

Grounded

Unequal access for people with disabilities to personal transport schemes



Ombudsman

A commentary by the Ombudsman

Disabled Drivers and Disabled Passengers Scheme

Motorised Transport Grant

Mobility Allowance Scheme





Ombudsman

2021 Office of the Ombudsman

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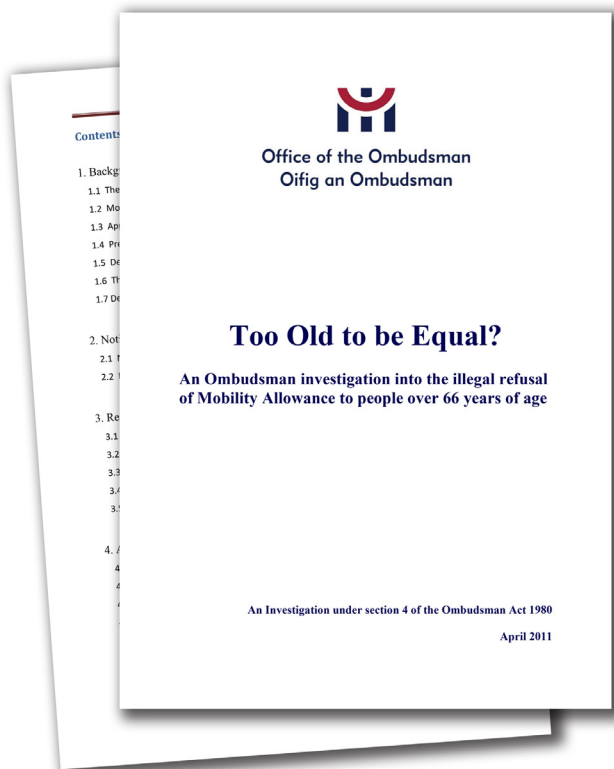
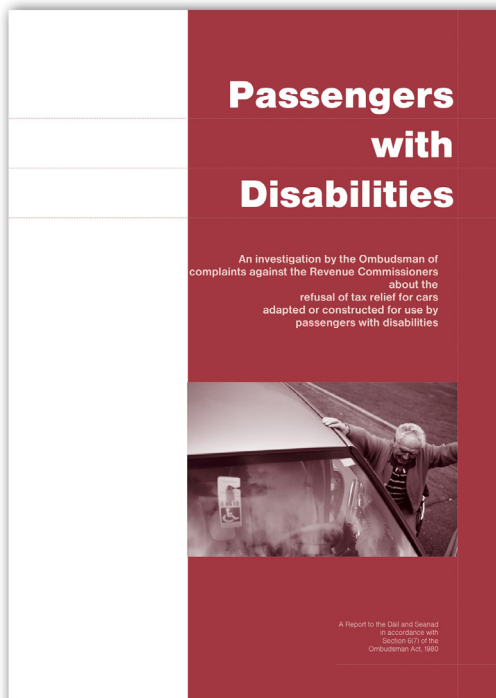
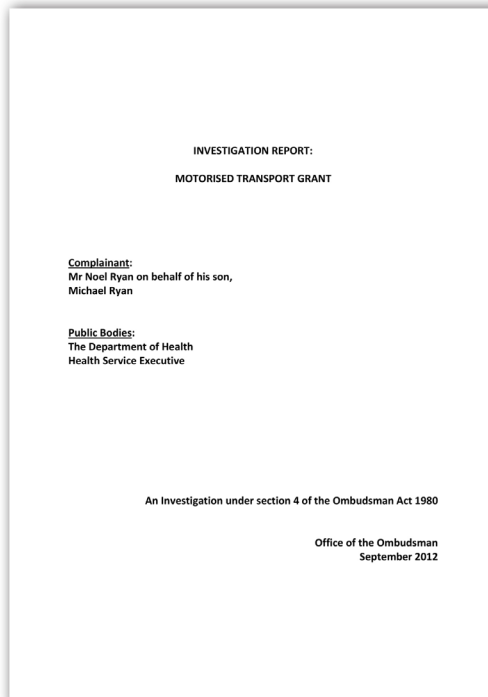
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*Unequal access for people with disabilities
to personal transport schemes*

A commentary by the Ombudsman

November 2021

Previous Ombudsman Reports



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Foreword

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.

The Irish Government signed the [United Nations Convention on the Rights of Persons with Disabilities](#) (UNCRPD) in 2007, and in March 2018 the Convention was ratified. Article 9 of the UNCRPD is focused on accessibility, and puts an onus on signatories to provide access to transportation on an equal basis with others to enable persons with disabilities to live independently and participate fully in all aspects of life. In recognition of this, Action 104 of the [National Disability Inclusion Strategy](#) (2017-2021) commits the Government to leading “a review of transport supports encompassing all Government funded transport and mobility schemes for people with disabilities, to enhance the options for transport to work or employment supports for people with disabilities and will develop proposals for development of a coordinated plan for such provision.”

Meeting these obligations in relation to access to transport in a timely and effective manner should be a priority for all Governments. However, as Ombudsman I have received many complaints in relation to the administration of the transport support schemes in place – the Motorised Transport Grant, the Mobility Allowance and the Disabled Drivers and Disabled Passengers scheme, as did my predecessors.

In this commentary I set out the investigations undertaken by my Office into these schemes since 2011 and key recommendations emanating from these investigations. It has been a disappointment to me as Ombudsman that when I and my predecessors have highlighted the unfairness and inequity of these schemes, the response by Government has been to either discontinue the schemes without replacement, or in the case of the Disabled Drivers and Disabled Passengers scheme, to reinforce the inequitable eligibility criteria in primary legislation.

There has been some talk of improving access to public transport. This is, of course, a necessary task. There should be no barriers of access to buses and trains, for example. Every day there is a long list of lifts not working on the DART and at other railway stations. Train passengers with disabilities must give notice in advance, so that someone can be present with a ramp to enable them to board. This lack of access is entirely unacceptable and must be addressed as a matter of urgency.

However, even if all of the issues regarding access to public transport were addressed, people with disabilities also need access to personal transport. For many people, getting to a railway station or bus stop is not a realistic option. While this is clearly true in rural locations, it is equally true for many disabled people in towns and cities.

Fairness is a key value that underpins all the work of my Office in the investigation of complaints and there is no doubt in my mind that the current situation in terms of access to supports for transport for those living with a disability is unfair. It places an unfair burden on people living with a disability that hampers their ability to engage on an equal basis in employment and in their community. The social isolation, and in some cases poverty that this results in, casts a shadow on us as a country and our commitment to equality and social inclusion for all.

My hope is that by highlighting the current unfair situation, this commentary motivates and moves those with the power across Government, and in the Dáil and Seanad, to prioritise and progress this important area of work, and contributes to building a fair, inclusive and equitable society for all.



A handwritten signature in black ink, appearing to read 'Peter Tyndall', written over a light grey rectangular background.

Peter Tyndall
Ombudsman
November 2021

The Motorised Transport Grant

The Motorised Transport Grant (MTG) was a non-statutory scheme in operation since 1968. It was set up by the Department of Health to grant-aid severely disabled people in acquiring or adapting a car in order to retain employment. The maximum grant payable was €5,020. It was possible, under the terms of the scheme, to name another person to drive the car. The scheme also had an “exceptional circumstances” clause which allowed for grant aid to severely disabled people with transport difficulties who were not in employment but who would otherwise suffer social isolation.

Ombudsman Report (2012)

In September 2012 my predecessor, Emily O'Reilly, carried out an investigation ([Motorised Transport Grant Investigation Report](#)) following a complaint against the Health Service Executive (HSE) about its refusal to award a grant under the MTG scheme to an individual.

The investigation upheld the man's complaint and found that the manner in which the HSE interpreted the medical criteria for eligibility was unacceptably restrictive and contrary to the Equal Status legislation. The investigation also found that the Department of Health had failed in its responsibility to oversee the implementation of the scheme and had failed to provide the HSE with adequate and clear guidance.

Findings in relation to the HSE

The investigation found that the HSE in Donegal interpreted the medical criteria of the scheme in a manner that was never intended, which interpreted the term “severe disability” in an unduly restrictive way. This resulted in the refusal of the application and appeal. The Ombudsman also discovered that the HSE Appeals Officer was of the view an Appeals Officer could not interfere with a clinician's medical opinion. The Ombudsman found this position to be inconsistent with an appeal system acting with independence and authority.

In 2009, before the Ombudsman's report, an Equality Officer of the Equality Tribunal found that this restrictive interpretation of the definition of disability was not in line with the broader definition of disability as set out in the Equal Status Act. The Equality Tribunal recommended to the HSE and the Department of Health that both should “examine the various allowance schemes governing people with disabilities to ensure that they and the associated assessment processes comply with the requirements of the Equal Status Act”. The Ombudsman at the time of the investigation did not find any evidence to show that such a review had been carried out.

The Ombudsman recommended that the HSE review:

- the man's application;
- all MTG applications refused on the basis of decisions made by Appeals Officers since 2009; and
- its appeal arrangements under the MTG scheme with a view to ensuring that all Appeals Officers have the freedom to exercise authority and independence in carrying out their functions.

The HSE accepted the recommendations and confirmed that it would put an implementation plan in place straight away.

Findings in relation to the Department of Health

The Department of Health was joined in the Ombudsman's investigation because it had overall responsibility for the scheme. It was of the view that it was a matter for the HSE to define what is meant by "severe disability". The Ombudsman criticised the Department for failing to oversee the implementation by the HSE of the scheme and for failing to provide adequate and clear guidelines on the interpretation of its terms and, in particular, for the term, "severe disability". At the time, the Department told the Ombudsman that policy proposals relating to the scheme had been formulated and were awaiting a decision by the Minister.

The Ombudsman recommended that the Department of Health review the terms of the MTG scheme, to provide explicitly that the term "severe disability" be understood in light of the findings of her investigation, and in light of the 2009 comments of the Equality Officer on the need to have regard to the broad definition of disability in the Equal Status Acts.

The Department of Health, at the time indicated that it was not in a position to amend the circular relating to the MTG as it would have serious financial consequences. It accepted that significant issues were raised by the investigation and that it was working at options to bring all schemes into line with the Equal Status Acts.

The Mobility Allowance Scheme

The Mobility Allowance (MA) scheme was introduced in 1979 by the Department of Health. It was an administrative scheme under Section 61 of the Health Act (1970) which provides that a health board (HSE) “may make arrangements to assist in the maintenance at home” of a “sick or infirm person, or a dependent of such a person”. It was a means-tested monthly payment payable by the HSE to people aged between 16 and 66, and who met the following medical criteria:

- You are unable to walk, even with the use of artificial limbs or other suitable aids, or your health is such that the exertion required to walk would be dangerous
- The inability to walk must be likely to last for at least a year
- You must not be medically forbidden to move
- You must be in a position to benefit from a change in surroundings
- You must be living at home or in a long-term institution
- You must pass a means test.

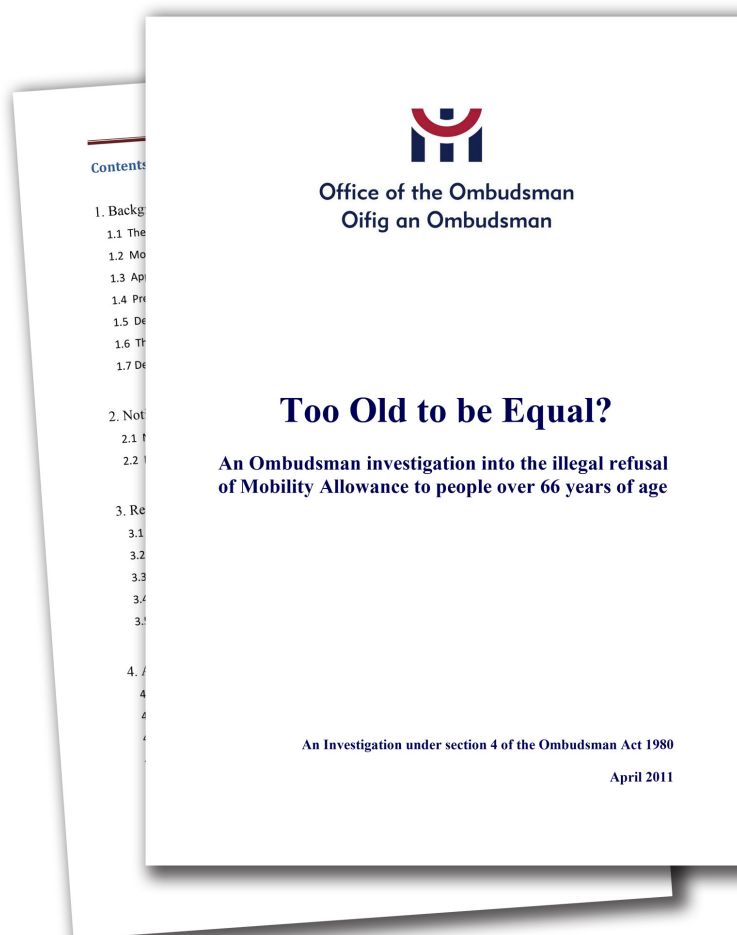
Ombudsman Report: “Too Old to be Equal?” (2011)

In April 2011, my predecessor, Emily O’Reilly published a report titled [“Too Old to be Equal?”](#) which was an investigation into the illegal refusal of the Mobility Allowance to people over 66 years of age. A follow up report was issued to Dáil Éireann and the Seanad in October 2012.

The investigation stemmed from a complaint in 2008 by an individual, Mr Browne, on behalf of his sister, about the refusal of the HSE to award her a mobility allowance. The HSE refused her application on the basis that she was over 66 years of age and, as a first-time applicant, was outside the scope of the scheme. This decision was upheld following an appeal in August 2008. Sadly, Mr Browne’s sister died in 2010 before the completion of the Ombudsman’s investigation. However, her brother asked that the investigation be completed in recognition of the needs of people like his sister.

The investigation found that the MA scheme was in breach of the Equal Status Act 2000 because it included an upper age limit. Furthermore, it found that Ms Browne had been adversely affected by the failure of the Department to amend the scheme so as to render it compliant with the Equal Status Act 2000. In making these findings, the Ombudsman expressed the view that the Department had not displayed any sense of urgency in acting to bring the scheme into compliance with the Equal Status Act, even eleven years after the commencement of that Act. She commented also that, in the case of the related MTG Scheme, it was only through the determination of the complainant, acting with the assistance of the Equality Authority and having commenced proceedings through the Equality Tribunal, that the Department of Health had dropped the upper age limit.

Noting that the Department of Health had committed to undertaking a review of the scheme, the Ombudsman recommended that the Department of Health complete this review of the MA scheme and, arising from that review, revise the scheme so as to render it compliant with the Equal Status Act 2000. The Ombudsman also recommended that this process of review and revision should be completed within six months of the date of the report. The Department accepted this recommendation.



Closing the Motorised Transport Grant and Mobility Allowance schemes to new entrants

Following the investigations by the Ombudsman, the Government decided to close the administrative schemes (MA and MTG schemes) to new applicants in 2013. The Government also decided to continue payment of the monthly Mobility Allowance on an interim basis, to those who were in receipt of the Mobility Allowance at the time that the scheme closed. Of the 4,700 individuals in receipt of the Mobility Allowance (€9 million per annum) when the scheme closed in 2013, there are 3,532 people in receipt of the interim payments as of March 2021¹.

On 11 June 2013 the Government announced that new statutory provisions would be introduced in relation to financial supports for disabled persons with mobility needs, and an interdepartmental group chaired by the Department of the Taoiseach was established to develop proposals for a new scheme. In November 2013 the Government decided that the detailed preparatory work required to develop a new travel subsidy scheme would be progressed by the Minister for Health in consultation with other relevant Ministers.

In May 2018 the Minister for Health brought proposals for a new Transport Support Payment Scheme to Government but it was decided to withdraw the Memorandum from the Cabinet agenda at the time². However, there was a clear intention, articulated by then Minister to revert in due course with revised proposals to progress such a transport scheme. My Office is not aware of any further work to advance this scheme since this time.

Given the closure of the MTA and MA schemes, the Disabled Drivers and Disabled Passengers scheme, operated by the Office of the Revenue Commissioners, took on an increasing importance for people with disabilities seeking support.

Disabled Drivers and Disabled Passengers scheme

The Disabled Drivers and Disabled Passengers scheme provides a range of tax reliefs linked to the purchase and use of specially constructed or adapted vehicles by drivers and passengers with a disability. The rules of the scheme are set out in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 (S.I. 353/1994), as amended by the Disabled Drivers and Disabled Passengers (Tax Concessions) (Amendment) Regulations 2020 (S.I. 749/2020).

¹Parliamentary Question, Wednesday 31 March 2021 Questions (1050, 1052)
<https://www.oireachtas.ie/en/debates/question/2021-03-31/1050/>

²Parliamentary Question, Tuesday 29 January 2019 Question 315
<https://www.oireachtas.ie/en/debates/question/2019-01-29/315/>

Under the scheme, a person can claim for:

- Remission or repayment of vehicle registration tax (VRT)
- Repayment of value-added tax (VAT) on the purchase of a vehicle
- Repayment of VAT on the cost of adapting a vehicle.

An applicant may receive some additional exemptions and benefits including:

- An exemption from motor tax on the vehicle
- An exemption from toll road fees
- The fuel grant.

To qualify for tax relief under the scheme, the person with a disability must have a valid Primary Medical Certificate (PMC). In order to qualify for a PMC, the person has to satisfy the following six medical grounds for eligibility:

- a. persons who are wholly or almost wholly without the use of both legs;
- b. persons wholly without the use of one of their legs and almost wholly without the use of the other leg such that they are severely restricted as to movement of their lower limbs;
- c. persons without both hands or without both arms;
- d. persons without one or both legs;
- e. persons wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg; and
- f. persons having the medical condition of dwarfism who have serious difficulties of movement of the lower limbs.

Ombudsman Report: “Passengers with Disabilities” (2001)

In August 2001, the Ombudsman published a report titled “[Passengers with Disabilities](#)”. This report followed complaints against the Office of the Revenue Commissioners and its refusal of tax relief for cars adapted or constructed for use by passengers with disabilities.

Again, in order to qualify for the refund of tax under the scheme, a driver or passenger had to be regarded as “a person with severe and permanent disabilities”. Unlike the Motorised Transport Grant and the Mobility Allowance schemes, this scheme has a foundation in secondary legislation, namely Article 10(1) of the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 (S.I. 353/1994). The legislation set out six very strict medical criteria with which an applicant has to comply in order to achieve a successful application or appeal to the Disabled Drivers Medical Board of Appeal (DDMBA).

Applications are assessed by the HSE, and if the applicant is successful, the applicant receives a Primary Medical Certificate which enables them to apply for tax relief to the Office of the Revenue Commissioners. If their application is rejected, they can appeal the decision to the DDMBA.

In the cases investigated by the Ombudsman, the applications were refused by the Office of the Revenue Commissioners on the basis that the applicants did not meet the residency requirement.

In one complaint, a man successfully applied for an exemption from Vehicle Registration Tax (VRT) in accordance with SI 353/94 on a car he purchased. Fuel and road tax reliefs were also allowed. He applied for a refund of VAT on the car. The VRT was claimed in respect of the man's daughter under the provision in the legislation relating to passengers with disabilities. It was his third successful application under the scheme. The Office of the Revenue Commissioners refused his application for an exemption and said that his entitlement to an exemption did not come within the terms of Article 10(1) and said that his daughter was a full-time resident in a nursing home and was not residing with him. The man said that the decision was unfair because:

- he bought the vehicle and it had been adapted to enable him to transport his daughter and care for her personal, social and medical needs;
- his daughter was not a full-time resident in the nursing home and on medical advice it had been recommended that she spend some time away from her normal place of residence;
- under the 1994 Regulations, the term 'residing' had not been defined, nor did the Regulations specify that the passenger with disabilities must be residing 'full-time' with the applicant;
- Article 10(5) of SI 353/94 allowed the Office of the Revenue Commissioners to waive the residency condition in exceptional circumstances. The man claimed that if it was considered that his claim to entitlement to a rebate of VRT was not compatible with the residency requirements of the Regulations, his case merited an exemption order under Article 10(5) and that the Office of the Revenue Commissioners was acting contrary to fair and sound administration in failing to exercise its discretion under this Article.

The Office of the Revenue Commissioners asked the man to repay €5,949, which he had already received. The man repaid the amount and appealed the decision to the Appeal Commissioners in December 1997 and it was heard in March 1998. The Appeal Commissioners found that the relief should be refused as his daughter was not residing with her father. The Appeal Commissioners did not make a determination as to whether the exceptional circumstances in Article 10(5)(a) applied in the man's case. The Office of the Revenue Commissioners said that the Appeal Commissioners had accepted in a similar case that the determination of exceptional circumstances was a matter wholly at the discretion of the Office of the Revenue Commissioners and was not something for the Appeals Commissioners to adjudicate. The determination of exceptional circumstances was delegated by the Minister for Finance, through the Regulations, to the Office of the Revenue Commissioners and that the Appeal Commissioners had no role to play in this matter. The role of the Appeal Commissioners was to establish the facts of the case and to ensure the correct application of the law.

Ombudsman findings and recommendations

Following her investigation of these complaints, the Ombudsman found that the decisions not to grant tax relief were unreasonable, unfair and inappropriate. She also found that the treatment of these cases by the Office of the Revenue Commissioners was contrary to fair and sound administration.

The Ombudsman made the following recommendations:

that the complainants should be deemed to be eligible for the tax reliefs available under the Disabled Drivers and Passengers (Tax Concessions) Regulations 1994 (S.I. 353/1994);

1. that the Office of the Revenue Commissioners return the €5,949 it recovered from the complainant;
2. that the applications in relation to the other cases she investigated should be processed for payment;
3. that the Office of the Revenue Commissioners should put an arrangement in place, as soon as possible, whereby in the interests of equity, a review of cases where applicants were refused the reliefs available under the Regulations on the grounds which were similar to those applicable in the cases which were the subject of her investigation. The Office of the Revenue Commissioners should provide a progress report to the Ombudsman within 6 months; and
4. documentation relating to the scheme should be reviewed with a view to giving more information to potential applicants about the waiver of residency requirement etc. and that these details be included in the Office of the Revenue Commissioner's Section 16 Freedom of Information Manual.

The Office of the Revenue Commissioner accepted the Ombudsman's recommendations in full. It also said, amongst other things, that it intended to approach the Department of Finance with a view to reviewing the Regulations again, and that the Ombudsman's Investigation report should be brought to the attention of the Chair of the inter-departmental group in the Department of Justice, Equality and Law Reform, which was reviewing the scheme at that time.

The Interdepartmental Review Group submitted a report titled "Disabled Drivers and Disabled Passengers (Tax Concessions) Scheme – Interdepartmental Review Group" to the Minister for Finance in September 2002. That report recommended the following, amongst other things:

- that the Minister for Finance introduce legislative change to replace existing medical criteria with general mobility; and
- that the present medical criteria, which involve specifying individual impairment gives rise to anomalies and that provision should be made to provide overall assessment of mobility level as opposed to medical criteria.

In response to the recommendation that the Department of Finance introduce legislation that would have regard to general mobility, the Department reserved its position pending an evaluation and examination of the cost implications.

Disabled Drivers Medical Board of Appeal

The Disabled Drivers Medical Board of Appeal (DDMBA) is a statutory independent body set up by the Department of Finance in 1990. Its function is to review applications for the Primary Medical Certification which have been refused by the HSE.

In 2014, I received a number of complaints from people about decisions of the DDMBA. All of those from whom I received complaints were dissatisfied with the result of their appeal to the DDMBA. All argued that their disabilities came within the definition of the six medical criteria.

Following examination of these complaints, I found that the DDMBA is confined to deciding appeals in accordance with SI 353/94 which sets out the six very strict medical criteria (set out earlier) with which an applicant must comply, in order to obtain a Primary Medical Certificate. Therefore, as the DDMBA was acting in accordance with the legislation governing its activities, I was unable to progress such complaints against the DDMBA any further. However, in my view the limited medical criteria for eligibility to this scheme were, and remain, excessively restrictive.

I wrote to the Department of Finance expressing this view in December 2014 and received a response in January 2015. That letter said, amongst other things, that the Department would consider the points I raised.

I wrote to both the Minister for Finance and Minister for Disabilities in June 2017. I repeated my concerns about the eligibility criteria having a particularly narrow focus and being overly prescriptive. I said that mobility issues do not form part of the decision making process with the result that those who would clearly benefit from the scheme are prevented from accessing it, thereby creating an inequity that was unlikely to have been the intention of the Oireachtas. I said that I remained of the view that the scheme is improperly discriminatory, overly rigid, inflexible and appears to be causing inequity. I also said that my examination of these complaints reinforced my view that the scheme, in the absence of nominated specific disabilities (with the exception of dwarfism), leads to inequitable decisions. I also wrote to the Joint Committee on Public Petitions in June 2017 on this matter.

In January 2020, in advance of a Special Cabinet on Disability Issues, I wrote to the Secretary General to the Government to repeat my concerns about the medical eligibility criteria underpinning this scheme and to ask that my concerns be brought to the attention of the Cabinet.

I think it is also important to note that during this period my Office continued to receive complaints in relation to the qualifying criteria for the granting of a Primary Medical Certificate for the purposes of eligibility under the Disabled Drivers and Disabled Passengers scheme. The figures for complaints received in recent years are as follows:

- 64 in 2016
- 70 in 2017
- 67 in 2018
- 73 in 2019
- 42 in 2020

In addition, up to the start of October 2021, my Office has received 19 complaints.

Supreme Court Judgment (2020)

The Supreme Court Decision of June 2020, (Reeves and Lennon V the DDMBA), found, amongst other things, that the six medical criteria set out in the 1994 Regulations (S.I. 353 of 1994), were inconsistent with the primary governing legislation, namely, section 92(2) of the Finance Act 1989, as amended by Section 17 of the Finance (No 2) Act 1992.

The judgement found that the medical criteria set out in the 1994 Regulations did not align with the regulation-making mandate given in the primary legislation to further define the criteria for 'severely and permanently disabled' persons. In summary, while Article 3 of S.I. 353/1994 (the definition of medical criteria) was not deemed to be invalid, it was found to be inconsistent with the mandate provided for in Section 92 of the Finance Act 1989.

In essence, this meant that the HSE could not continue assessing applications, and the DDMBA could not continue considering appeals from those whose applications for a PMC had been refused by the HSE.

In 2020 the Minister for Finance, as an interim measure, introduced an amendment to the Finance Act 2020. This amendment defined, in primary legislation, that "severely and permanently disabled person' means a person who satisfies one or more of the following criteria:

- (a) the person is wholly or almost wholly without the use of both legs;
- (b) the person is wholly without the use of one of their legs and almost wholly without the use of the other leg such that they are severely restricted as to movement of their lower limbs;
- (c) the person has no hands or no arms;
- (d) the person has one leg or no legs;
- (e) the person is wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg;
- (f) the person has the medical condition of dwarfism and has serious difficulties in the movement of their lower limbs."

The amendment allowed the HSE and the DDMBA to resume their work. However, in my view, this only reinforces the difficulties with the current scheme and does not deal with the unfairness underpinning it.

The Minister of Finance has indicated, (including in a recent reply to a parliamentary question of Tuesday 27 July 2021, PQ 313) that this is only an interim solution and that work is underway in his department to comprehensively review this scheme with a view to bringing forward proposals for consideration³.

I understand the Department of Finance has also been engaging with the Department of Children, Equality, Disability, Integration and Youth in the context of a working group established in 2020 by the Minister for Justice under the National Disability Inclusion Strategy 2017-2021 tasked with “*a review of transport supports encompassing all Government funded transport and mobility schemes for people with disabilities, to enhance the options for transport to work or employment supports for people with disabilities and to develop proposals for development of a coordinated plan for such provision*”⁴. At the time of writing, it is my understanding that the work of this group has been interrupted by the Covid-19 pandemic.

Anonymised Case Studies

Over the years, I have received and examined a number of complaints against the Disabled Drivers Medical Board of Appeal (DDMBA). I am not in a position to uphold any of these complaints because the DDMBA must confine its decisions to the strict 6 medical criteria laid down in the legislation described in my Report. However, in my opinion, many of the people who have contacted me are often in as much need of mobility supports as those who met these strict medical criteria.

There is no doubt in my mind that the lack of access to personal transport supports is having a profound impact on the ability of people living with a disability to live independent lives – to work, to socialise and to go about their daily business.

Below is a small selection of the stories people have told me over the years in support of their complaint. I have used fictitious names throughout.

Case 1: Sinead

Sinead is in her early 70s. She does not have the full use of her legs, cannot stand for long and walks a little with the aid of a Zimmer frame. She also has a chronic respiratory condition and needs assistance with daily living. Her husband is her full-time carer. Her mobility is deteriorating rapidly and she regularly gets spasms of the lower back which can be very frightening and last for minutes. She can have difficulty starting to walk afterwards and may not be able to recall what took place. This makes it very difficult to get in and out of a standard car and is making access to essential medical appointments very difficult.

³Tuesday 27 July 2021, PQ 313, <https://www.oireachtas.ie/en/debates/question/2021-07-27/313/>

⁴Tuesday 27 July 2021, PQ 313, <https://www.oireachtas.ie/en/debates/question/2021-07-27/313/>

Case 2: Saoirse

Saoirse wrote to me on behalf of her mother, Emer. Emer's mobility is very much reduced as a result of severe Arthritis in her knees and feet. Emer also has Early Onset Alzheimer's/Dementia and Epilepsy. Any exertion causes additional pain when walking.

Case 3: Tadhg

Orla wrote to me about her adult son, Tadhg. Tadhg is in his twenties and has Down Syndrome and a diagnosis of severe and profound Autism. He is also non-verbal and needs full time care. Tadhg is a very strong young man and can physically lash out at times. Orla says that Tadhg's behaviour can be very challenging and he becomes very frustrated. The situation has been exacerbated by the current pandemic and during the lockdown, a drive in the car helped to calm Tadhg down and brings him peace and contentment. However sometimes his behaviour can still be very challenging in the car and on one occasion he was able to reach from the back seat into the driver's seat, putting his arms around the driver's neck and forcing the car to a sudden and abrupt halt. Unfortunately, his parents had to stop taking Tadhg for a drive in the car and they have repeatedly applied for a Primary Medical Certificate for him to enable them to adapt their car to make it suitable for Tadhg's needs.

Case 4: David

David told me that he has restricted movement and severe nerve damage on one side of his body. He also has special insoles for his shoes, and heel supports. He is significantly incapacitated from the pain and loss of function. David also has a Disabled Drivers Parking Permit. He said that an adapted car would help his mental health and mobility.

Case 5: Jack

Jack is in his 60s. He suffers excruciating pain 24/7 in his lower limbs and suffers from cardiovascular disease and COPD. He walks with a walking aid when he is in the house and he uses a mobility scooter when he is outside the house. He built a specially adapted extension to the ground floor of the house. He says he can't manage the clutch in the car. Jack also said that just because he has his limbs does not mean that he is not disabled.

Case 6 : Oisín

Oisín has restricted movement and barely has the use of his right arm. He has severe pain in one hip which impacts on his leg. He cannot stand or walk. He uses a walking stick. Oisín also says that he cannot work due to his disability.

Conclusion: Progress since 2012

Following the investigations set out in this report, the Government decided in 2013 to discontinue the Mobility Allowance and Motorised Transport Grant for new applicants. This response at the time was of great disappointment to my Office, the impact of which was only mitigated by the fact that the Government at that time said it would draw up an alternative scheme. However, after nine years, and despite many requests from my Office and others, this has not happened. This has resulted in a very unfair situation whereby those already in receipt of these supports continue to receive them, but others in exactly the same position cannot access these or alternative supports. We must acknowledge the unfairness of this situation and commit to remedying this issue for all.

The remaining support available for those living with a disability is the Disabled Drivers and Disabled Passengers scheme, which is operated by the Office of the Revenue Commissioners. As already outlined in this report, this scheme, which is a statutory scheme, is inadequate to meet the needs of many people living with a disability.

While I acknowledge the ongoing work to increase accessibility to public transport by Government, there remains a group for which this is not the most appropriate or even a possible mode of daily transport. For example, the inadequacy of access to some public transport facilities, such as the DART, is a matter of great concern to disabled people who use it. Therefore, while improving access to public transport is an important issue in its own right, it is unreasonable to suggest that it can address the transport needs of many disabled people, who may live in rural areas, or struggle to get to bus stops or stations.

The reports published by the Ombudsman since 2012 highlight the same issues over and over again. I am very concerned that the issues identified appear to have effectively been ignored and that nine years later, there is no evidence of any real progress that would serve to enhance the lives of those for whom these schemes were intended to assist with their daily lives. This is of huge concern to me.

As Ombudsman it is my obligation and privilege to speak out when I see unfairness or injustice in the administration of our public services. 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. Another working group or action plan is not enough. Those people who are adversely affected by the current lack of access to transport supports require immediate and decisive action.

While I welcome ongoing work across Government, under the auspices of the National Disability Inclusion Strategy, I hope this commentary provides a timely reminder to legislators and policy makers as to the urgency of progressing work so that we are not looking at this issue again in another nine years. Progress must now be quick and comprehensive.

Peter Tyndall
Ombudsman

November 2021

GROUND

**Unequal access for people with disabilities
to personal transport schemes**



Ombudsman

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