The Office of the Information Commissioner
- * The Office of the Commissioner for Environmental Information
- * The Office of the Protected Disclosures Commissioner
- * The Standards in Public Office Commission
- * The Commission on Public Service Appointments

While the different Offices each carry out separate and distinct statutory functions, the Office functions as a single amalgamated agency in organisational terms. The Office is funded by one Vote and overseen by an Accounting Officer (Director General) who is supported by a Management Advisory Committee. In carrying out their work our staff embrace the traditional obligations of privacy and integrity in the performance of official duties while at the same time protecting and preserving the statutory independence and functions of each of the constituent offices in which they work.

Updates in relation to the Corporate Governance of all the Offices is set out on the [Strategy and Governance page](#) on the website of the Office of the Ombudsman.

This [page](#) includes updates in relation to:

- our Strategic Plan 2022-25
- our compliance with the requirements under the Official Languages Act
- our compliance with the requirements of the Protected Disclosures Act
- our compliance with the requirements under s.42 IHREC Act (the duty on public servants in relation to human rights)
- our Corporate Governance Framework
- our Green Team (including our compliance with the Climate Action and Low Carbon Development Act)
- membership of organisations.

Case Quality

We are continuously improving the level of services we provide and ensuring that our systems and processes allow us to deliver on our strategic objectives. To ensure the quality of our case handling we introduced quality standards, which set objectives for casework in the areas of procedures, timeliness, communications and accuracy.

To ensure we meet our quality standards we have a quality assessment process in place. Every month our Quality Assessment Team examines 15% of cases closed in the previous month and assesses cases against our quality standards. The Team also identifies and suggests solutions to any process issues arising from monthly quality assessments and provides feedback to caseworkers on individual cases.

Objections by Department of Justice to Magdalen redress investigation 'disingenuous' - Ombudsman

The Ombudsman has been harshly critical of the Department of justice in his report published this morning.

7:19am, 23 Nov 2017 · 13.8k · 21

Cianan Brennan
@ciananbrennan · Follow

Peter Tyndall says why younger women who were refused access to the same redress as older #magdalen workers "is impossible to understand"

10:45 AM · Nov 23, 2017

3 · Reply · Copy link

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Updated 11:30am

THE STATE OMBUDSMAN has dismissed objections made by the Department of justice to an investigation into 27 complaints made by women who worked in Magdalen Laundries regarding the Magdalene Restorative Justice scheme.

Many of those women had their applications for redress denied by the Department as they were not officially recorded as having been resident in the 12 institutions covered by the scheme.

Upon receiving a draft report in recent weeks, the Department responded to Ombudsman Peter Tyndall citing its unhappiness that the State officials who administered the scheme were not interviewed as part of the investigation.

Likewise, Secretary General of the Department Noel Waters suggested that the Ombudsman's adverse findings were possibly due to "a fundamental misunderstanding of the scheme".

Speaking at today's launch of the final report, titled 'Opportunity Lost', Tyndall told *TheJournal.ie* that he considered such objections to be "disingenuous in the extreme" and an example of "departmental stonewalling".

"The department was consulted extensively and at length over the course of this investigation," he said.

However, Tyndall added that he was "hopeful" that the Department of Justice would act upon his recommendations that the women who were denied redress should have their applications reassessed with a view to approving them, in light of a statement from the Minister Charlie Flanagan this morning.



**2017: Ombudsman
investigation into Magdalen
redress scheme**

