

Annual Report 2021

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Ombudsman

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Ombudsman

Annual Report 2021

Table of Contents

Introduction from the Ombudsman	4
Update from the Director General	6
Peter Tyndall: Ombudsman and Information Commissioner 2013-21	8
 Chapter 1: 2021 at a Glance	 11
Where did the complaints come from in 2021?	13
 Chapter 2: Complaints in 2021	 15
Role of the Ombudsman.....	15
Complaints received in 2021: Analysis.....	16
Overall trend.....	17
Local Authorities	17
Government Departments and Offices	18
Department of Social Protection.....	19
Health and Social Care	19
Nursing Homes.....	20
Regulatory Sector.....	21
Education	22
Direct Provision	22
Other Bodies	23
Disability Act.....	24

Chapter 3: Reports & Outreach 25

Key Ombudsman Events in 2021	26
Wasted Lives: An investigation into people under 65 living in nursing homes	27
Grounded: Unequal access for people with disabilities to personal transport schemes.....	28
Commentary on Direct Provision complaints	28
Outreach: Bringing the Ombudsman service to the regions.....	29

Chapter 4: Case Summaries 33

Nursing home refuses to respond in writing to family's complaint about mother who left the home	33
Council unfairly changes record of traveller family's waiting time on housing list	34
Student has travel grant unfairly reduced after his sister appeals her grant decision	36
Man's business unfairly restricted by travel limit in agriculture scheme	37
Woman receives €5,000 repayment under cross border treatment scheme after initial refusal by HSE	38
Man with two businesses given only one COVID support grant by Council	39
Passport Office's quick response allows man visit his dying mother	40
Department incorrectly sought repayment of €5,400 in child benefit.....	40
Man's housing case reviewed after social welfare payments leave him unable to afford rent.....	41
Woman did not receive her electricity allowance for five years	42

Chapter 5: Strategy and Governance 44

Strategy 2019-21	44
Case quality	45
Irish Language Scheme	45
Office Green Team	46
Public Sector Duty.....	46



Introduction from the Ombudsman

While it falls to me to publish this Annual Report for 2021, my first as Ombudsman, the achievements outlined in this report were delivered during the term of my predecessor, Peter Tyndall. Some of Peter's many achievements are set out later in this report.

I want to commend public sector employees and their leaders for the flexibility, professionalism and commitment demonstrated by very many of them, including in this Office, during 2021 in the face of the ongoing pandemic. We have experienced some remarkable examples in terms of responsive, quality public services.

That said, as this report shows, public services are not always as good as they could or should be, mistakes and poor decisions are made. Our role is to seek to rectify matters when this occurs. We do this by dealing with complaints and identifying areas that require broader investigation. In 2021 we received 4,004 complaints – the largest number ever received by the Office. In addition to responding to complaints received, we also proactively engaged with advocacy groups, marginalised groups and individuals through outreach and own-initiative investigations.

Own-initiative investigations have been deployed by the Office to great effect. Throughout 2021 the Office continued to monitor the implementation of the recommendations following previous Ombudsman investigations. This included a focus on access to transport for those living with a disability as set out in the report *Grounded*; monitoring the implementation of the recommendations contained in reports such as *A Good Death*, that deals with the very sensitive issue of end of life care; *Learning to Get Better*, that deals with health complaints; *Opportunity Lost* which relates to the Magdalen redress scheme; and *Wasted Lives* which looked at the appropriateness of the placement of people under 65 in nursing homes designed for older people. Details of progress in the implementation of these reports is set out in Chapter 3 of this Annual Report.

We will continue to pursue implementation of the recommendations in these reports and undertake further own-initiative investigations in a targeted and effective manner. 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. In that regard I welcome the reduction, in 2021, of the number of complaints about the Department of Social Protection, the Department of Agriculture, Food and the Marine, and in the Education Sector.

However, I note an increase of 45% in complaints about local authorities in 2021. Indeed, for the first time ever, the largest number of complaints made to the Office were about local authorities.

The Office has a strong tradition of engaging in outreach activity. This was curtailed by the pandemic. However, facilities have been put in place to conduct outreach by methods other than face-to-face. We are committed to continuing our outreach activities and it may be necessary to adopt a hybrid model of outreach in order to continue to connect with service users in the future.

In 2021, despite the continuing challenges, presented by the ongoing pandemic the Office received more complaints than in any other year, and completed more than in almost any other year. This was achieved 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 acknowledge the contribution made by those who have held the post of Ombudsman in the past and in particular, Peter Tyndall, for the work he did and the excellent legacy he leaves.

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 38th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

I look forward to continuing to work with the Oireachtas and with all stakeholders to ensure that public services are delivered to a high standard in an accessible, fair, transparent and accountable manner.



Ger Deering

Ombudsman: January 2022 to present

May 2022



Update from the Director General

On behalf of all the staff of the Office of the Ombudsman, I am delighted to welcome our new Officeholder Ger Deering and to wish our outgoing Ombudsman, Peter Tyndall all the best of health and happiness in his retirement.

2021 was another challenging year for our Office as we continued to adapt to new work practices. I am pleased that this did not negatively impact on our overall performance, as can be seen from the high numbers of both complaints and enquiries we handled in 2021.

We also successfully tailored and adapted our Outreach programme so that we could carry out effective outreach online. Our plans for hosting the International Ombudsman Institute 12th World Conference and General Assembly had also to change to facilitate an online event. The online event, however, allowed a greater number of delegates from all over the world to attend the conference and to participate in a variety of online events and workshops in multiple time zones. I am proud of how our staff identified and adapted to, new ways of working and delivering our services.

2021 also saw our Office complete a number of projects to realise the objectives we set out in our 2019 - 2021 Strategy Statement. We also began work on our next Strategy Statement "Strategy 2025". During 2021 we carried out internal consultation with our staff and external consultations with our stakeholders. This will be important in informing the direction of the Office for the next four years.

The Office of the Ombudsman is one of the six statutory bodies which currently make up our Office. Each statutory Office has its own staff complement and is supported by a strong "corporate spine". This corporate spine contributes to the independence of the Ombudsman and the independence of the other five statutory Offices they support by providing expertise and specialist support in a range of technical areas such as ICT, Legal, Communications, HR, Procurement and Finance. Our staff in these areas provided great support to the Ombudsman caseworkers and investigators in order to allow them to deliver high quality services to the customer.

We continued to meet our obligations under the Irish language Act and a number of our staff participated in Irish language training. I am pleased to see the number of staff who are willing to improve their and our Office's level of service through Irish. Our staff also participate in Plain English, Equality in the Public Service, and Unconscious Bias training to improve our effectiveness in communicating with our customers.

Perhaps an area in which COVID 19 had its greatest impact was in terms of the project groups, internal committees and working groups which we had established in order to meet various challenges. These include procedural reviews (through our Operational Review Team), more environmentally friendly measures in the workplace (through our Green Team), new work practices and technology (through our Innovation Team), and to embed a proactive approach to Human Rights in our work (through our Public Sector Duty Committee). Such cross-functional teams thrive on in-person collaboration and as staff return to the office in 2022, these committees will be re-energised to meet challenging commitments to reduce our emissions and to further develop a human rights-based approach to our work.

We look forward to working with our new Ombudsman to deliver on his priorities for the coming years.

Elaine Cassidy
Director General

Peter Tyndall: Ombudsman and Information Commissioner 2013-21

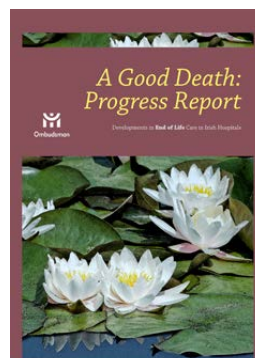


This annual report sets out the activities of the Office during Peter Tyndall's last year as Ombudsman. Peter retired in December 2021 after eight years as Ombudsman and Information Commissioner. Peter was appointed by the President of Ireland in December 2013, and reappointed in 2019 for a second term. He became the fourth Ombudsman since the Office was established in 1984, succeeding Emily O'Reilly, Kevin Murphy and Michael Mills - the State's first Ombudsman.

Improving public services through investigations

As Ombudsman, Peter has carried out a number of key investigations into the actions of providers of public services, including:

- The **'Opportunity Lost'** investigation (2017), which found that women, who had worked in the Magdalen laundries, had been wrongly refused access to the Magdalen Restorative Justice scheme.
- **'Learning To Get Better'** (2015), an 'investigation into how public hospitals handle complaints', was the first time that the Ombudsman's 'own initiative' investigation powers were used.
- **'A Good Death'** (2014) described some of the issues raised in complaints about 'end-of-life care' in hospitals, and the impact on dying patients and their loved ones. It highlighted areas that needed improvement. A 'Progress Report' issued in 2018 setting out the many improvements since the report.
- The **'Wasted Lives: Time for a better future for younger people in Nursing Homes'** (2021) investigation highlighted the predicament of those under 65 placed in nursing home care and recommended changes to improve the situation for them and future cases.



Extension of jurisdiction to almost all publicly-funded services

During Peter's term of Office complaints about the following sectors came under the Ombudsman's jurisdiction:

- Private nursing homes
- Direct provision accommodation services and
- Over 200 regulatory and other public bodies.

Peter ensured that the Office was in a position to effectively deal with complaints from all new sectors, and developed tailored outreach and engagement to address the particular challenges posed by complaints in the nursing home and direct provision sectors.

Internal developments

Peter has ensured that complainants can easily avail of the Office's services, and that the Office can deliver effective and efficient services, by overseeing the development of the latest ICT and case management systems, and a user-friendly award-winning website.

International contribution

Peter is highly regarded among the international ombudsman community and was elected President of the International Ombudsman Institute in 2016. As IOI President, he oversaw the development of the Venice Principles - the first internationally-recognised set of standards for ombudsman institutions, and a United Nations resolution endorsing the key principles of independent and impartial ombudsman organisations.

There is no doubt that Peter has improved the lives of many thousands of people through the work of the Office including through resolving individual complaints and carrying out systemic investigations. We wish him the very best on his well-deserved retirement, and we thank him for his immense contribution to public service.



Chapter 01

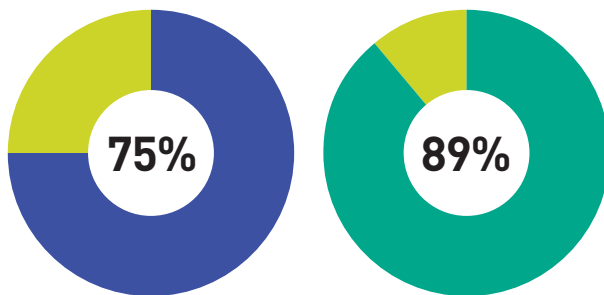
Chapter 1: 2021 at a Glance

We received a record

4,004 complaints
this year - the
highest to date!



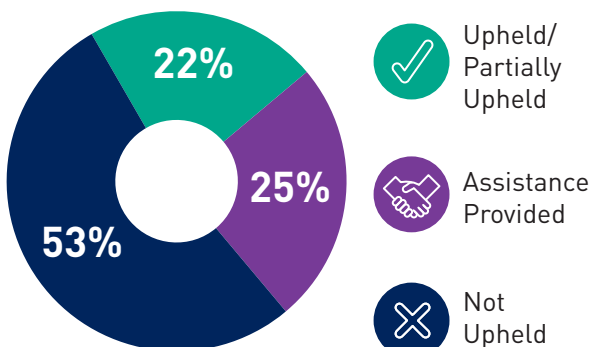
Time taken to examine cases



Completed within
3 months or less

Completed within
6 months or less

Complaints completed by outcome



3,961 complaints
completed
2021

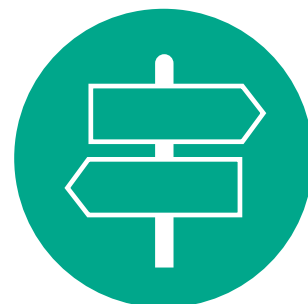


We received

6,125 enquiries



851 complaints signposted
to other bodies



2021 at a Glance

How we received complaints



1,066
Online



48
Phone



2,158
Email



670
Letter



62
In person

3 reports published



We held
8 information
webinars

Attended by

- Citizen Information Centre staff
- Public representatives and officials
- Local authority staff



Complaints received by sector



1,290
Local
Authorities



1,066
Civil Service
Departments
& Offices



796
Health
Sector



284
Regulatory
Bodies



221
Education
Sector



185
Other
Sectors



83
Private
Nursing
Homes



73
Direct
Provision



6
Disability
Act

We hosted the International Ombudsman Institute World Conference



Over **150**
Ombudsman
Offices attended

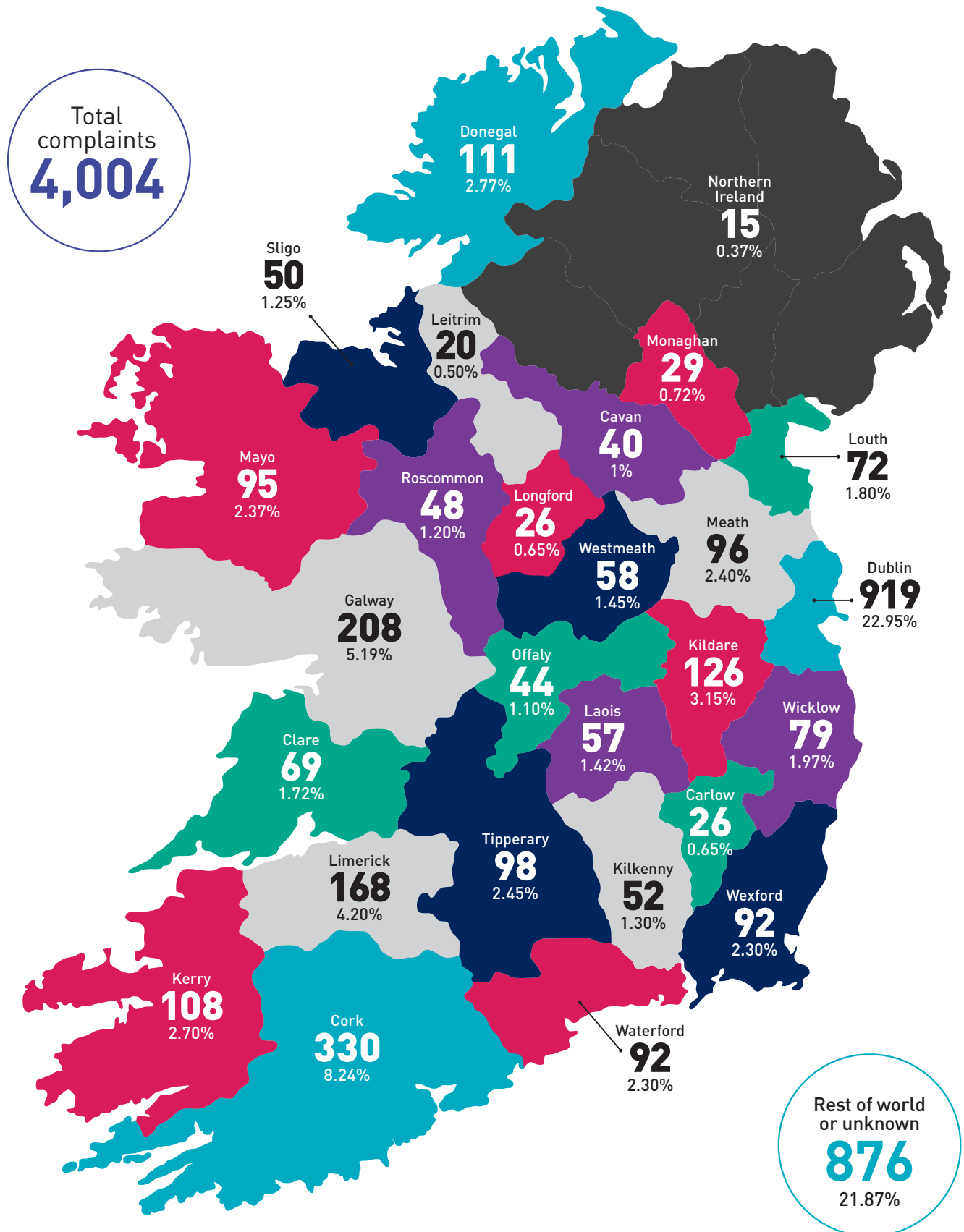


Over **500**
delegates



From **98**
different
countries

Where did the complaints come from in 2021?





Chapter 02

Chapter 2: Complaints in 2021

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 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 are resolved informally after we have brought 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.

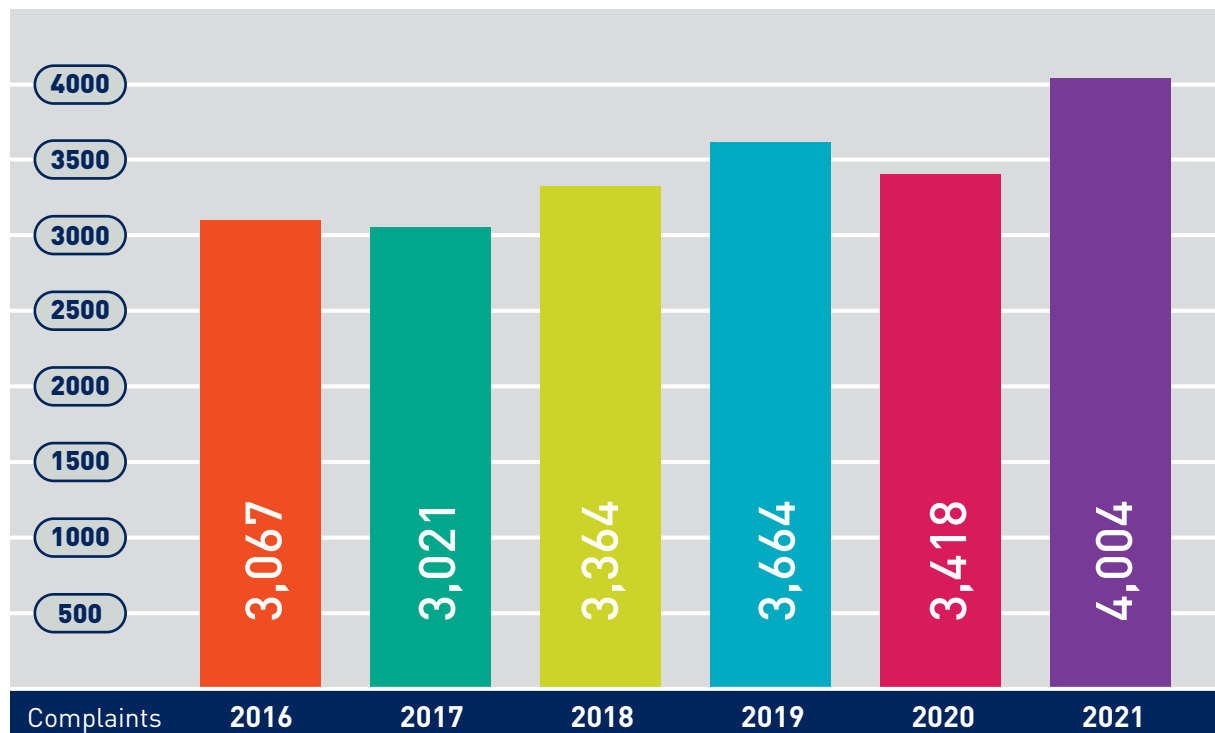
Complaints received in 2021: Analysis

In 2021, we received 4,004 complaints which was the largest number of complaints ever received by the Office and was an increase of 17% on the previous year. During this time, we also completed 13% more cases (3,961) than in 2020 and responded to over 6,000 enquires.

In 2021, we closed 75% of cases within 3 months, 89% within 6 months while 98% of cases were closed within 12 months. Of the 1,937 cases within jurisdiction that required substantive examination, 22% were fully or partially upheld, and 53% were not upheld. In 25% of cases assistance was provided to the complainant. This is where we did not uphold a complaint but we have provided a positive outcome for the complainant. Overall, in 47% of cases members of the public directly benefited from contacting this Office.

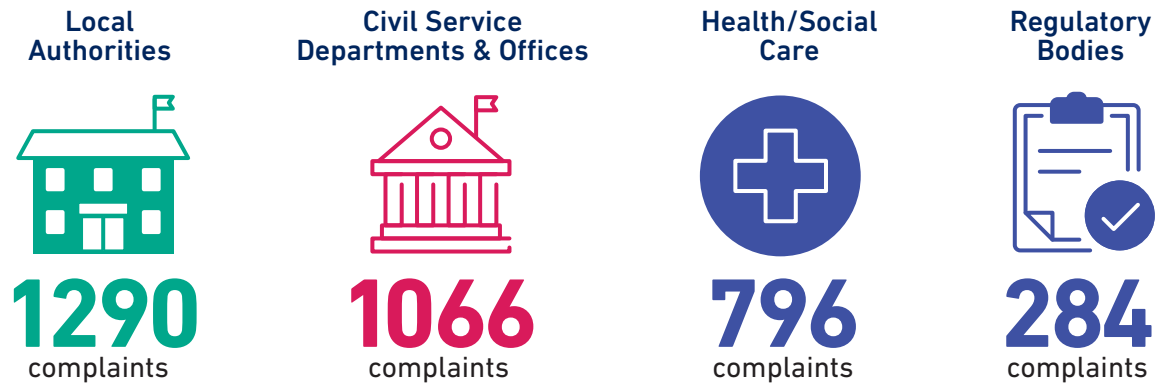
Before complainants bring their complaints to our Office they must first take steps to resolve their complaint with the public service provider concerned. In a number of cases (992 in 2021) we provided advice to those who made their complaint prematurely to us and usually redirected them back to the local service, inviting them to come back to us if the case was not resolved at that level. An additional 1,032 complaints were either discontinued, withdrawn or were outside our jurisdiction to investigate. In cases outside our jurisdiction (851), we generally provided contact details for the appropriate body which can consider the complaint.

Six year trend of complaints received



Overall trend

The top sectors to receive complaints were:



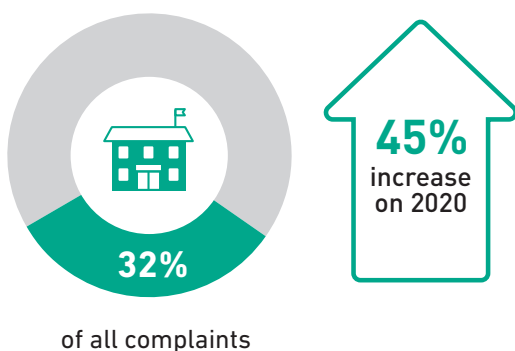
For the first time, complaints about the Local Authority sector was the source of the largest number of complaints to our Office (at 32%) followed by Government Departments and Offices (which includes the Department of Social Protection), (27%), and the Health/Social Care sector (20%).

Complaints about Local Authorities (1,290) increased by 45% on the previous year while complaints about the Department of Social Protection, the Department of Agriculture, Food and the Marine, and the Education Sector decreased in 2021. There was a notable increase in complaints about the Department of Foreign Affairs, which in the main related to difficulties with first-time passport applications.

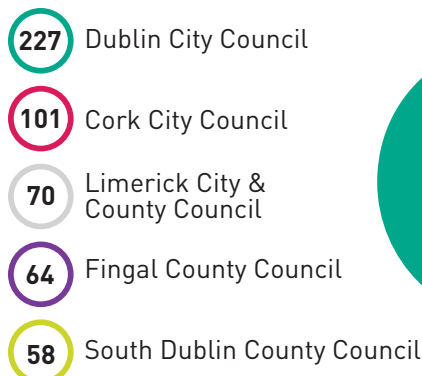
Complaints about Regulatory Bodies and Private Nursing Homes also increased by over 50%. Finally, in 2021, complaints about bodies in the Direct Provision sector also increased by almost 50%, but this was largely as a result of a number of 'outreach' visits undertaken by the Office.

Local Authorities

Local authorities represent:



The top 5 bodies complained about are:

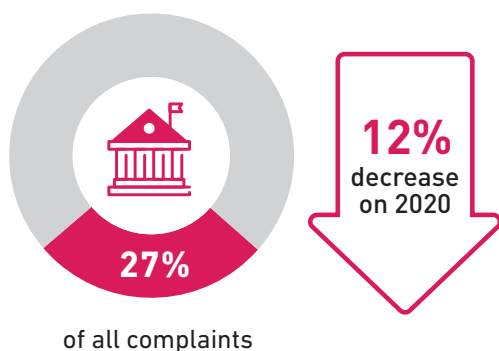


We received 1,290 complaints about the Local Authority sector. This represents a 45% increase on 2020 (889 complaints). While there was a significant increase in all types of complaints compared to 2020, housing complaints made up 61% (245) of that increase. There was an increase of almost 25% in planning complaints and a 50% rise in Roads/Traffic complaints – the three largest complaint types in the sector.

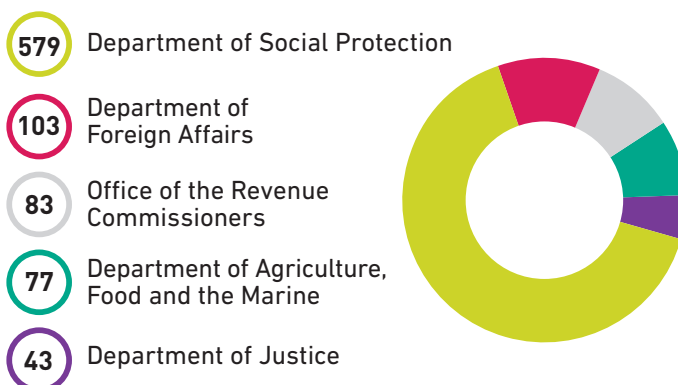
In 2021, we investigated 1,197 complaints. With a view to assisting local authorities learn from complaints they receive, we drafted a Model Complaint Handling Procedure for the sector and have asked four local authorities to trial and provide feedback of its operational benefits. The final Procedure will be disseminated to all local authorities in 2022.

Government Departments and Offices

Government departments represent:



The top 5 bodies complained about are:



We received 1,066 complaints about Government Departments and Offices. This represents a 12% decrease on 2020.

The highest number of complaints was about the Department of Social Protection (579) followed by the Department of Foreign Affairs (103), the Office of the Revenue Commissioners (83) and the Department of Agriculture, Food and the Marine (77). We investigated 1,162 complaints.

The significant increase in complaints about the Department of Foreign Affairs is mainly explained by an increase in complaints about the Passport Service. The bulk of these complaints related to delays in processing first-time passport applications.

We understand that the Passport Service operations were severely disrupted by the COVID pandemic. Indeed, between January and May 2021, only emergency passports were issued by the Passport Service. This resulted in the accumulation of a large backlog of applications. This, coupled with a pent-up demand for passports and a surge in applications following Brexit placed a significant pressure on the Service.

We understand that the Department is recruiting additional staff to deal with the surge in demand and to clear the backlog of applications in the system at the time of writing. Accordingly, we hope the experience of 2021 will not be repeated in 2022. However, we will keep the issue under review.

Department of Social Protection

2021 saw a decrease in complaints received about the Department of Social Protection. 579 complaints were received during 2021. This represents a reduction of 156 complaints from the previous year. The majority of complaints were about payments available from the Department.

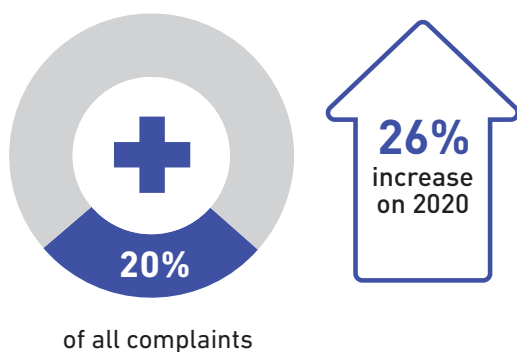
65 complaints were received about Disability Allowance, 62 complaints about Job Seeker's Allowance and 58 complaints about COVID-related payments.

In a number of cases we received, it appeared that the complainant was not aware that if they were in receipt of payments from the Community Welfare Service, they were not entitled to the Pandemic Unemployment Payment (PUP) at the same time. PUP was not payable to a person if their employer was in receipt of the Temporary Wage Subsidy Scheme. We also received complaints from people who applied for the PUP but whose applications were rejected on the basis that they had reached the pensionable age of 66. PUP and other employment payments are payable between the ages of 16 and 66 only.

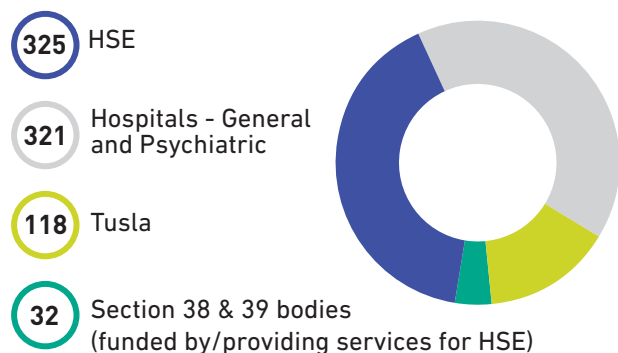
In 2021, we received 40 complaints about overpayments of social protection payments to recipients. 7 complaints about overpayments were upheld. In most cases an overpayment must be repaid even if the overpayment has been outstanding for a number of years. The Department of Social Protection has the authority to recover an overpayment at the rate of 15% per week from a current payment. This includes pension payments. The Department also has the legal authority to recover an overpayment from the estate of someone who has died.

Health and Social Care

Health & social care represents:



The top 4 bodies complained about are:



796 complaints were received about the Health and Social Care sector which is an increase of 26% on 2020. 321 complaints concerned hospitals. 105 complaints related to Primary and Community Care while 56 concerned the Treatment Abroad and Cross Border Directive Schemes.

This year there was a significant increase in complaints about bodies either funded by the HSE or providing a service ancillary to the HSE (Section 38 and 39 bodies) - 32 complaints received in 2021, compared to 19 in 2020. 118 complaints were about Tusla services, an increase of 20 from 2020.

COVID-related restrictions and the resulting impact on service delivery continued to feature in complaints received in 2021 and the cyber-attack on all HSE systems in May 2021 led to significant disruption of its services. This, in turn, led to an increase in complaints to our Office about delays in examining complaints or, in a small number of cases, about the HSE having no record of receiving a complaint. There was a number of complaints received during 2021 in relation to the EU Digital Covid Certification process and while the majority of these certifications were issued automatically, there were delays experienced by some. The Department of Health provided online portals for those who had not received their certificate automatically and adapted the website to increase accessibility in line with changes in rules.

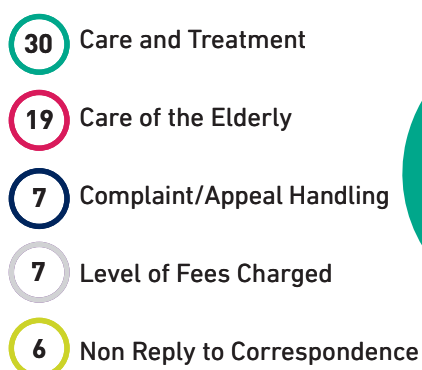
Nursing Homes

Nursing homes represent:



2% of all complaints

The top 5 types of complaint are:



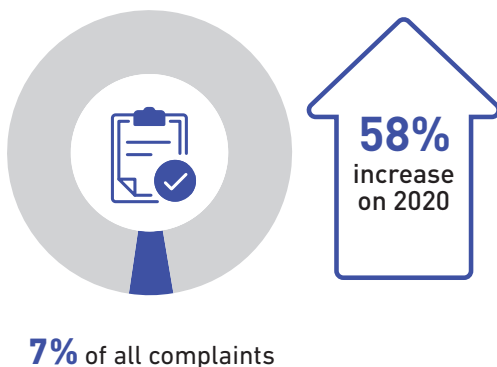
Throughout 2021 COVID has continued to have an impact within the private nursing home sector and this has been difficult for all concerned. We received 83 complaints relating to this sector. This compares with 53 complaints in 2020. We saw an increase in the number of complaints relating to the care and treatment of residents in nursing homes. These complaints account for almost 60% of the complaints received.

On occasion, we have encountered a nursing home provider that believes it does not have to provide a response to our Office (see case summary in Chapter 4). The Ombudsman Act 1980, as amended, sets out the provider's obligation to respond. We will be engaging further with this sector during 2022 in order to ensure that all providers are aware of their obligations under the Act.

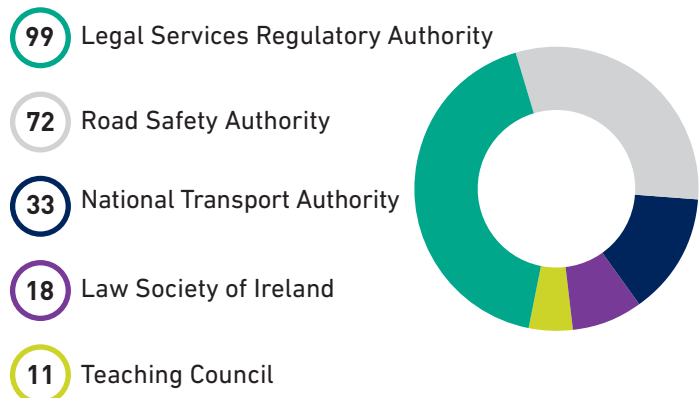
In a number of the cases we examined during 2021 providers failed to furnish the resident/family with a written response after completion of their investigation and have sought to meet with the complainant instead. We brought this matter to the attention of the Department of Health, with a view to having the requirement for a written response to complaints by providers put on a statutory basis.

Regulatory Sector

Regulatory bodies represent:



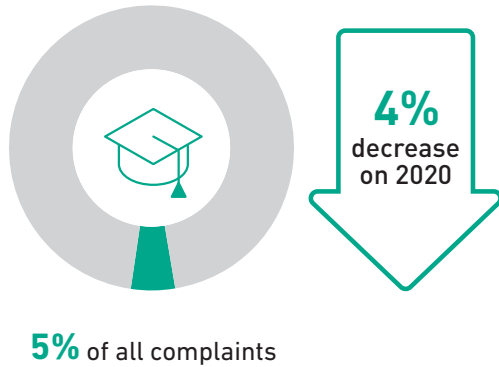
The top 5 bodies complained about are:



We received 284 complaints about bodies in the Regulatory sector in 2021. This represents a 58% increase on 2020. The highest number of complaints was about the Legal Services Regulatory Authority (LSRA - 99). Complaints mainly concerned the LSRA's handling of complaints about legal practitioners. We also received 18 complaints about the Law Society's handling of complaints about solicitors. We received 72 complaints about the Road Safety Authority (RSA) and 33 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.

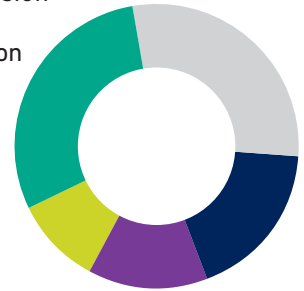
Education

Education represents:



The top 5 bodies complained about are:

- 39 State Examinations Commission
- 38 HEAR/DARE (Higher Education Access Route/Disability Access Route to Education)
- 24 Student Universal Support Ireland (SUSI)
- 18 University College Dublin
- 13 Trinity College Dublin



Including the Department of Education (19), 240 complaints were received in relation to the Education sector (which also includes publicly funded third-level education bodies). This compares with 299 in 2020.

39 cases were about the State Exams Commission which reflects issues related to the Accredited Grades process. The administration of the Higher Education Access Route (HEAR) and Disability Access Route to Education (DARE) schemes was also the source of a number of education complaints (38).

We received 24 complaints about Student Universal Support Ireland (SUSI). 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. This issue has been raised by our Office over a number of years with the Department but, unfortunately, as of yet and despite continued engagement by our Office there is no indication if and when the problem will be resolved.

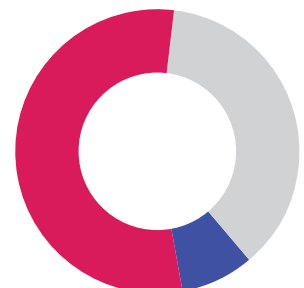
Direct Provision

Direct provision represents:



The top 3 bodies complained about:

- 40 International Protection Accommodation Service IPAS (formerly RIA)
- 27 Direct Provision Centres
- 6 Irish Refugee Protection Programme

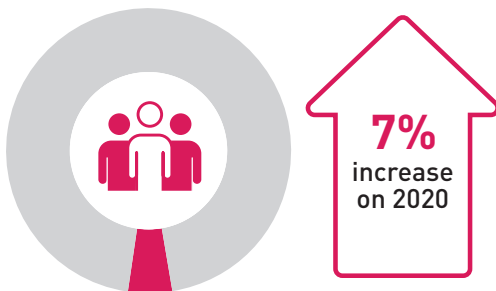


In 2021 we received 73 complaints from people living in direct provision about providers of direct provision services (a 50% increase on 2020). In addition, we received 26 complaints about services provided by other public bodies such as the HSE or Department of Social Protection, giving a total of 99 'direct provision' complaints. This represents a 62% increase on the 61 complaints we received in 2020. The highest number of complaints was about the International Protection Accommodation Service (IPAS), (40), Direct Provision centres (27), and the Health Service Executive (17). At the time of publication of this report, we have completed our investigation of 89 of the 99 complaints received. Among the issues complained about were Accommodation (26), Transfers from one Direct Provision centre to another (19), and Medical/GP cards (12).

Further details of these cases and more information on complaints we received about the Direct Provision sector in 2021 is set out in: *The Ombudsman and Direct Provision: Update for 2021*, published in March 2022, on our website www.ombudsman.ie.

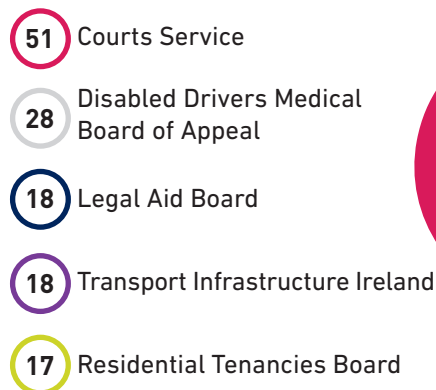
Other Bodies

Other Public Service Bodies represent:



5% of all complaints

The top 5 bodies complained about are:

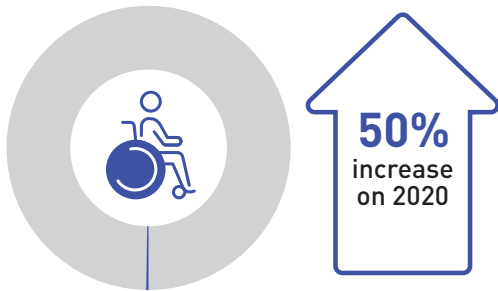


We received 185 complaints about the remaining 'Other' Public Service providers. The highest number of complaints received was about the Courts Service (51). The types of complaints we investigated related to access to court buildings and administrative actions of court offices.

We received 28 complaints about the Disabled Drivers Medical Board of Appeal. The complaints were not upheld, as the terms and conditions of the Disabled Drivers and Disabled Passengers scheme were applied correctly. However, the medical criteria for the scheme are strict, and there is no discretion. The Ombudsman has highlighted the need to amend the legislation in his report: *'Grounded: Unequal access for people with disabilities to personal transport schemes - a commentary by the Ombudsman'*. (See Chapter 3).

Disability Act

Disability Act represents:



<1% of all complaints

The top 2 types of complaint are:

- 5 Access to Services (S.26)
- 1 Access to information (S.28)



Six complaints were received in 2021. As we have reported in previous years, we are concerned that the low number of complaints under the Disability Act may be an indication that people are not aware of their rights or the complaints resolution process.

The Disability Act 2005 imposes significant 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.

A complaint can be made to our Office regarding a public body's failure to comply with Part 3 of the Disability Act, specifically:

- **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.

It is vitally important that people with disabilities are informed about their rights of access to services and information, and that they are aware of their right of recourse to our Office to have their unresolved complaints considered.

“

I would like to thank you and your colleagues, for your help, and though I got the outcome I wanted, my thankfulness, is not just for the outcome, but for the investment of your time and resources...





Chapter 03

Key Ombudsman Events in 2021



Chapter 3: Reports & Outreach



Wasted Lives: An investigation into people under 65 living in nursing homes

In 2021, we published the 'Wasted Lives' report, which was a report of a systemic investigation into people under 65 living in nursing homes. Through both individuals contacting the Office and through outreach to various advocacy groups, we were able to visit 28 people under 65 living in nursing homes as part of this investigation and were able to listen to their stories. One of the people we met during the investigation said that he had wasted the best years of his life in an institution. Another, who had suffered injuries in an assault, said the person convicted would one day leave prison - he felt he had no prospect of leaving the nursing home.

We also undertook a review of the relevant literature, legislation and any other material required to deepen our understanding of the issues involved. This research suggests that nursing homes in general are designed for frail older people in the latter stage of their life. They are therefore not equipped to provide the rehabilitation that a younger person living with a disability may require.

The Wasted Lives report made a series of findings and nineteen recommendations, which cover a range of themes including funding, informed consent, quality of life, access to services, navigating the system and policy and human rights. These recommendations have the ability to both improve the situation for many of those individuals under 65 currently in nursing homes, but also provide the opportunity to reduce the possibility of more people under 65 being placed in nursing homes unless it is their express wish to do so.

All the recommendations from this report have been accepted by the Department of Health and the HSE.

The HSE has established an Integrated Governance Steering Group chaired by the Chief Operating Officer to oversee the implementation of the recommendations from this report. The 2021 National Service Plan for the HSE committed to the transition of 18 adults with disabilities under the age of 65 years from nursing homes to an appropriate living arrangement in the community. At the time of publication it is understood the HSE will meet this target and that a further 63 people will be supported in 2022 to transition from nursing homes to an appropriate living arrangement in the community.

We welcome the commitment by the Department of Health and the HSE to implement the recommendations in the report and look forward to progress on their implementation.

The 'Wasted Lives' report is available on our website www.ombudsman.ie



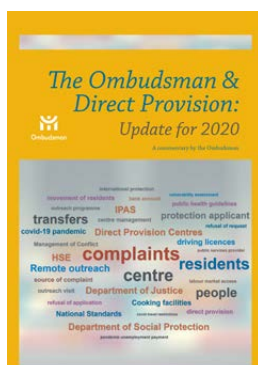
Grounded: Unequal access for people with disabilities to personal transport schemes

People with disabilities should be able to lead full and active lives within our communities. There are many obstacles, which work to prevent them from doing so. Access to personal transport is one of these. Without it, many disabled people cannot do what others take for granted - working, visiting friends and family, shopping and the many other aspects of our lives where mobility is essential.

In November 2021 we published: “*Grounded: Unequal access for people with disabilities to personal transport schemes*”. This Commentary was the culmination of several investigations over a period of nearly 20 years into the following three transport schemes - the Motorised Transport Grant, the Mobility Allowance, and the Disabled Drivers and Disabled Passengers Scheme.

Following the investigations described in the report, the Government decided in 2013 to discontinue the Mobility Allowance and Motorised Transport Grant for new applicants. This response was most disappointing. The remaining transport support available for those living with a disability is the Disabled Drivers and Disabled Passengers scheme and access to this scheme is limited to those that can meet six strict medical criteria. The restrictive nature of these medical criteria has resulted in people who do not meet the criteria, but who are just as immobile as those who do, being excluded from the scheme. The full report, ‘Grounded’, is available on our website www.ombudsman.ie

Living with a disability in Ireland in 2021 should never mean that a person is ‘grounded’ in their home, unable to participate equally and actively in their community and in work. We will continue to shine a spotlight on this issue and call for immediate and decisive action in this area.



Commentary on Direct Provision complaints

In March 2021 we published ‘*The Ombudsman and Direct Provision: Update for 2020*’, in which we describe the engagement of the Office in the sector. A central issue of our work in this area was the impact of COVID-related travel restrictions on our ability to undertake Outreach visits to Direct Provision centres. This led to a decline in the number of complaints received to 61 compared to the 161 we received in 2019. The

actions of the International Protection Accommodation Service in managing centres during the pandemic is commented on, as are the issues dealt with by our Direct Provision Team in our investigation of the 61 complaints received. We also highlighted difficulties residents were experiencing in opening bank accounts and their inability to get Irish driving licences, issues we are happy to report have been resolved. The Commentary for 2020 and the commentaries for previous years are available on our website www.ombudsman.ie

Outreach: Bringing the Ombudsman service to the regions

Many people around the country want to engage with us and we are happy to engage in whatever way we can. We also wish to engage with public representatives and the many providers of public services located around the country. Due to COVID, much of our regional Outreach programme in 2021 was undertaken online.

Online Regional Event 2021

Over the week of 27 September to 1 October 2021, we hosted a series of online events for the Carlow, Kilkenny and Wexford region. Over five days, the Ombudsman and his team:

- held an information webinar on the work of the Office for staff in local Citizens Information Centres
- met by video conference with all three County Councils, and Wexford General Hospital to discuss 'learning from complaints'
- engaged with local media, including local radio stations, highlighting the right to complain.
- hosted a webinar, 'How complaints can improve public services', which was attended by over 70 local public representatives, officials in local public bodies and other interested groups.

We also produced a special '*Carlow, Kilkenny and Wexford*' Casebook containing summaries and statistical analysis of complaints received from the three counties to coincide with the Office's 'virtual' visit.



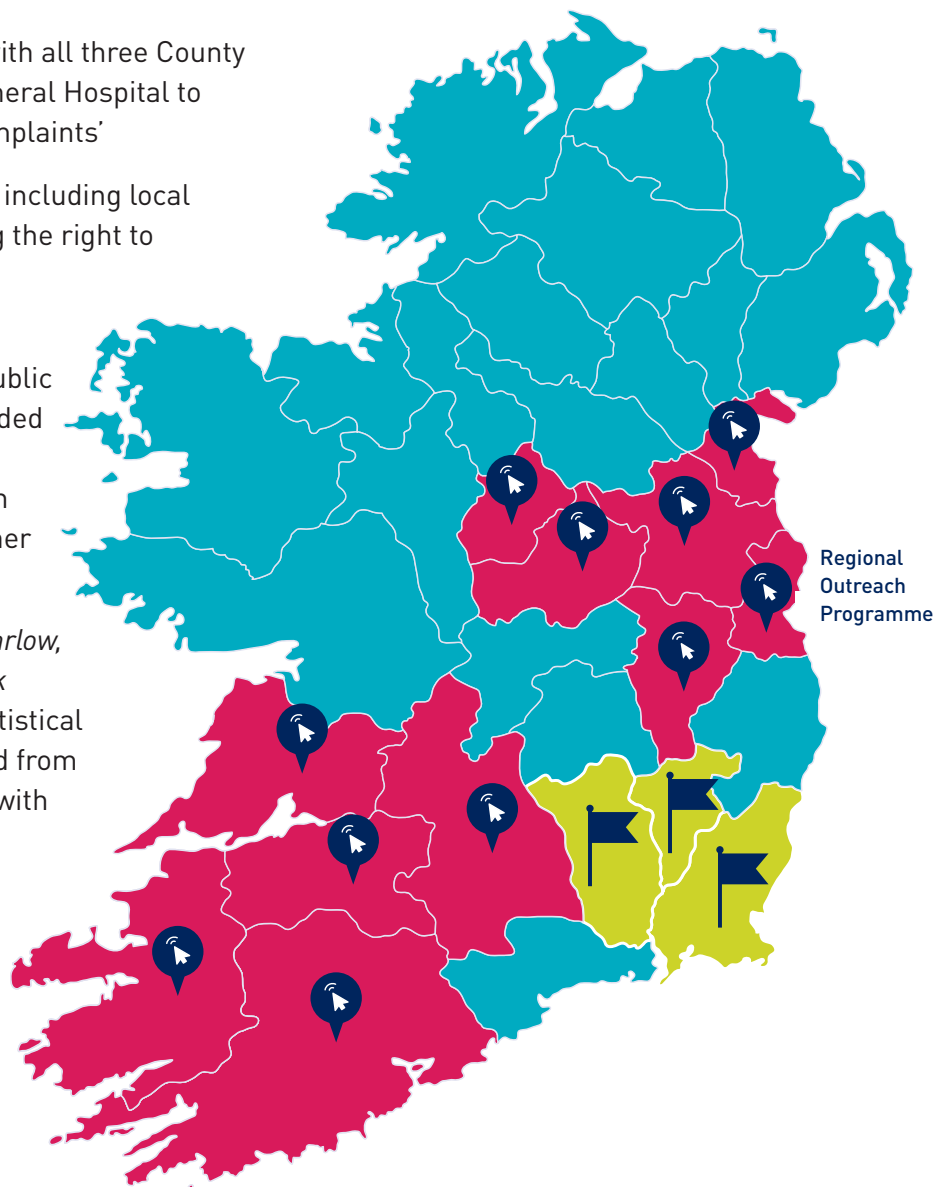
Online webinars for Citizen Information Centre staff



Online regional event



Webinars for all local authorities



Information webinars for Citizen Information Centres

We have worked closely with staff of Citizen Information Centres (CIC) over recent years. In July 2021, we provided three online information sessions to CIC staff in North and South Munster, Dublin North, and North Leinster regions to explain the role of the Ombudsman, the type complaints we can investigate, and how they can provide guidance to members of the public. The sessions were received very positively, and we hope to provide further information sessions in 2022.

Information webinars for Local Authorities

It is important that providers of public services learn from the complaints they receive. In October 2021, we held three information webinars for local authorities on 'Complaints in the Local Authority sector - An Ombudsman's Perspective'.

Over 160 officials from all local authorities participated in the webinars. We also spoke about the forthcoming 'Model Complaints Handling Procedure', which we will be rolling out to local authorities with the assistance of the Local Government Management Agency.

Our website and social media

Throughout 2021, we continued to use our website and social media channels (Twitter and YouTube), to provide information, advice and assistance to the public, public bodies and our other stakeholders:

Website



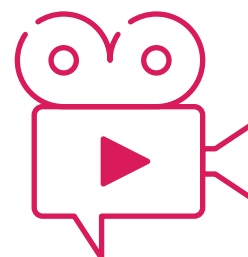
87,368 visitors

Twitter



304,215 views, **167** tweets
& **2,841** followers

Youtube



10 information videos made
2,122 views

International Ombudsman Institute: World Conference, Dublin, May 2021

The International Ombudsman Institute (IOI) is the only global organisation for the cooperation of independent Ombudsman institutions from more than 100 countries worldwide. In May 2021, we hosted the 12th IOI World Conference and General Assembly on behalf of the IOI. The three-day online event came live from Dublin Castle and the presenters were led by then Irish Ombudsman and President of the IOI, Peter Tyndall. Over 500 delegates from 98 countries participated in online events and workshops, with over 150 Ombudsman Offices from around the world represented.

The theme of the conference was “Giving Voice to the Voiceless”. Conference delegates shared international best practice in working with marginalised groups of people who have difficulties in accessing services. The Dublin Declaration, adopted by the IOI at its General Assembly, called upon Ombudsman Institutions “to maintain the values, which underpin their mission and to make sure that fundamental rights do not cease to apply”.

“

I would like to give special mention to the Ombudsman’s office for its professionalism in dealing with my review and its fair and honest findings.





Chapter 04

Chapter 4: Case Summaries

Earlier in this report we described some of the complaints we received in 2021 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.



Nursing home refuses to respond in writing to family's complaint about mother who left the home

Background

Norah complained to a private nursing home when her mother was found on her own, and with facial injuries, around three kilometres from her nursing home. Her mother was in her late 70s and had dementia. The nursing home initially refused to engage with Norah or her family saying that they could not make a complaint on behalf of her mother. Norah brought her case to the Ombudsman when the private nursing home refused to provide a written response to her complaint.

Investigation

The nursing home had initially told the family it could not discuss the case with them for a number of reasons including data protection provisions. It subsequently provided a verbal response to the family but refused to give a written reply.

When the Ombudsman sought information from the nursing home as part of his investigation, it said it was not obliged to respond to his Office. Once the Ombudsman clarified that under the Ombudsman Act 1980, the nursing home was obliged to provide his Office with the information, it provided the information, but continued to refuse to write to the family. The Ombudsman pointed out that the home was in breach of its own complaints policy by not responding in writing.

It became apparent to the Ombudsman that the nursing home had already carried out an investigation into the incident, and that it had made a number of recommendations aimed at avoiding the situation arising in the future. However, the nursing home's investigation was not carried out in accordance with its own complaints policy because of a:

- lack of documentation on the complaint file
- failure to initially accept the complaint from a third party
- failure to have the complaint independently investigated
- failure to provide a written response.

As a result of the Ombudsman's intervention the nursing home wrote to Norah apologising for the incident. However, it continued to refuse to respond to Norah in writing to the issues raised in her complaint.

Outcome

The Ombudsman provided a full written account of what had happened on the day of the incident to Norah, and her family.

He has also spoken with the Department of Health, with a view to having the requirement for private nursing homes to provide written responses to complaints put on a statutory basis.



Council unfairly changes record of traveller family's waiting time on housing list

Background

Josephine complained to the Ombudsman when her family was removed from the housing waiting list by Galway City Council, and their eligibility for housing was changed from 2005, when they first applied, to 2014.

The family had been removed from the housing waiting list in 2012 and again in 2014 when the Council said they had failed to reply to its correspondence.

Investigation

The family was originally approved for housing and placed on the housing list in 2005.

In 2012 the Council removed the family from the housing list as they did not reply to the Housing Needs Assessment in 2011. The family, who are members of the travelling community, regularly moved location so occasionally did not receive correspondence sent to them. They also had some literacy issues. The family appealed, and were reinstated on to the

housing list, but with a qualifying date of 2012. In 2014 they were again removed from the housing list for not replying to a questionnaire on the Traveller Accommodation Programme. The family were reinstated onto the list but this time with a qualifying date of 2014.

When the Ombudsman investigated the case he noted that the family had initially responded to the Housing Needs Assessment in 2011 with the documentation requested, including proof of previous income signed by a Commissioner for Oaths, and a signed 'change of address' form. The Council responded by asking for more documentation including proof of current income. The family provided this information. However, in response, the Council asked the family to provide two more documents - a form to be signed by their current landlord and confirmation of rent allowance rates. In a second letter issued the same day the Council informed the family that they qualified for social housing.

The Ombudsman noted that this second letter would have given the indication that the re-assessment process was now complete. In addition, he noted that the two documents requested by the Council on the same day were not required by the Council to complete its Housing Needs Assessment. In any event, the information was already available on the Council's files.

The purpose of the questionnaire issued by the Council in 2014 in relation to the Traveller Accommodation Programme was to determine the type of accommodation needed. The family did not respond and the letter was returned as 'no longer at that address'. While the family did not respond they had already indicated what type of accommodation they needed in their application form held on the Council's files.

It was also unclear whether the Council had used alternative methods to try to contact the family to respond, for example by text or phone, in line with principles of diversity and inclusion, and recognition of Travellers' distinct culture which is acknowledged in Galway City Council's Traveller Accommodation Programme.

Outcome

After the Ombudsman raised the issues with Galway City Council it agreed to backdate the family's qualification date for housing to 2005 - the date of their original application.



Student has travel grant unfairly reduced after his sister appeals her grant decision

Background

Mark complained to the Ombudsman when Student Universal Support Ireland (SUSI) reduced his student grant after his third year of university, and after his sister, Andrea applied for the same grant.

Mark's circumstances had not changed. He had been receiving the 'non-adjacent' rate of the grant - a higher rate based on the fact that he lived more than 45km from the university for three years. However when his sister, who lived in the same home, applied for the same grant for the same university she received the lower 'adjacent' rate. When Andrea appealed the decision, Mark's grant was reduced to the 'adjacent' rate.

Investigation

SUSI acknowledged that the method for calculating the distance from home to the university changed during the course of Mark's time studying. (Initially, SUSI would calculate the distance once, which included the option to use a motorway and therefore could result in a longer 'direct' route). It said that Mark's application was not assessed under the new method until his sister's application was reviewed.

Outcome

The Ombudsman accepted that the lower rate was the correct rate for Mark. However, following discussions with the Ombudsman, SUSI decided to award Mark the higher 'non-adjacent' rate. It said that it was doing so as it was Mark's final year of study and he had previously been awarded the grant at that rate.



Man's business unfairly restricted by travel limit in agriculture scheme

Background

Jim complained to the Ombudsman that his animal collection business was unfairly impacted by a new condition in a scheme (the Fallen Animal TSE Subsidy scheme) that limited the distance that material could be carried to 125km from the business. Jim was aware of a cheaper renderer but it was located just outside the 125km limit. He considered that his business was at a significant competitive disadvantage to other similar businesses in the area which could avail of the cheaper plant.

Investigation

The Fallen Animal TSE Subsidy Scheme (Animal Collector) provided for an exemption from the 125km limit where animal collectors did not have access to the services of more than one renderer within the distance. While Jim had difficulty obtaining two competitive quotes from providers within the limit, the Department of Agriculture Food and the Marine had not granted him an exemption.

The Department explained that changes to the scheme were designed to address a number of issues including budgets, TSE testing requirements, animal by-product regulations and the need for businesses to maintain competitiveness. It also recognised the importance of having adequate rendering capacity especially in the event of a serious outbreak of disease.

The Ombudsman considered that Jim's business had been unfairly impacted by the provision as the safeguards to ensure competitiveness were not met in his case.

The Department agreed to review the scheme but the resulting changes did not resolve the issue for Jim.

Outcome

Following a request from the Ombudsman, the Department reviewed Jim's request and granted him an exemption from the 125km limit. The Ombudsman was concerned about the length of time it had taken the Department to address Jim's concerns. The Department agreed to pay him €1,000 in acknowledgement of the time and trouble it had taken to resolve his complaint.



Woman receives €5,000 repayment under cross border treatment scheme after initial refusal by HSE

Background

Patricia's daughter was in need of important medical treatment. The treatment was available in another EU country, and the cost of treatment was eligible for reimbursement under the Cross Border Directive (CBD) scheme. However, Patricia complained to the Ombudsman when the HSE refused her daughter's application under the scheme.

The CBD scheme allows a person to access healthcare in another EU or EEA member state. An applicant is required to have an initial out-patient consultation in the country they intend being treated in, and this must take place on a date prior to treatment. The scheme only covers the cost of the treatment and an applicant must submit proof of the cost of treatment and payment.

The HSE refused the application as it said there was no evidence of an initial out-patient consultation. It also said that there were discrepancies with the invoices provided and insufficient proof of payment.

Investigation

In relation to evidence of a prior out-patient consultation, the HSE said that the letter from the clinic abroad was unsigned, undated and unaddressed. When the Ombudsman examined the letter, he noted that while the letter was unsigned, it was dated and contained the address of the clinic where Patricia's daughter was treated. This, he believed, was sufficient evidence that the date of the initial consultation was prior to being admitted for treatment.

The Ombudsman acknowledged that there were discrepancies with the invoices provided by the clinic, including 'gross' figures being provided which included accommodation and other costs not associated with treatment. He contacted the clinic about the invoices and it provided sufficient clarification of the treatment for the HSE to allow the application to progress.

There was a further issue relating to proof of payment. The woman paid a deposit for the treatment electronically, but paid the balance in cash. The HSE was not satisfied with the evidence provided by the daughter that she had taken out a credit union loan to pay for her treatment. However, the Ombudsman was satisfied that proof of the loan, together with evidence that the treatment was completed and a final invoice marked paid in full, was sufficient to show that the balance had been paid.

Outcome

The Ombudsman asked the HSE to review its decision. It agreed, and approved the application, with Patricia's daughter being reimbursed around €5,000 in treatment costs.



Man with two businesses given only one COVID support grant by Council

Background

Tom complained to the Ombudsman when Tipperary County Council said that his two businesses would be assessed as one for the Government's COVID-related business 'Restart' grants. The Council said that as his two businesses were linked, and shared the same tax number, Tom would be entitled to one grant in respect of his two businesses

Investigation

The Government's 'Restart' and 'Restart Plus' grants were a contribution towards the cost of reopening or maintaining a business during the pandemic. There was a minimum of €2,000 available for the Restart Grant, and €4,000 for the Restart Plus Grant.

Tom owned a retail outlet and a nearby car park. In response to his application the Council considered the two businesses as one because Tom was the owner of both businesses and they shared a tax reference number.

However, the Ombudsman noted that the relevant criteria for the scheme included that a "business premises consisting of a number of rated properties can claim a grant for each property...", and a "business entity operating from a number of properties is entitled to a grant equivalent to the rates on each property subject to minimum, maximum and other criteria".

In Tom's case, each business had a separate 'rate number' and the Council confirmed that separate demands issued in respect of each business.

The Ombudsman also noted that the two businesses were quite different in nature and that each business is registered separately with the Companies Registration Office. In addition, the Department Of Enterprise, Trade & Employment's FAQ document on the grants said that a business with two separate stores (for example, a chain) would be entitled to a grant in respect of each store.

Outcome

In the circumstances, the Ombudsman asked the Council to review its decision. The Council awarded Tom an additional €3,100 in respect of his second business.



Passport Office's quick response allows man visit his dying mother

Background

Yousef, who was a recently naturalised Irish citizen, contacted the Ombudsman when he could not get a passport to visit his critically-ill mother in Africa. The Passport Service said that it would take 40 working days (eight weeks) to process his application. This is because first-time passport applications for adults are complex and require verification of documentation.

Investigation

Yousef became an Irish citizen through naturalisation in 2021. He had not seen his family in 14 years as he had been a refugee. Immediately after becoming a citizen, he applied for a passport to visit his mother in Africa because she was in a coma and was not expected to survive for more than a few days.

Outcome

The Ombudsman suggested to the Passport Service that providers of public services should be flexible, and able to accommodate compassionate and urgent situations. In response, the Passport Office issued a passport to the man within four working days. This meant that the man could visit his terminally-ill mother.

The Ombudsman complimented the Passport Service for its speedy response.



Department incorrectly sought repayment of €5,400 in child benefit

Background

The Ombudsman received a complaint from Tanya after the Department of Social Protection sought repayment of €5,400 it said had been incorrectly paid to her in child benefit. The Department said there was no evidence that Tanya who was originally from Eastern Europe, and her children were living in Ireland.

Tanya had been living in Ireland. However, she had returned to her native country with her children six months before her husband returned. Her husband, who was self-employed, continued to work and live in Ireland.

Investigation

An EU regulation (883/2004) provides that a self-employed person is entitled to receive family benefits for his/her family members in accordance with the legislation of that country even if the family members are living in another EU country. When the Ombudsman raised the EU regulation with the Department it said it had checked its records for any PRSI contributions from Tanya's husband to show that he was working in Ireland but did not find any. However, following a further check, it discovered that the man was self-employed and that his income was below the threshold for paying PRSI. The Ombudsman asked the Department to review its decision.

Outcome

The Department reduced the overpayment to €2,250 in recognition of the period of time the woman was entitled to receive child benefit. The Department also agreed in future to check the self-employment records, along with its contribution records to ensure that a similar mistake does not occur again.



Man's housing case reviewed after social welfare payments leave him unable to afford rent

Background

John was facing the possibility of homelessness when Cork City Council refused his application for assistance under the Housing Assistance Payment scheme. Under the scheme local authorities can pay a portion of monthly rent for a property up to a maximum limit. In John's case the limit was €550 per month. However, the accommodation he located was €650 per month. John's only source of income was a social welfare payment so he could not afford the €100 per month balance and the required rent contribution to the Council.

Investigation

Local authorities are allowed flexibility of up to 20% above the maximum rent limit to allow an applicant source or maintain suitable accommodation. The Ombudsman examined John's situation noting that:

- €650 per month rent appeared to be good value for the accommodation
- one-bedroom properties in the same area were being rented at €980 per month
- John's only source of income was his social welfare payment

- local authorities are allowed discretion to take into consideration rental markets for similar properties
- John could possibly be made homeless if he could not afford the rent.

Outcome

The Ombudsman asked the Council to review its decision and use its discretion to pay above the rent limit. The Council agreed, and paid the additional monthly rent in full.



Woman did not receive her electricity allowance for five years

Background

Mary complained to the Ombudsman that she applied for the Household Benefits Package in 2015 but did not receive her full entitlement under the scheme. She said she was told by the Department of Social Protection to tick one box only on the form so she selected the 'TV licence' option and was subsequently awarded the TV licence payment. However, she believed she might also be entitled to an electricity allowance. She had checked with the Department of Social Protection on two occasions after she made the application and was told that she would receive the electricity allowance if she was entitled to it. However, five years later she noticed that she was not receiving the electricity allowance.

Investigation

The Household Benefits Package helps with the cost of electricity or gas, and the TV licence, and is open to anyone aged 70 or over. Mary was told by the Department in 2020 that she was not receiving the electricity allowance that she was entitled to. Mary re-applied in October 2020, and payment for the electricity allowance was backdated six months.

The Ombudsman believed that Mary's application should be backdated to the time of her application as shortly after her application Mary had taken steps to clarify with the Department that she wished to apply for the electricity allowance.

Outcome

The Department agreed and awarded the full Household Benefit Package to Mary from the date of her initial application. Arrears of over €2,200 were credited to her account.



Chapter 05

Chapter 5: Strategy and Governance

Strategy 2019-21

The following objectives were identified for our 2019 - 2021 Strategy Statement:

1. Drive and influence improvements in the public service
2. Enable and support the public service in achieving and maintaining best practice standards
3. Reinforce organisational capacity to provide an effective and efficient service to all of our stakeholders
4. Enhance public awareness of our roles and how to access our services in order to optimise our impact on the public service

Over the three years we have met our strategic objectives through a number of projects, including:

- ICT enhancements and improved security
- successful hosting of the IOI World Conference
- improving and adapting our outreach activities to members of the public and public bodies
- a successful office relocation
- embedding GDPR and other legal requirements within our organisation.

Work is almost complete on our Strategy for 2022-2025. A public consultation process was held during 2021. The responses received have informed the development of the strategy and our objectives. We have reviewed our Vision, and our Organisational Values and Culture, and identified key strategic influences and strategic themes, which will be common to all work areas in our Office. We look forward to publishing our new Statement of Strategy early in 2022.

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 audits and provides feedback to caseworkers on individual cases.

Irish Language Scheme

The current Irish Language Scheme for the Office of the Ombudsman covers the period from 2019-2022. Among the services provided in Irish are:

- the availability of Irish speakers to deal with complaints and requests for media interviews in Irish
- correspondence received in Irish is responded to in Irish
- website content is available in Irish including annual reports, statements of strategy, online complaint forms, summaries of Ombudsman investigation reports, guidance notes and press releases
- translation services to ensure that the Irish content on our website is kept up to date.

Measures taken by the Office to promote the Irish language and assist in fulfilling our obligations under the Official Languages Act include a weekly conversational Irish class for staff, encouragement of staff to engage in Irish language classes and in-house Irish language training for staff answering telephones. Nine staff participated in externally run Irish language courses during 2021.

There were 209 visits to the Irish version of our website, and two requests for cases to be dealt with in Irish during the course of the year.

Office Green Team

Our Green Team was established in the Office in 2020 comprising of enthusiastic volunteers. Our main aims are to introduce environmentally friendly measures in the Office in the areas of energy, waste, transport and water, as well as improving the quality of the working environment. We have continued issuing a series of themed monthly awareness programmes to assist staff in making more environmentally sustainable decisions both in work and at home.

Measures taken include:

- the ongoing monitoring of energy usage in the Office
- carrying out of a Green Waste Audit, and improving signage and information for staff on waste and recycling
- a free bicycle servicing day and adequate lockers to encourage a change in commuting habits
- reduction in printing and replacement of paper files with electronic files
- the introduction of a dedicated space on the staff Intranet for green issues and advice to staff
- the replacement of desktop computers with more energy efficient laptops.

The Green Team, with the support of senior management, will endeavour to continue to introduce initiatives that promote environmental sustainability for both individuals and the organisation.

Public Sector Duty

During 2021, our Public Sector Duty Committee and Equality Officer continued to work to embed the public sector duty values into our core strategy and statutory functions.

Treating all people with respect and dignity is a cornerstone of our culture and this will be reflected in our 'Strategy 2025', which we will launch early in 2022. As one of its strategic objectives, our Office will continue to develop and promote a human rights-based approach to examining complaints by integrating the FREDa Model (Fairness, Respect, Equality, Dignity and Autonomy) into its work.



Can't thank you enough for all the hard work you did on my behalf.





Ombudsman

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